

2009

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REGISTER

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OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
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30	July 13, 2009	July 24, 2009
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36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: This is a reminder that January 2, 2009 is the final day to submit your Agency's Regulatory Agenda for the January 2, 2009 filing period.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Insect Pest and Plant Disease Act
- 2) Code Citation: 8 Ill. Adm. Code 240
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
240.50	Amend
240.125	New Section
240.140	Amend
240.160	Amend
- 4) Statutory Authority: The Insect Pest and Plant Disease Act [505 ILCS 90]
- 5) Effective Date of Amendments: January 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: August 22, 2008; 32 Ill. Reg. 13618
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Sections 240.125 and 240.140, "importation registration" was replaced with "importer certificates".

Section 240.125 was further amended to specify that the application to import firewood must be made to DNR before importation of the wood into Illinois, the wood must be free of all devastating insects and plant diseases, and the wood will be subject to DNR inspection. Also, the Department's website and address where copies of necessary forms may be obtained are listed.

All nonsubstantive changes recommended by JCAR were made, also.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 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 Amendments: The Department adds a new section to the rules regarding limitations on the importation of firewood into the State of Illinois in order to control insect pests such as the emerald ash borer. Also, Section 240.140 adds a certification fee for firewood importation. Cites to statutes are also updated.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281

Telephone: 217/785-2427
Facsimile: 217/524-4882

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER h: PESTS AND PLANT DISEASESPART 240
INSECT PEST AND PLANT DISEASE ACTSUBPART A: NURSERY AND NURSERY STOCK;
INSPECTION; CERTIFICATES

Section	
240.10	Storage and Display of Nursery Stock
240.20	Inspection of Shipments of Nursery Stock in Transit
240.30	Infested or Infected Shipments of Nursery Stock; Disposal or Treatment
240.40	Listing of Other States' Certified Nurseries
240.50	Revocation of Certificates
240.60	Special Certification: Sales, Trades, and Auctions by Garden Clubs and Social Organizations
240.70	Special Certification: Plants and Nursery Stock Shipped by Individual Residents
240.80	Inspection of Private Premises, Public Grounds and Forest Preserves
240.90	Inspection of Native Trees for Resale
240.100	Refusal to Inspect Nursery
240.110	Sale of Nursery Stock Which is Infected Prohibited
240.120	Nursery Certificates Withheld or Qualified Certificates Issued
240.125	Firewood Importer Certificates
240.130	Inspection of Shipments for Foreign Countries
240.140	Fee Schedule
240.150	Use of the Department of Agriculture for Advertising (Repealed)
240.160	Administrative Rules (Formal Administrative Hearings; Contested Cases; Petitions; Administrative Procedures)

SUBPART B: QUARANTINE

Section	
240.250	Scope
240.260	Definitions
240.270	Restrictions and Regulated Articles
240.280	Movement of Regulated Articles
240.290	Issuance and Cancellation of Permits, Certificates of Inspection or Compliance

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

	Agreements
240.300	Attachment of Certificates, Permits or Agreements
240.310	Inspection and Disposal of Regulated Articles
240.320	Duration of Quarantine

AUTHORITY: Implementing and authorized by the Insect Pest and Plant Disease Act [505 ILCS 90].

SOURCE: Rules and Regulations Relating to the Insect Pest and Plant Disease Act, filed October 25, 1974, effective November 2, 1974; codified at 5 Ill. Reg. 10523; amended at 6 Ill. Reg. 3041, effective March 5, 1982; amended at 7 Ill. Reg. 1764, effective January 28, 1983; amended at 12 Ill. Reg. 8299, effective May 2, 1988; amended at 26 Ill. Reg. 14661, effective September 23, 2002; amended at 30 Ill. Reg. 133, effective January 1, 2006; amended at 33 Ill. Reg. 203, effective January 1, 2009.

SUBPART A: NURSERY AND NURSERY STOCK; INSPECTION; CERTIFICATES

Section 240.50 Revocation of Certificates

Nurserymen's certificates, ~~and~~ dealers' certificates [and firewood importer certificates](#) may be revoked by the Director of Agriculture, State of Illinois, for violation of the Illinois Insect Pest and Plant Disease Act [\[505 ILCS 90\] \(the Act\)](#), ~~(Ill. Rev. Stat. 1981, ch. 5, pars. 61 et seq.)~~ or ~~this Part~~[the rules thereto as promulgated by the Department](#). Revocation hearings and decisions of Department personnel are subject to 8 Ill. Adm. Code 240.160.

(Source: Amended at 33 Ill. Reg. 203, effective January 1, 2009)

Section 240.125 Firewood Importer Certificates

[Any person desiring to import firewood into the State of Illinois for resale shall, before importing any firewood into this State, make annual application to the Department for a firewood importer certificate. The certificate application shall be on forms made available by the Department via the Department's web site \(www.agr.state.il.us\) or by writing the Department at: Illinois Department of Agriculture, P.O. Box 19281, Springfield IL 62794-928. A firewood importer certificate shall expire December 31 each year. Firewood imported into the State shall be free of all devastating insects or plant diseases and shall be subject to inspection at the discretion of the Department. Any person failing to comply with this Section is in violation of the Act and shall be subject to the applicable penalty provisions of Sections 22 and 22.01 of the Act.](#)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 33 Ill. Reg. 203, effective January 1, 2009)

Section 240.140 Fee Schedule

The Department shall charge and collect fees for inspection and issuance of certificates according to the following schedule:

- a) Nursery Inspection
Nursery inspection fees shall be as follows:

1 acre or less	\$25.00
over 1 acre but less than or equal to 5 acres	\$30.00
over 5 acres but less than or equal to 10 acres	\$40.00
over 10 acres but less than or equal to 50 acres	\$50.00
over 50 acres but less than or equal to 100 acres	\$75.00
over 100 acres but less than or equal to 250 acres	\$150.00
over 250 acres but less than or equal to 500 acres	\$180.00
over 500 acres (per acre)	\$0.50
- b) Greenhouse Inspection
Greenhouses that request inspection shall be charged the special inspection and certificate fees in subsection (d)Section 240.140(d).
- c) Nursery Dealer Certificates
 - 1) Effective January 1, 2003 through December 31, 2005, the rate for a nursery dealer certificate shall be \$25.
 - 2) Effective January 1, 2006, the rate for a nursery dealer certificate shall be \$50.
- d) Special (Requested) Inspections
Effective January 1, 2003, the inspection rate charged for special inspections shall be \$25 per hour and the rate charged for individual certificates for special inspections shall be \$25 per certificate.
- e) Original certificates are required to accompany nursery stock and/or plants and plant products for shipment or sale verifying they are same free of insect pests and plant diseases.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 1) Effective January 1, 2003 through December 31, 2005, the rate for original certificates shall be \$25 each.
- 2) Effective January 1, 2006, the rate for original certificates shall be \$50 each.

f) [Firewood Importer Certificates](#)
[Effective January 1, 2009, the rate for a firewood importer certificate shall be \\$25.](#)

(Source: Amended at 33 Ill. Reg. 203, effective January 1, 2009)

Section 240.160 Administrative Rules (Formal Administrative Hearings; Contested Cases; Petitions; Administrative Procedures)

All administrative decisions are subject to, and hearings are conducted in accordance with, the provisions of ~~the~~[this](#) Act and the Illinois Administrative Procedure Act [[5 ILCS 100](#)] (~~Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.~~) and ~~the Department's Administrative Rules~~ (8 Ill. Adm. Code 1).

(Source: Amended at 33 Ill. Reg. 203, effective January 1, 2009)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.80 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: December 29, 2008
- 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) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 9786; July 11, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Only nonsubstantive grammatical changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendment: Changes are being made concerning the Hospital Provider Fund pursuant to Public Act 95-859 to establish a new annual assessment on hospital providers for State fiscal years 2009 through 2013, in an amount equal to \$218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days. These changes are expected to generate \$900 million in assessment revenue annually for the Hospital Provider Fund during fiscal years 2009 through 2013.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 16) Information and questions regarding this adopted amendment shall be directed to:
Tamara Tanzillo Hoffman
Chief of Staff
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 Adopted Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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 or Revocation on Persons Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.908	Times and Staff Levels (Recodified)
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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;

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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 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.

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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 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;

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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 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.

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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 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

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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, 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,

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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. 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.

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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; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008.

SUBPART C: PROVIDER ASSESSMENTS

Section 140.80 Hospital Provider Fund

a) Purpose and Contents

- 1) The Hospital Provider Fund (^uFund^u) was created in the State Treasury on February 3, 2004 (see 305 ILCS 5/5A-8). Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.
- 2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and 305 ILCS 5/5A-4 and 12.

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- 3) The Fund shall consist of:
 - A) All monies collected or received by the Department under subsection (b) of this Section;
 - B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;
 - C) Any interest or penalty levied in conjunction with the administration of the Fund;
 - D) Monies transferred from another fund in the State treasury;
 - E) All other monies received for the Fund from any other source, including interest earned on those monies.

- b) Provider Assessments
 - 1) An annual assessment on hospital inpatient services is imposed on each hospital provider in an amount equal to the hospital's occupied bed days multiplied by \$84.19 for State fiscal years 2004 and 2005, if the payment methodologies required under 305 ILCS 5/5A-12 and the waiver created under 42 CFR 433.68 are approved with an effective date prior to July 1, 2004; or the assessment will be imposed for fiscal year 2005 only, if the payment methodologies required under 305 ILCS 5/5A-12 and the waiver created under 42 CFR 433.68 are approved with an effective date on or after July 1, 2004. The Department shall use the number of occupied bed days as reported, by February 3, 2004 (the date of enactment of Public Act 93-0659), by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health to calculate the hospital's annual assessment. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals or if there are data errors in the reported sum of a hospital's occupied bed days as determined by the Department, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

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2) Subject to the provisions of 305 ILCS 5/5A-3 and 5A-10, for the privilege of engaging in the occupation of hospital provider, beginning August 1, 2005, an annual assessment is imposed on each hospital provider for State fiscal years 2006, 2007 and 2008, in an amount equal to 2.5835 percent of the hospital provider's adjusted gross hospital revenue for inpatient services and 2.5835 percent of the hospital provider's adjusted gross hospital revenue for outpatient services. If the hospital provider's adjusted gross hospital revenue is not available, then the Department may obtain the hospital provider's adjusted gross hospital revenue from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

3) Subject to Sections 5A-3 and 5A-10 of the Public Aid Code, for State fiscal years 2009 through 2013, an annual assessment on inpatient services is imposed on each hospital provider in an amount equal to \$218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days. For State fiscal years 2009 through 2013, a hospital's occupied bed days and Medicare bed days shall be determined using the most recent data available from each hospital's 2005 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on December 31, 2006, without regard to any subsequent adjustments or changes to such data. If a hospital's 2005 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Department may obtain the hospital provider's occupied bed days and Medicare bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

c) Payment of Assessment Due

1) For State fiscal years through 2008, theThe annual assessment shall be due and payable in quarterly installments, each equaling one-fourth of the assessment for the year on the 14th business day of September, December, March and May. The assessment imposed by Section 5A-2 for State fiscal year 2009 and each subsequent State fiscal year shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for

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the year, on the 14th State business day of each month. No installment payments of an assessment shall be due and payable, however, until after:

- A) The Department notifies the hospital provider, in writing, The hospital provider receives written notice from the Department that the payment methodologies to hospitals required under 305 ILCS 5/5A-12, ~~or 5A-12.1~~ or 5A-12.2, whichever is applicable for that fiscal year, have been approved by CMS and any waiver necessary under 42 CFR 433.68 has been granted by CMS; and
- B) For State fiscal years through 2008, the hospital has received~~The hospital has received~~ payments required under 305 ILCS 5/5A-12, ~~or 5A-12.1~~ or 5A-12.2, whichever is applicable for that fiscal year. For State fiscal year 2009 and each subsequent State fiscal year, the Comptroller has issued payments required under 305 ILCS 5/5A-12, 5A-12.1 or 5A-12.2, whichever is applicable for that fiscal year.
- 2) Assessment payments postmarked on the due date will be considered as paid on time. Upon notification to the Department of approval of the payment methodologies to hospitals required under 305 ILCS 5/5A-12, ~~or 5A-12.1~~; or 5A-12.2, and any waiver necessary under 42 CFR 433.68 has been granted by the CMS, all ~~quarterly~~ installments otherwise due prior to the date of notification shall be due and payable to the Department upon written direction from the Department and the receipt of the payments required under Section 5A-12, ~~or Section 5A-12.1~~ or 5A-12.2.
- 3) Any assessment amount that is due and payable to the Department more frequently than once per calendar quarter shall be remitted to the Department by the hospital provider by means of electronic funds transfer. The Department may provide for remittance by other means if the amount due is less than \$10,000 or electronic funds transfer is unavailable for this purpose.
- 43) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.
- d) Notice Requirements, Penalty, and Maintenance of Records

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- 1) The Department shall send a notice of assessment to every hospital provider subject to an assessment under subsection (b) of this Section, except that no notice shall be sent until the Department receives written notice that the payment methodologies to hospitals required under 305 ILCS 5/5A-12, ~~or 5A-12.1~~ or 5A-12.2 have been approved and the waiver under 42 CFR 433.68 has been granted by CMS.
 - 2) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, a separate notice shall be sent for each hospital.
- e) Procedure for Partial Year Reporting/Operating Adjustments
- 1) Cessation of business during the fiscal year in which the assessment is being paid. If a hospital provider ceases to conduct, operate, or maintain a hospital for which the person is subject to assessment under subsection (b) of this Section, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (d) of this Section by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. Immediately upon ceasing to conduct, operate or maintain a hospital, the person shall pay the assessment for the year as adjusted (to the extent not previously paid).
 - 2) Commencing of business during the fiscal year in which the assessment is being paid. A hospital provider who commences conducting, operating, or maintaining a hospital for which the person is subject to assessment under subsection (b) of this Section, upon notice by the Department, shall pay the assessment under subsection (d) of this Section as computed by the Department in installments on the due dates stated on the notices and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment notice. For State fiscal years 2006 through 2008, in~~in~~ determining the annual assessment amount for the provider, the Department shall develop hypothetical adjusted gross hospital revenue for the hospital's first full fiscal year, which may be based on the annualization of the provider's actual revenues for a portion of the year, or revenues of a comparable hospital for the year, including revenues

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realized by a prior hospital provider of the same hospital during the year. For State fiscal years 2009 through 2013, in the case of a hospital provider that did not conduct, operate or maintain a hospital in 2005, the assessment for that State fiscal year shall be computed on the basis of hypothetical occupied bed days for the full calendar year as determined by the Department. The assessment determination made by the Department is final.

- 3) Partial Calendar Year Operation Adjustment. For a hospital provider that did not conduct, operate, or maintain a hospital throughout the entire calendar year reporting period, the assessment for the State fiscal year shall be annualized based on the provider's actual adjusted gross hospital revenue information for the portion of the reporting period the hospital was operational (dividing adjusted gross hospital revenue by the number of days the hospital was in operation and then multiplying the amount by 365). Adjusted gross hospital revenue information reported by a prior provider from the same hospital during the calendar year shall be used in the annualization equation, if available.
 - 4) Change in Ownership and/or Operators. The full quarterly installment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties that may have accrued against the amount) rests on the hospital provider currently operating or maintaining the hospital regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1) of this Section.
- f) Penalties
- 1) Any hospital that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department for reasonable cause, a penalty equal to five percent of the amount of the installment not paid on or before the due date, plus five percent of the portion thereof remaining unpaid on the last day of each monthly period thereafter, not to exceed 100

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percent of the installment amount not paid on or before the due date.

Waiver due to reasonable cause may include but is not limited to:

- A) provider has not been delinquent on payment of an assessment due, within the last three calendar years from the time the delinquency occurs.
- BA) ~~A~~ provider can demonstrate to the Department's satisfaction that a payment was made prior to the due date.
- CB) ~~A~~ provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.

- 2) Within 30 days after the due date, the Department may begin recovery actions against delinquent hospitals participating in the Medicaid Program. Payments may be withheld from the hospital until the entire assessment, including any interest and penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached or if a hospital fails to comply with an agreement, the Department reserves the right to recover any outstanding provider assessment, interest and penalty by recouping the amount or a portion thereof from the hospital's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's rules at 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) of this Section will continue to accrue during the recoupment process. Recoupment proceedings against the same hospital two times in a fiscal year may be cause for termination from the Medicaid Program. Failure by the Department to initiate recoupment activities within 30 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.
- 3) If the hospital does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months after the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

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- g) **Delayed Payment – Groups of Hospitals**
The Department may establish delayed payment of assessments and/or waive the payment of interest and penalties for groups of hospitals such as disproportionate share hospitals or all other hospitals when:
- 1) The State delays payments to hospitals due to problems related to State cash flow; or
 - 2) A cash flow bond pool's, or any other group financing plans', requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the assessment.
- h) **Delayed Payment – Individual Hospitals**
In addition to the provisions of subsection (g) of this Section, the Department may delay assessments for individual hospitals that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c) of this Section.
- 1) **Criteria.** Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions may be made only to qualified hospitals who meet all of the following requirements:
 - A) The provider has experienced an emergency ~~that~~which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1) and (f)(2) of this Section would impose severe and irreparable harm to the clients served. Circumstances ~~that~~which may create such emergencies include, but are not limited to, the following:
 - i) Department system errors (either automated system or clerical) ~~that~~which have precluded payments, or ~~that~~which have caused erroneous payments such that the provider's ability to provide further services to clients is severely

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impaired;

- ii) Cash flow problems encountered by a provider ~~that~~which are unrelated to Department technical system problems and ~~that~~which result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.
- B) The provider serves a significant number of clients under the medical assistance program. "Significant" in this instance means:
- i) A hospital that serves a significant number of clients under the medical assistance program; significant in this instance means that the hospital qualifies as a disproportionate share hospital (DSH) under 89 Ill. Adm. Code 148.120(a)(1) through 148.120(a)(5); or qualifies as a Medicare DSH hospital under the current federal guidelines.
 - ii) A government-owned facility ~~that,~~which meets the cash flow criterion under subsection (h)(1)(A)(ii) of this Section.
 - iii) A hospital ~~that~~which has filed for Chapter 11 bankruptcy ~~and that,~~which meets the cash flow ~~criterion~~criteria under subsection (h)(1)(A)(ii) of this Section.
- C) The provider must file a delay of payment request as defined under subsection (h)(3)(A) of this Section, and the request must include a Cash Position Statement ~~that~~which is based upon current assets, current liabilities and other data for a date ~~that~~which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:
- i) The ratio of current assets divided by current liabilities is greater than 2.0.
 - ii) Cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the

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assessment payment. Long term investments ~~that~~which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation.

- D) The provider must show evidence of denial of an application to borrow assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.
- E) The provider must sign an agreement with the Department ~~that~~which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:
- i) Specific reasons for institution of the delayed payment provisions;
 - ii) Specific dates on which payments must be received and the amount of payment ~~that~~which must be received on each specific date described;
 - iii) The interest or a statement of interest waiver as described in subsection (h)(5) of this Section that shall be due from the provider as a result of institution of the delayed payment provisions;
 - iv) A certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;
 - v) A certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and
 - vi) Such other terms and conditions that may be required by

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the Department.

- 2) A hospital that does not meet the above criteria may request a delayed payment schedule. The Department may approve the request, notwithstanding the hospital not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule is approved, all other conditions of this subsection (h) shall apply.
- 3) Approval Process
 - A) In order to receive consideration for delayed payment provisions, providers must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the date designated by the Department. Providers will be notified, in writing, as to the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:
 - i) An explanation of the circumstances creating the need for the delayed payment provisions;
 - ii) Supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C) of this Section, a denial of application to borrow the assessment as defined in subsection (h)(1)(D) of this Section and an explanation of the risk of irreparable harm to the clients; and
 - iii) Specification of the specific arrangements requested by the provider.
 - B) The hospital shall be notified by the Department, in writing prior to the assessment due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An

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agreement shall be issued to the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.

- 4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) of this Section may be waived upon approval of the provider's request for institution of delayed payment provisions. In the event a provider's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) of this Section, such penalties shall be permanently waived for the subject quarter unless the provider fails to meet all of the terms and conditions of the agreement. In the event the provider fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.
 - 5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) of this Section. The interest may be waived by the Department if the facility's current ratio, as described in subsection (h)(1)(C) of this Section, is 1.5 or less and the hospital meets the criteria in subsections (h)(1)(A) and (B) of this Section. Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) of this Section.
 - 6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delayed payment agreement. The waiver of penalties described in subsection (h)(4) of this Section shall not apply to a provider that has not satisfied the terms and conditions of any current delayed payment agreement.
- i) Administration and Enforcement Provisions
The Department shall establish and maintain a listing of all hospital providers

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appearing in the licensing records of the Department of Public Health, which shall show each provider's name and principal place of business and the name and address of each hospital operated, conducted, or maintained by the provider in this State. The Department shall administer and enforce 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 and collect the assessments and penalty assessments imposed under 305 ILCS 5/5A-2 and 4. The Department, its Director, and every hospital provider subject to assessment measured by occupied bed days shall have the following powers, duties, and rights:

- 1) The Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12. Administrative enforcement proceedings initiated shall be governed by the Department's rules at 89 Ill. Adm. Code 104.200 through 104.330. Judicial enforcement proceedings initiated shall be governed by the rules of procedure applicable in the courts of this State.
- 2) No proceedings for collection, refund, credit, or other adjustment of an assessment amount shall be issued more than three years after the due date of the assessment, except in the case of an extended period agreed to in writing by the Department and the hospital provider before the expiration of this limitation period.
- 3) Any unpaid assessment under 305 ILCS 5/5A-2 shall become a lien upon the assets of the hospital upon which it was assessed. If any hospital provider, outside the usual course of its business, sells or transfers the major part of any one or more of the real property and improvements, the machinery and equipment, or the furniture or fixtures of any hospital that is subject to the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12, the seller or transferor shall pay the Department the amount of any assessment, assessment penalty, and interest (if any) due from it under 305 ILCS 5/5A-2 and 4 up to the date of the sale or transfer. If the seller or transferor fails to pay any assessment, assessment penalty, and interest (if any) due, the purchaser or transferee of such asset shall be liable for the amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or

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transferee receives from the Department a certificate showing that such assessment, penalty, and interest have been paid or a certificate from the Department showing that no assessment, penalty, or interest is due from the seller or transferor under 305 ILCS 5/5A-2, 4 and 5.

- 4) Payments under 305 ILCS 5/5A-4 are not subject to the Illinois Prompt Payment Act. Credits or refunds shall not bear interest.
- 5) In addition to any other remedy provided for and without sending a notice of assessment liability, the Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Department to the hospital provider.

j) Exemptions

The following classes of providers are exempt from the assessment imposed under 305 ILCS 5/5A-4 unless the exemption is adjudged to be unconstitutional or otherwise invalid:

- 1) A hospital provider that is a State agency, a State university, or a county with a population of 3,000,000 or more.
- 2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit.
- 3) [For State fiscal years 2004 through 2013, a hospital provider, described in section 1903\(w\)\(3\)\(F\) of the Social Security Act, whose hospital does not charge for its services is exempt from the assessment imposed by Section 5A-2 of the Public Aid Code. For State fiscal years 2004 and 2005, a hospital provider whose hospital does not charge for its services.](#)
- 4) For State fiscal years 2004 and 2005, a hospital provider whose hospital is licensed by the Department of Public Health as a psychiatric hospital.
- 5) For State fiscal years 2004 and 2005, a hospital provider whose hospital is licensed by the Department of Public Health as a rehabilitation hospital.

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- 6) For State fiscal years 2004 and 2005, a hospital provider whose hospital is not a psychiatric hospital, rehabilitation hospital, or a children's hospital and has an average length of inpatient stay greater than 25 days.
- k) Nothing in 305 ILCS 5/5A-4 shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before February 3, 2004.
- l) Definitions.
As used in this Section, unless the context requires otherwise:
 - 1) "Adjusted gross hospital revenue for inpatient services" means inpatient gross revenue less Medicare gross inpatient revenue, which shall be determined using the most recent data available from each hospital's 2003 Medicare cost report as contained in the HCRIS file for the quarter ending December 31, 2004, without regard to any subsequent adjustments or changes to that data.
 - 2) "Adjusted gross hospital revenue for outpatient services" means outpatient gross revenue less Medicare gross outpatient revenue, which shall be determined using the most recent data available from each hospital's 2003 Medicare cost report as contained in the HCRIS file for the quarter ending December 31, 2004, without regard to any subsequent adjustments or changes to such data.
 - 3) "CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.
 - 4) "Department" means the Illinois Department of Healthcare and Family Services.
 - 5) "Fund" means the Hospital Provider Fund.
 - 6) "HCRIS" means the federal Centers for Medicare and Medicaid Services Healthcare Cost Report Information System.
 - 7) "Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and

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whether organized for profit or not-for-profit.

- 8) "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.
- 9) "Inpatient Gross Revenue" means total inpatient gross revenue, as reported on the HCRIS Worksheet C, Part 1, Column 6, Line 101, less the sum of the following lines (including any subset lines of these lines):
 - A) Line 34: Skilled Nursing Facility.
 - B) Line 35: Other Nursing Facility.
 - C) Line 35.01: Intermediate Care Facility for the Mentally Retarded.
 - D) Line 36: Other Long Term Care.
 - E) Line 45: PBC Clinical Laboratory Services – Program Only.
 - F) Line 60: Clinic.
 - G) Line 63: Other Outpatient Services.
 - H) Line 64: Home Program Dialysis.
 - I) Line 65: Ambulance Services.
 - J) Line 66: Durable Medical Equipment – Rented.
 - K) Line 67: Durable Medical Equipment – Sold.
 - L) Line 68: Other Reimbursable.

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- 10) "Medicare bed days" means, for each hospital, the sum of the number of days that each bed was occupied by a patient who was covered by Title XVIII of the Social Security Act, excluding days attributable to the routine services provided to persons receiving skilled or intermediate long term care services. Medicare bed days shall be computed separately for each hospital operated or maintained by a hospital provider.
- 1140) "Medicare Gross Inpatient Revenue" means the sum of the following:
- A) The sum of the following lines from the HCRIS Worksheet D-4, Column 2 (excluding the Medicare gross revenue attributable to the routine services provided to patients in a psychiatric hospital, a rehabilitation hospital, a distinct part psychiatric unit, a distinct part rehabilitation unit or swing beds):
 - i) Line 25: Adults and Pediatrics.
 - ii) Line 26: Intensive Care Unit.
 - iii) Line 27: Coronary Care Unit.
 - iv) Line 28: Burn Intensive Care Unit.
 - v) Line 29: Surgical Intensive Care Unit.
 - vi) Line 30: Other Special Care Unit.
 - B) From Worksheet D-4, Column 2, the amount from Line 103 less the sum of Lines 60, 63, 64, 66, 67 and 68 (and any subset lines of these lines).
 - C) The amount from Worksheet D-6, Part 3, Column 3, Line 53.
- 1244) "Medicare Gross Outpatient Revenue" means the amount from the HCRIS Worksheet D, Part V, Line 101, Columns 5, 5.01, 5.02, 5.03 and 5.04 less the sum of Lines 45, 60, 63, 64, 65, 66 and 67 (and any subset lines of these lines).

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- ~~1312~~) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds, excluding beds classified as long term care beds and assessed a licensed bed fee during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.
- ~~1413~~) "Outpatient Gross Revenue" means the amount from the HCRIS Worksheet C, Part I, Column 7, Line 101 less the sum of lines 45, 60, 63, 64, 65, 66, 67 and 68 (and any subset lines of these lines).

(Source: Amended at 33 Ill. Reg. 209, effective December 29, 2008)

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- 1) Heading of the Part: Body Art Code
- 2) Code Citation: 77 Ill. Adm. Code 797
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
797.100	New
797.200	New
797.300	New
797.400	New
797.500	New
797.600	New
797.700	New
797.800	New
797.900	New
797.1000	New
797.1100	New
797.1200	New
797.1300	New
797.1400	New
797.1500	New
797.1600	New
797.1700	New
797.1750	New
- 4) Statutory Authority: Implementing and authorized by the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54]
- 5) Effective Date of Rulemaking: December 26, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Notice of Proposal Published in the Illinois Register: 32 Ill. Reg. 2738; February 22, 2008

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- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:
1. In the Section 797.900 title, delete "Sanitation" and insert "Disinfection" in the Table of Contents.
 2. In the Section 797.100 definition of antiseptic, delete "destroys" and insert "reduces" after "agent that".
 3. In the Section 797.100 definition of body art, delete "outer perimeter" and insert "non-cartilaginous portion" after "piercing of the".
 4. In the Section 797.100 definition of body art establishment, add "body modification establishment" before "or"; add "all" after "of"; delete "both".
 5. In the Section 797.100 definition of body piercing, insert ", including but not limited to, micro-dermal anchors, acts of suspension and sub-dermal/trans-dermal implants" after "nature" and insert "non-cartilaginous portion" after "puncturing of the"; delete "outer perimeter".
 6. In the Section 797.100 definition of client, insert ", modified" after "tattooed".
 7. In the Section 797.100 definition of disinfect or disinfection, insert "contact" after "enough" and insert "Also meaning the effective bacterial and veridical treatment of clean equipment surfaces by a process that effectively destroys pathogens (Section 10 of the Act)".
 8. In the Section 797.100 definition of ear piercing, insert "non-cartilaginous portion" after "puncturing of the"; delete "outer perimeter" and insert "non-cartilaginous portion" after "puncturing of the"; delete "outer perimeter".
 9. In the Section 797.100 definition of hand sink, insert "-Washing" after "Hand" and delete "lavatory" and replace with "sink".
 10. In the Section 797.100 definition of hot water, delete "at least 100 degrees F." and replace with "not less than 120 degrees F.".
 11. In the Section 797.100 definition of jewelry, delete "newly" and delete "made of surgical implant grade stainless steel; solid 14K or 18K white or yellow gold, niobium, titanium or platinum; or a dense, low porosity plastic, which is".
 12. In the Section 797.100 definition of operator, delete "piercing or tattooing." and insert "art." after "offering services of body".
 13. Delete the definition of "Peel Packs" in Section 797.100.
 14. In the Section 797.100 definition of physician, delete ", or a chiropractic physician licensed to treat human ailments without the use of drugs and without operative surgery".

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15. In the Section 797.100 definition of procedure surface, delete "an inanimate object" and insert "a work area, including but not limited to, the procedure chair" after "any surface of"; delete "contacts" and insert "that comes into contact with"; delete "unclothed".
16. Delete definition of "Sanitation" and "Sanitation Procedure" in Section 797.100.
17. In the Section 797.100 definition of scarification, insert "or skin removal" after "shallow cuts".
18. In the Section 797.100 definition of standard precautions, delete "patients" and insert "clients" before "regardless" and delete "diagnosis" and insert "condition" before "or presumed infection status".
19. In Section 797.100, insert "'Sterilization Packaging' means packaging materials, including, but not limited to, bags, packs, pouches or tubing designed for steam sterilization use. The sterilization packaging shall allow penetration of steam to allow sterilization and to maintain the sterility of the item after sterilization."
20. In the Section 797.100 definition of sterilizer, insert "validated by a sterile indicator strip" after "sterilization agent".
21. In the Section 797.100 definition of tattooing, delete "or under".
22. In Section 797.100, add "'Tempered Water' means water ranging in temperature from 85 degrees F to, but not including, 120 degrees F."
23. In Section 797.100, delete the definition for "Ultrasound" and add a definition of "Ultrasound Unit".
24. In Section 797.200, insert the following:
 - "H) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
 - I) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - J) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 - K) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - L) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)".
25. In Section 797.200(a)(2), delete "Federal Office of the" and insert ", Occupational" after "Bloodborne Pathogens".
26. In Section 797.300(a), delete "Employee" and insert "Body Artist/Apprentice" before "information".
27. In Section 797.300(a)(5), delete "of all body art operations/apprentices".

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28. In Section 797.300(a)(6), insert "Current places" and delete "Places"; delete "as an operator".
29. In Section 797.300(a)(8), after "1910.1030", delete "(g)(2) or equivalent curriculum approved by the Department".
30. In Section 797.300(b)(5), insert "and" after "numbers;".
31. In Section 797.300(6), delete "; and" and insert "." after "procedures performed".
32. Delete proposed subsection 797.300(b)(6).
33. In Section 797.400(c), delete "Smoking, eating", insert "Eating", and insert "by anyone other than a client" before "is prohibited".
34. In Section 797.400, insert "d) Smoking is prohibited in the body art establishment." and renumber the subsequent subsections.
35. In Section 797.400(e), delete "piercing" and insert "art" after "Body" and insert "Medical clearance must be in the form of a written and signed statement by a physician." after "(Section 27 of the Act)".
36. In Section 797.400(f), insert "for a minimum of 20 seconds" after "their hands" and delete "hot" and insert "tempered" before "running water".
37. In Section 797.400(g), delete "disposable" and insert "medical grade" before "gloves".
38. In Section 797.400(g), delete "disposable medical" and insert "single-use medical grade" before "gloves".
39. In Section 797.400(i), delete "by a waste hauler" and delete "not exceed 30 days, as specified in " and insert "comply with the regulations" and insert ", and storage of regulated waste awaiting pick-up shall not exceed 30 days."
40. In Section 797.400(k), delete "body art" and insert "tattoo" after "perform any"; insert "Age verification shall be obtained by government issued identification containing a birth date and photograph." after "Criminal Code of 1961" and delete "Nothing in this Section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent. Governmental issued identification such as a driver's license or military ID with photo shall be sufficient to show proof of age." and insert "In any procedure other than tattooing, the" before "parent or legal guardian shall sign a consent form in the presence of an operator/body artist."
41. In Section 797.400(l), insert "Before the oral cavity of a person under 18 years of age may be pierced, the written consent form signed by the parent or legal guardian must contain a provision in substantially the following form:

I understand that the oral piercing of the tongue, lips, cheeks, or any other area of the oral cavity carries serious risk of infection or damage to the mouth and teeth, or both infection and damage to those areas, that could result in but is not limited

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to nerve damage, numbness, and life threatening blood clots. (Section 12-10.1 of the Criminal Code of 1961)".

42. In Section 797.400(m), delete "mucosa" and insert "mucosal" after "Any skin or".
43. In Section 797.400(n), insert ", possibly manifested by fever, chills and/or a chronic productive cough," after "acute respiratory infection".
44. In Section 797.400, insert "o) Any body artist can refuse service to any individual, at any time, and for any reason."
45. In Section 797.500, change the numbering of the subparagraphs from "1" through "4" to "a" through "d" and delete "outer perimeter and" and insert "non-cartilaginous portion or" after "pierce only the" in subsection (d).
46. In Section 797.600(a), delete "Verbal and written public educational information" and insert "Written public education materials" and insert "and explained" after "shall be offered".
47. In Section 797.600(c), delete "instructions" and insert "public education materials"; insert "as appropriate" after "physician or dentist" and delete "instructions"; insert "public education materials" after "written"; delete "two years" and insert "one year"; and delete "statement" and insert "poster" after "warning".
48. Delete Section 797.600(d) and renumber the subsequent subsections.
49. In Section 797.700, delete "verbally" after "The body artist/apprentice shall".
50. In Section 797.800(a), delete both uses of "other antiseptic" and insert "a skin antiseptic" after "liquid soap and water or".
51. In Section 797.900, delete "Sanitation" and insert "Disinfection" before "and Sterilization Procedures" in the title of the section.
52. In Section 797.900(a), insert "then" before "be placed in an ultrasonic unit operated in accordance with manufacturer's instructions".
53. Delete Section 797.900(b) and replace with the following:
 - "b) After cleaning, all non-disposable instruments used for body art shall be packed individually in sterilization packaging and subsequently sterilized (see subsection (c)). All sterilization packaging shall contain either a sterilization indicator or internal temperature indicator. Sterilization packaging shall be dated with an expiration date not to exceed six months or in accordance with manufacturer's instructions. If sterilization packaging is compromised or expired, the instrument shall be removed, repackaged and re-sterilized."

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54. In Section 797.900(c), insert "and a daily temperature log for each day's use." after "sterilization unit" and delete "supplies" and insert "single-use needles and tubes".
55. In Section 797.900(e), insert "single-use" before "disposable" and insert "grade" after "medical" and delete "medically recognized" and insert "aseptic" before "techniques".
56. In Section 797.900(f), insert "Single-use needles, specifically manufactured for body art, may be purchased and used to construct a needle bar by the body artist." after "instructions." and delete "Pigment shall be reconstituted using only distilled or sterile water."
57. Insert Section 797.900(g) "Pigment shall be reconstituted using only distilled or sterile water, or a glycerin product." and re-label subsequent subsections.
58. In Section 797.900(i), delete "three years" and insert "one year"
59. In Section 797.1000(b), delete "sterile" after "be tattooed with".
60. In Section 797.1000, insert " c) Single-use items must be stored in a clean, covered location, in a manner to prevent any contamination."
61. Delete 797.1100(a) and replace with the following:
 - "a) All walls, floors and procedure surfaces of a body art establishment shall be smooth, free of open holes and cracks, and washable. Walls, floors and ceilings shall be in good repair and maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and disinfected. All procedure surfaces shall be cleaned and disinfected after each procedure. The body art establishment shall be maintained in a clean and sanitary condition at all times."
62. In Section 797.1100(b), delete "any retail sales." After "salon,".
63. In Section 797.1100(c), insert "Exterior" before "Doors"; change "Doors" to "doors".
64. In Section 797.1100(d), delete "Each work station shall be a minimum of 40 square feet of floor space."; insert "body art" after "Each".
65. In Section 797.1100(g), insert "-washing" after "A separate hand" and delete "operators/apprentices" and insert "stations" after "six".
66. In Section 797.1100(h) delete "lavatory facility," and insert "hand-washing sink" after "a minimum of one"; delete "lavatory" and insert "toilet" before "facility shall be"; and insert "-washing" after "with a hand".
67. In Section 797.1100(i), delete "in" and insert "at" after "shall be provided".

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68. In Section 797.1100(j), insert "The dirty contaminated equipment, including the autoclave and ultrasonic units, along with cleaning supplies and cleaning equipment, shall be stored in an area separate from the procedure area. This area shall not be publicly accessible."
69. In Section 797.1200(a), insert ", to be renewed annually" after "from the Department".
70. In Section 797.1200(a)(3) insert ", if available" after "body art".
71. In Section 797.1200(b), insert "annual" after "With each".
72. In Section 797.1200(f), delete "taking possession" and insert "the opening" after "prior to".
73. In Section 797.1300(c), delete "body artist shall possess" and insert "operator shall determine that each body artist possesses".
74. Delete Section 797.1300(d) and replace with the following:
 - "d) Body artists/apprentices shall maintain documentation of completion of "Bloodborne Pathogen Training," as required by OSHA (29 CFR 1910.1030) at the body art establishment."
75. In Section 797.1400(a), insert "consecutive" after "14".
76. In Section 797.1400(c), delete "A body artist" and insert "An operator" before "who wishes to obtain" and insert "for his or her establishment/booth" before "shall".
77. In Section 797.1400(f)(1), delete "facilities" and insert "sink" after "hand-washing".
78. Delete 797.1400(f)(2) and re-label the following subsections correspondingly.
79. In Section 797-1400(f)(3), delete "instrument sterilizing equipment" and insert "a sterilizer" after "shall provide"; insert "use" before "only single-use prepackaged"; and delete "obtained from reputable suppliers or manufacturers shall be allowed" after "sterilized equipment."
80. In Section 797.1700(c)(4), delete "piercing or puncturing" and insert "art" after "Use of an autoclave or body".
81. In Section 797.1750(a), insert "or Section 50(d) of the Act" after "(77 Ill. Adm. Code 100)".

Additionally, the following changes were made in response to suggestions from JCAR:

1. In Section 797.100, in the definition of "Jewelry", change "has been" to "must have been".

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2. In Section 797.100, in the definition of "Procedure Surface", delete the second "that".
3. In Section 797.100, in the definition of "Standard Precautions", change 690.1010(a)(7) to 690.1010(a)(1).
4. In Section 797.300(b), insert "(4) A copy of the operation procedure (see Section 797.300(c))"; and renumber the following subsections.
5. In Section 797.400(i), change "rules 29 CFR 1910.1030" to "regulations in 29 CFR 1910.1030".
6. In Section 797.1100(a), change "All walls, floors and procedures" to "All walls, floors and procedure" and insert "after each client" after "easily cleaned and disinfected".
7. In Section 797.1400(j) change "disclosure warning statement" to "disclosure warning poster" and delete "(see Section 797.600(c))".
8. In Section 797.1700(c)(14) change "Section 797.700" to "Section 797.600(c) and 797.900(i)".
9. In Section 797.1700(c)(16) change "body art procedures" to "monthly autoclave spore destruction tests" and change "Section 797.700" to "Section 797.700(i)".

Additionally, various typographical, grammatical, and form changes were made in response to the comments from JCAR regarding the Department's second notice submission.

- 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 rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The Tattoo and Body Piercing Establishment Registration Act, Public Act 94-1040, was signed by Gov. Rod R. Blagojevich on July 21, 2006. The Act requires the Illinois Department of Public Health or its designee to inspect tattoo and body piercing parlors to ensure compliance with state standards, including health and safety requirements such as sterilization and sanitation techniques, to receive certification. Facilities will be required to renew their registration every year.
- 16) Information and questions regarding these adopted rules shall be directed to:

Susan Meister

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Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217-782-2043
(E-mail: DPH.RULES@illinois.gov)

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD DRUGS AND COSMETICSPART 797
BODY ART CODE

Section	
797.100	Definitions
797.200	Incorporated and Referenced Materials
797.300	General Requirements
797.400	Operational Requirements
797.500	Exemptions
797.600	Public Notification Requirements
797.700	Disclosure of Pre-existing Conditions
797.800	Preparation and Care of the Body Art Area
797.900	Disinfection and Sterilization Procedures
797.1000	Requirements for Single Use Items
797.1100	Requirements for Premises
797.1200	Establishment Certificate of Registration Requirements
797.1300	Body Artist Proficiency Requirements
797.1400	Temporary Certificate of Registration Requirements
797.1500	Enforcement
797.1600	Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration
797.1700	Violations and Fines
797.1750	Administrative Hearings

AUTHORITY: Implementing and authorized by the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

SOURCE: Adopted at 33 Ill. Reg. 246, effective December 26, 2008.

Section 797.100 Definitions

The following shall be the accepted definitions of the terms used in this Part:

"Act" means Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

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"Aftercare" means oral and written instructions given to the client, specific to the body art procedures rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

"Antiseptic" means an agent that reduces disease-causing microorganisms on human skin or mucosa.

"Apprentice" means an individual who works under the supervision of a body artist and performs body art activities.

"Autoclave" means an apparatus that is registered and listed with the federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

"Body Art" means the practice of physical body adornment, including, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by the Illinois State Medical Board, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include piercing of the non-cartilaginous portion or lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.

"Body Artist" means a person who conducts or practices body art activities and/or procedures.

"Body Art Establishment" or *"Establishment"* means a body-piercing operation, a tattooing operation, body modification establishment or a combination of all operations in a multiple-type establishment, whether public or private, temporary or permanent in nature or location, profit or not for profit. (Section 10 of the Act)

"Body Piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature, including, but not limited to, micro-dermal anchors, acts of suspension and sub-dermal/trans-dermal implants. *"Body piercing"* does not include practices that are considered medical procedures or the puncturing of the non-cartilaginous portion or lobe of the ear using a pre-sterilized, single-use stud-and-clasp ear piercing system. (Section 10 of the Act)

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"Certificate of Registration" means written permission by the Department to operate a body art establishment. Approval is given in accordance with this Part and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

"Change of Ownership" means any of the following:

In the case of a body art establishment owned by a corporation, the transfer of the facility by the corporation to another corporation, to a partnership or association, or to a natural person. Transfer of stock in a corporation does not constitute change of ownership.

In the case of a body art establishment owned by a partnership or association, the transfer of the facility by the partnership or association to another partnership or association, to a corporation, or to a natural person. Transfer of interest in the partnership or association or substitution of any or all partners or members of the association does not constitute change of ownership.

In the case of a body art establishment owned by a natural person, the transfer of the facility to any corporation, partnership, association or other natural person, whether or not the owner retains any interest in the facility.

"Clean" or "Cleaning" means the removal of foreign materials from objects, normally accomplished with detergent, water and mechanical action.

"Client" means the person, customer, or patron whose skin will be tattooed, modified or pierced. (Section 10 of the Act)

"Cosmetic Tattooing" (see "Tattooing").

"Dentist" means a person licensed to practice dentistry in this State pursuant to the Illinois Dental Practice Act [225 ILCS 25].

"Department" means the Illinois Department of Public Health or its designated agent.

"Director" means the Director of Public Health or his or her designee. (Section 10 of the Act)

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"Disclosure Warning Statement" means a sign or poster that is provided by the Department that advises the public of the potential health risks of body art services.

"Disinfect" or "Disinfection" means a process that provides an effective concentration of a United States Environmental Protection Agency registered chemical for enough contact time as specified by the manufacturer to reduce bacterial count, including pathogens, to a safe level (when disease organisms that may be present are destroyed so as to prevent transfer) on equipment surfaces and in toilet and hand-washing facilities.

"Ear Piercing" means the puncturing of the non-cartilaginous portion or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system, following manufacturer's instructions. Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the non-cartilaginous portion and lobe of the ear.

"Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the procedures of body art.

"Good Hygienic Practices" means practices conducive to maintaining health and preventing disease, especially through cleanliness. Good hygienic practices include, but are not limited to, restrictions on eating, drinking and the use of tobacco products in the establishment; maintaining a high degree of personal cleanliness; hand washing and proper hand washing techniques; use of single-use disposable gloves; preventing employees from contaminating work surfaces; and availability of hand washing facilities and supplies.

"Hand-Washing Sink" means a sink equipped with hot and cold running water under pressure, tempered by means of a mixing valve or combination faucet, activated by wrist blade or knee control or other hands-free means, used solely for washing hands, arms and other portions of the body.

"Hot Water" means water that attains and maintains the temperature of not less than 120 degrees F.

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"Imminent Health Hazard" means any hazard to the public health when the evidence shows that a product or practice creates or may create a public health situation, including, but not limited to, a lack of water or electricity, lack of sterilization, infections that are epidemiologically associated with a body art establishment, or the occurrence of a single case of a life-threatening illness that is epidemiologically associated with a body art establishment.

"Instruments Used for Body Art" means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to body fluids during body art procedures.

"Invasive" means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

"Jewelry" means any personal ornament inserted into a pierced area. The ornament shall be free of nicks, scratches or irregular surfaces and must have been properly sterilized prior to use.

"Mobile Body Art Establishment" or "Mobile Body Art Unit" means a mobile establishment or unit that is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal.

"Operator" means an individual, partnership, corporation, association, or other entity engaged in the business of owning, managing, or offering services of body art. (Section 10 of the Act)

"Person" means any individual, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency of that state, and any legal successor, representative, agent or agency of a person.

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

"Potable Water" means water that is safe for human consumption and meets the water quality standards of the Primary Drinking Water Standards (35 Ill. Adm. Code 611).

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"Procedure Surface" means any surface of a work area, including, but not limited to, the procedure chair that comes into contact with the client's body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area that may require disinfecting.

"Regulated Waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 CFR 1910.1030 (Bloodborne Pathogens).

"Scarification" means to create a design on the skin by means of shallow cuts or skin removal that are sometimes rubbed with a colorant or irritant to enhance the resulting scar tissue.

"Sharps" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, pre-sterilized single-use needles, scalpel blades, and razor blades.

"Sharps Disposal Container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and that is labeled with the international biohazard symbol.

"Single Use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups and protective gloves.

"Standard Precautions" means infection prevention and control measures that apply to all clients regardless of condition or presumed infection status (see 77 Ill. Adm. Code 690.1010(a)(1)).

"Sterile" means free of all living organisms, including spores.

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"Sterilization" means the use of a physical or chemical process to destroy all living organisms, including spores.

"Sterilization Packaging" means packaging materials, including, but not limited to, bags, packs, pouches or tubing designed for steam sterilization use. The sterilization packaging shall allow penetration of steam to allow sterilization and to maintain the sterility of the item after sterilization.

"Sterilize" means to destroy all living organisms including spores. (Section 10 of the Act)

"Sterilizer" means equipment used to sterilize body art devices, equipment and supplies by direct exposure to a selected sterilization agent validated by a sterile indicator strip.

"Tattooing" means any method of placing ink or other pigment into the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

"Tempered Water" means water ranging in temperature from 85 degrees F to, but not including, 120 degrees F.

"Temporary Body Art Establishment" means any place or premise operating for educational, trade show or product demonstration purposes at a fixed location where a body artist/apprentice performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

"Temporary Certificate of Registration" means a certificate of registration issued by the Department *for educational, trade show, or product demonstration purposes only. The temporary certificate of registration shall be valid for a maximum of 14 calendar days.* (Section 20 of the Act)

"Ultrasonic Unit" means a unit used for cleaning soiled and/or used instruments before they are sterilized, using the emission of high frequency sound waves.

"Violation" means a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this State, or by the Director in a Final Order

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issued pursuant to the Act, or by a notice of warning issued in accordance with this Part.

"Work Station" means an area where body art procedures are performed.

Section 797.200 Incorporated and Referenced Materials

- a) The following materials are incorporated or referenced in this Part:
 - 1) Illinois Statutes and Administrative Rules:
 - A) Criminal Code of 1961 [720 ILCS 5]
 - B) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - C) Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - D) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 - E) Electrologist Licensing Act [225 ILCS 412]
 - F) Acupuncture Practice Act [225 ILCS 2]
 - G) Administrative Review Law [735 ILCS 5/Art. III]
 - H) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
 - I) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - J) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 - K) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - L) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
 - 2) Federal Regulations:

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Bloodborne Pathogens, Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1030(g)(2) (July 2005)

- 3) Federal Guidelines:
 - A) Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers, in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6
 - B) Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures, in MMWR, July 12, 1991, Vol. 40, No. RR-8
- b) All incorporations by reference of federal regulations and guidelines refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.
- c) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

Section 797.300 General Requirements

The following information shall be kept on file on the premises of a body art establishment and shall be available for inspection by the Department:

- a) Body Artist/Apprentice information
 - 1) Full names and exact duties;
 - 2) Date of birth;
 - 3) Home address;
 - 4) Home and work telephone numbers;
 - 5) Identification photographs;

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- 6) Current places of employment;
 - 7) Training documentation/certificates; and
 - 8) Proof of completion of a bloodborne pathogen training program compliant with Bloodborne Pathogens, OSHA, 29 CFR 1910.1030.
- b) Establishment Information
- 1) Name of Establishment;
 - 2) Hours of Operation;
 - 3) Owner's name and home address;
 - 4) A copy of the operation procedure (see Section 797.300(c));
 - 5) Owner's telephone numbers; and
 - 6) A complete description of all body art procedures performed.
- c) Emergency Procedures Information
- The owner or operator of a body art establishment shall prepare, maintain and implement an operation procedure that meets the following requirements:
- 1) The operation procedure shall provide for response to the occurrence of any sudden, serious and unexpected sickness or injury that would lead a reasonable person, possessing an average knowledge of health, to believe that the sick or injured person requires urgent or unscheduled medical care.
 - 2) The operation procedure shall include a method to address emergency situations, including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks.
 - 3) The operation procedure shall include procedures to be used when blood, plasma, serum or body fluids, such as semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood, are exposed to:

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- A) mucous membranes, including eye, mouth or other mucous membranes;
 - B) broken or non-intact skin;
 - C) abraded or irritated skin; or
 - D) skin surfaces that are otherwise compromised.
- 4) The operation procedure shall describe methods for obtaining appropriate medical care in the event of such an exposure and designate personnel to be notified in the event of an emergency.
 - 5) The operation procedure must be maintained in the body art establishment in a location accessible to all employees.
- c) The establishment shall also keep on file a copy of this Part.

Section 797.400 Operational Requirements

- a) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current certificate of registration.
- b) A body artist/apprentice shall be a minimum of 18 years of age.
- c) Eating or drinking by anyone other than a client is prohibited in the area where body art is performed.
- d) Smoking is prohibited in the body art establishment.
- e) *Body art procedures must not be performed, without medical clearance, on skin surfaces where sunburn, rash, acne, infection, open lesions, or other questionable skin lesions exist and must not be performed on any person who is impaired by drugs or alcohol. (Section 27 of Act) Medical clearance must be in the form of a written and signed statement by a physician.*

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- f) The body artists/apprentice shall maintain a high degree of personal cleanliness, conform to good hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, body artists/apprentices shall thoroughly wash their hands for a minimum of 20 seconds in tempered running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- g) In performing body art procedures, the body artist/apprentice shall wear single-use medical grade gloves. Gloves shall be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next pair of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of single-use, medical grade gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- h) If, while performing a body art procedure, the body artist's/apprentice's glove is pierced, torn or otherwise compromised, the procedure in subsection (f) shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see subsection (e)) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- i) Regulated waste that may release liquid blood or body fluids when compressed, or may release dried blood or body fluids when handled, shall be placed in an approved bag marked with the international biohazard symbol. The regulated waste shall then be disposed of in compliance with 29 CFR 1910.1030. Sharps ready for disposal shall be disposed of in approved sharps disposal containers. Storage of regulated waste on site shall comply with the regulations in 29 CFR 1910.1030, and storage of regulated waste awaiting pick-up shall not exceed 30 days.
- j) Waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal disposal methods.

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- k) No person shall perform any tattoo procedure upon a person under the age of 18 years that is prohibited by Sections 12-10 through 12-10.2(c) of the Criminal Code of 1961. Age verification shall be obtained by government issued identification containing a birth date and photograph. In any procedure other than tattooing, the parent or legal guardian shall sign a consent form in the presence of an operator/body artist. The consent form shall indicate that the parent or legal guardian has read and understood the disclosure warning statement required under Section 797.600(c).
- l) Before the oral cavity of a person under 18 years of age may be pierced, the written consent form signed by the parent or legal guardian must contain a provision in substantially the following form:
- I understand that the oral piercing of the tongue, lips, cheeks, or any other area of the oral cavity carries serious risk of infection or damage to the mouth and teeth, or both infection and damage to those areas, that could result in but is not limited to nerve damage, numbness, and life threatening blood clots. (Section 12-10.1 of the Criminal Code of 1961)*
- m) Any skin or mucosal surface that is to receive a body art procedure shall be free of rash, irritation or any visible infection.
- n) No body artist/apprentice affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection, possibly manifested by fever, chills and/or a chronic productive cough, shall work in any area of a body art establishment in any capacity in which that person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms.
- o) Any body artist can refuse service to any individual, at any time, and for any reason.

Section 797.500 Exemptions

The following practices, occupations and persons are exempted from this Part:

- a) *The practice of electrology as defined in the Electrologist Licensing Act [225 ILCS 412] (Section 10 of the Act);*

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- b) *The practice of acupuncture as defined in the Acupuncture Practice Act [225 ILCS 2]) (Section 10 of the Act);*
- c) *The use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical, or figurative purposes (Section 10 of the Act); and*
- d) Individuals who pierce only the non-cartilaginous portion or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system.

Section 797.600 Public Notification Requirements

- a) Written public education materials, provided by the Department, shall be offered and explained to all clients prior to receiving body art procedures.
- b) Verbal and written instructions for the aftercare of the body art shall be provided to each client.
- c) The written public education materials shall advise the client to consult a physician or dentist as appropriate at the first sign of infection. The written public education materials shall also contain the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client, and the operator shall retain the original with all other required records for a period of no less than one year. In addition, all establishments shall prominently display a disclosure warning poster, provided by the Department, that advises the public of the potential health risks of body art services.
- d) The operator and/or body artist shall report in writing to the Department all infections or diseases, resulting from a body art procedure, that required medical attention. The written report shall be sent to the Department by mail or facsimile within 24 hours after receiving a report that medical attention was required. The report shall include:
 - 1) The name, address and phone number of the affected individual;
 - 2) The date of the body art procedure;

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- 3) Identification of the body artist/apprentice who performed the service;
- 4) The name, address and certificate of registration number of the body art establishment involved;
- 5) The anatomical location, condition and description of the affected site;
- 6) The name, address and phone number of the affected individual's health care provider;
- 7) The date that medical attention was sought; and
- 8) Any other information considered relevant to the situation.

Section 797.700 Disclosure of Pre-existing Conditions

The body artist/apprentice shall request information from all clients as follows:

"To ensure that your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions. Disclosure does not prevent you from having a body art procedure.

- a) Diabetes;
- b) History of hemophilia (bleeding);
- c) History of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants, etc.;
- d) History of allergies or adverse reactions to pigments, dyes or other skin sensitivities such as, but not limited to, latex;
- e) History of epilepsy, seizures, fainting or narcolepsy;
- f) Medications used, such as anticoagulants that thin the blood and/or interfere with blood clotting;
- g) Human immunodeficiency virus (HIV);

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- h) Hepatitis;
- i) Any other information that would aid us in evaluating your body art healing process."

Section 797.800 Preparation and Care of the Body Art Area

- a) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding the location of the body art procedure shall be washed with liquid soap and water or a skin antiseptic. If shaving is necessary, single-use disposable razors shall be used. Following shaving, the skin and surrounding area shall be washed with liquid soap and water or a skin antiseptic. The single-use disposable razor and washing pad shall be discarded after a single use.
- b) If bleeding occurs, all products used to check the flow of blood or to absorb blood shall be single use and shall be disposed of immediately after use in appropriate covered containers. (See definition of "regulated waste" in Section 797.100.)

Section 797.900 Disinfection and Sterilization Procedures

- a) All non-disposable instruments used for body art shall be cleaned after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, or by following the manufacturer's instructions, to remove blood and tissue residue, and shall then be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- b) After cleaning, all non-disposable instruments used for body art shall be packed individually in sterilization packaging and subsequently sterilized (see subsection (c)). All sterilization packaging shall contain either a sterilization indicator or internal temperature indicator. Sterilization packaging shall be dated with an expiration date not to exceed six months or in accordance with manufacturer's instructions. If sterilization packaging is compromised or expired, the instrument shall be removed, repackaged and re-sterilized.
- c) All cleaned non-disposable instruments used for body art shall be sterilized in an autoclave that meets the criteria specified in subsection (i). The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. The operator shall retain on-site a copy of the manufacturer's recommended procedures for the operation of the sterilization unit and a daily temperature log

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for each day's use. If the body art establishment uses only single-use disposable instruments and products, and uses sterile single-use needles and tubes, an autoclave shall not be required.

- d) After sterilization, the instruments used for body art procedures shall be stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instruments.
- e) All instruments shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear single-use disposable medical grade gloves and use aseptic techniques to ensure that the instruments and the gloves are not contaminated.
- f) All inks, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Single-use needles, specifically manufactured for body art, may be purchased and used to construct a needle bar by the body artist.
- g) Pigment shall be reconstituted using only distilled or sterile water or a glycerin product.
- h) Immediately before a tattoo is applied, the quantity of the ink to be used shall be transferred from the ink bottle and placed into single-use containers. Upon completion of the tattoo, these single-use containers and their contents shall be discarded.
- i) Each certificate of registration holder shall demonstrate, by monthly spore destruction tests, that the autoclave used is capable of attaining sterilization. These tests shall be verified through an independent laboratory. Test records shall be retained on-site by the operator for a period of one year.

Section 797.1000 Requirements for Single-Use Items

- a) Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps disposal containers.

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- b) All products applied to the skin, including body art stencils, shall be single-use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied to the area to be tattooed with gauze or in a manner to prevent contamination of the original container and its contents.
- c) Single-use items must be stored in a clean, covered location, in a manner to prevent any contamination.

Section 797.1100 Requirements for Premises

- a) All walls, floors and procedure surfaces of a body art establishment shall be smooth, free of open holes and cracks, and washable. Walls, floors and ceilings shall be in good repair and maintained in a clean condition. All procedure surfaces, including client chair/benches, shall be of such construction as to be easily cleaned and disinfected after each client. All procedure surfaces shall be cleaned and disinfected after each procedure. The body art establishment shall be maintained in a clean and sanitary condition at all times.
- b) All body art establishments shall be completely separated, by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, or any other such activity that may cause potential contamination of work surfaces.
- c) Effective measures shall be taken by the operator/body artist/apprentice to protect against the presence of insects, vermin and rodents in the establishment. Exterior doors shall be self-closing and tight fitting. If windows open, they shall have tight-fitting screens.
- d) Each body art establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains or partitions, at a minimum, shall be available to separate multiple work stations.
- e) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles.

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- f) No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and non-procedural areas.
- g) A separate hand-washing sink (see Section 797.100) shall be readily accessible to the operators within the body art establishment. The hand sink shall be supplied with liquid soap and disposable paper towels. One hand sink shall serve no more than six stations.
- h) Each body art establishment shall have a minimum of one hand-washing sink, excluding any service sinks, and one toilet facility. The toilet facility shall be equipped with a hand-washing sink, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.
- i) At least one covered waste receptacle shall be provided at each work station, lavatory facility, and toilet facility. Receptacles in the work station shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be cleanable, and kept clean. Waste receptacles shall be kept uncovered during use and covered while not in use.
- j) All instruments and supplies shall be stored in clean, dry, covered containers. The dirty contaminated equipment, including the autoclave and ultrasonic units, along with cleaning supplies and cleaning equipment, shall be stored in an area separate from the procedure area. This area shall not be publicly accessible.
- k) If reusable cloth items are used, they shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
- l) In addition to complying with all of the requirements of this Part, mobile body art vehicles and body artists/apprentices working from a mobile body art establishment shall also comply with the following requirements:
 - 1) Body art shall be performed only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.

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- 2) Potable water shall be maintained for the mobile body art establishment at all times during operation.
- 3) All liquid wastes shall be stored in a storage tank with a capacity at least 50 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of in accordance with State and federal laws.
- 4) A toilet facility, equipped with a hand sink, shall be available within the mobile body art establishment. The hand sink shall be supplied with hot and cold running water, under pressure, to a mixing-type faucet, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. The doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.

Section 797.1200 Establishment Certificate of Registration Requirements

- a) The operator of a body art establishment shall maintain a current certificate of registration from the Department, to be renewed annually. The owner shall file an application with the Department using an application provided by the Department and shall include all of the following information:
 - 1) *The applicant's name, address, telephone number, and age. To qualify for the certificate of registration, the applicant shall be at least 18 years of age;*
 - 2) *The name, address, and phone number of the establishment;*
 - 3) *The type and year of manufacture of equipment proposed to be used for body art, if available;*
 - 4) A floor plan of the premises, showing the location of required facilities and work stations;
 - 5) *The sterilization and operational procedures to be used by the establishment (Section 15 of the Act);*

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- 6) The total number of work stations located in the establishment. This number shall include all work stations, whether utilized or not.
- b) With each annual certificate of registration application, the applicant shall submit a \$500 non-refundable fee. The \$500 non-refundable fee shall satisfy the cost of the certificate of registration and the registration of one work station. For each additional work station located in the facility, applicants shall submit, at the time of application, an additional \$50 non-refundable fee.
- c) Any attempt to obtain a certificate of registration by means of fraud, misrepresentation or concealment is prohibited.
- d) *The certificate of registration issued by the Department shall be conspicuously displayed within the sight of clients upon entering the establishment.*
- e) *Registration is valid for a single location and only for the operator named on the certificate. Registration is not transferable. (Section 35 of Act)*
- f) *In the event of a change of ownership, the new owner must apply for a certificate of registration prior to the opening of the property. (Section 40 of Act)*

Section 797.1300 Body Artist Proficiency Requirements

- a) The operator shall hire only body artists who have complied with the body artist proficiency requirements of this Part.
- b) No person shall conduct body art procedures without first demonstrating proficiency and knowledge of this Part.
- c) The operator shall determine that each body artist possesses knowledge of the following subjects:
 - 1) Anatomy;
 - 2) Infectious disease control, including waste disposal, hand-washing techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques; and

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- 3) Skin diseases, disorders and conditions (including diabetes).
- d) Body artists/apprentices shall maintain documentation of completion of "Bloodborne Pathogen Training", as required by OSHA (29 CFR 1910.1030) at the body art establishment.
- e) A list of all body artists who have complied with this Section and all other provisions of this Part shall be posted in a prominent and conspicuous area of the establishment.

Section 797.1400 Temporary Certificate of Registration Requirements

- a) *A temporary certificate of registration may be issued by the Department for educational, trade show or product demonstration purposes that include body art procedures. The temporary certificate of registration shall be valid for a maximum of 14 consecutive calendar days. (Section 20 of Act)*
- b) The establishment shall be contained in a completely enclosed non-mobile facility (e.g., inside a permanent building).
- c) An operator who wishes to obtain a temporary certificate of registration for his or her establishment/booth shall submit a temporary certificate of registration application for review by the Department at least 30 days prior to the event. The application shall specify:
 - 1) Inclusive dates during which the temporary certificate of registration is needed (not to exceed 14 consecutive calendar days per event), without reapplication;
 - 2) Compliance with body artist proficiency requirements as specified in Section 797.1300;
 - 3) The address where the temporary certificate of registration will be used.
- d) A temporary certificate of registration shall not be issued unless the applicant has paid a non-refundable fee of \$250.
- e) A temporary certificate of registration shall not be transferable from one place or person to another.

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- f) Compliance with all of the requirements of this Part includes, but is not limited to, the following:
- 1) Conveniently located hand-washing sink with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Alcohol-based single-use hand wipes shall be available in each work station to augment the hand-washing requirements of this Section;
 - 2) There shall be at least 20 foot candles of light at the level where the body art procedure is being performed; and
 - 3) The establishment shall provide a sterilizer in compliance with this Part, on which a spore test has been performed 30 or fewer days prior to the date of the event, or use only single-use prepackaged sterilized equipment.
- g) A temporary certificate of registration issued by the Department is required prior to the performance of any body art procedures.
- h) Body art procedures shall not be performed before the Department has inspected the location identified on the temporary certificate of registration application.
- i) If the holder of a temporary certificate of registration fails to comply with the requirements of the Act or this Part, the Department shall suspend the temporary certificate of registration.
- j) The temporary certificate of registration and the disclosure warning poster (see Section 797.600(c)) provided by the Department shall be prominently posted.

Section 797.1500 Enforcement

- a) The Department shall inspect any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for a certification of registration under the Act and this Part, as often as necessary to ensure compliance with this Part. The initial inspection of a mobile body art establishment shall take place at a location identified by the Department. Additional inspections may be performed at any event where the mobile body art establishment is scheduled to operate.

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- b) If the Department is denied access to any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for certification of registration under the Act and this Part, the Department shall request intervention of local, county or State law enforcement agencies to seek a court order or warrant to investigate and enter the establishment, mobile body art establishment/unit, or any other place. Any person or entity preventing the Department from carrying out its duties under the Act or this Part shall be guilty of a violation of the Act and shall be subject to penalties.
- c) If the Department suspects that a communicable disease is or may be transmitted by an operator/apprentice, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions and practices or other imminent health hazard that may adversely affect the health of the public, upon written notice to the owner or operator, the Department shall do any or all of the following:
 - 1) Issue an order excluding any or all operators/apprentices from the body art establishment who are responsible, or appear to be responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health;
 - 2) Issue an order to immediately suspend the certificate of registration of the establishment until the Department determines that there is no further risk to the public health. The order shall state the cause for the action.

Section 797.1600 Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration

A certificate of registration may be denied, suspended, or revoked, or the renewal of a certificate of registration may be denied, for any of the following reasons:

- a) Any single violation of the Act or this Part;
- b) *Conviction of an applicant or registrant of an offense arising from false, fraudulent, deceptive or misleading advertising. The record of conviction or a certified copy shall be conclusive evidence of the conviction;*
- c) *Revocation of a certificate of registration during the previous 5 years or surrender or expiration of the certificate of registration during the pendency of*

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action by the Department to revoke or suspend the certificate of registration during the previous 5 years, if, before the certificate of registration was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant, was a controlling owner of the prior certificate of registration. (Section 45 of the Act)

Section 797.1700 Violations and Fines

- a) In addition to any other action authorized by the Act or this Part, the Department may assess fines, in addition to denying, suspending and revoking certificates of registration, against a person for any violation of any provision of the Act or this Part.
- b) A fine *not to exceed \$1,000 per day for each day the registrant remains in violation* shall be issued for any violation of the Act or this Part. (Section 80 of Act)
- c) A violation is a failure to adhere to any of the provisions of the Act or this Part. A violation shall also include any of the following:
 - 1) Failure to abide by any stop operation or stop use order issued under this Part;
 - 2) Failure to notify the Department of any incident, accident or public health emergency involving any equipment or operator, as required in Section 797.600;
 - 3) Failure to allow the Department to perform inspections and investigations in accordance with Section 30 of the Act and Section 797.1500;
 - 4) Use of autoclave or body art equipment in a manner inconsistent with its labeling or directions;
 - 5) Performing a body art procedure in a faulty, careless or negligent manner;
 - 6) Performing a body art procedure in violation of the certificate of registration requirements of Section 15 of the Act;

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- 7) Performing a body art procedure in violation of an order issued by the Department;
- 8) Failure to use methods or materials suitable for body art;
- 9) Performing a body art procedure on a person under the age of 18 years, in violation of the Criminal Code of 1961;
- 10) Allowing a certificate of registration to be used by another person;
- 11) Aiding or abetting a person in evading any provision of the Act;
- 12) Failure to comply with the operator proficiency requirements of Section 797.1300;
- 13) Failure to comply with waste removal requirements of Section 797.400;
- 14) Failure to maintain client records as required by Sections 797.600(c) and 797.900(i);
- 15) Failure to maintain premises in sanitary condition as required by Section 797.1100;
- 16) Failure to establish and maintain records of monthly autoclave spore destruction tests in accordance with Section 797.700(i);
- 17) Failure to renew a certificate of registration in accordance with Section 35 of the Act;
- 18) Failure to notify the Department of a change in business ownership in accordance with Section 40 of the Act and Section 797.1200 of this Part;
- 19) Failure to provide information to the Department upon request in accordance with Section 55 of the Act;
- 20) Failure to display or provide a current permit, in accordance with Section 35 of the Act.

Section 797.1750 Administrative Hearings

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- a) All hearings shall be conducted pursuant to the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) or Section 50(d) of the Act.
- b) The Department shall serve notice of fine and/or penalty assignments, and provide an opportunity for hearing.
- c) If a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine, pursuant to Section 797.1700 and/or action pursuant to Section 797.1600, shall be due immediately upon issuance of a final order by the Department.
- d) All fines and/or actions that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has, within that time, filed proceedings in administrative review specifically appealing the fine and/or adverse licensure action and unless the court has stayed enforcement of the fine and/or adverse licensure action.

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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>Adopted Action:</u>
1001.410	Amend
1001.441	Amend
1001.442	Amend
1001.444	New
- 4) Statutory Authority: 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, 6-206.1, 6-208, and 6-208.1 of the Illinois Vehicle Code [625 ILCS 5/ 2-104, 6-103, 6-205(c), 6-206(c)3, 6-206.1, 6-208, 6-208.1, and 11-501]
- 5) Effective Date of Amendments: January 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: 32 Ill. Reg. 9819; July 11, 2008
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Technical, non-substantive changes were made as suggested by the Joint Committee on Administrative Rules. Further, several substantive changes were made:
 - In Section 1001.410, the definitions of "permanent lockout" and "service or inspection notification" were not stricken from the adopted text. Mail-in provisions for reports in Sections 1001.441(h)(2) and (3) and (j)(3), 1001.442(d)(11), 1001.442(g)(1), and 1001.444(c)(2) and (c)(3) were not stricken in the adopted text.
 - In Section 1001.442(d)(7), warning provisions were altered.
 - In Section 1001.442(d)(11), the SOS reserves the right to require a physical

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inspection of a BAIID device even when mail-in provisions are used.

- Section 1001.442(e)(7)(A)(v) was added requiring a BAIID device to provide notice to a monitoring device driving permit offender when 5 violations occurred within a 60-day period.
- Section 1001.444(d)(4) and (5) are revised to include a breath alcohol level triggering amount of 0.05 or more.
- In Section 1001.444(e)(1) and (2), cancellation provisions are altered.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The purpose of this rulemaking is to implement Public Acts 95-400, 95-578, and 95-855 (Senate Bills 300, 607, and 2295 respectively, all effective January 1, 2009). These public acts authorize the issuance by the circuit courts of a "Monitoring Device Driving Permit", which is a 24-hour, 7 days-per-week permit, to "first-time DUI offenders" upon the offender's installation of an interlock device in his/her vehicle.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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

217/785-8245
Fax: 217/782-2192
mloro@ilsos.net

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

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NOTICE OF ADOPTED AMENDMENTS

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

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Section

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; Time Limits on Obtaining Relief
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 Qualification Certification Procedures and Responsibilities; Certification 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	Monitoring Device Driving Permit (MDDP) Provisions 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

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Section

1001.500	Applicability
1001.510	Definitions
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

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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 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;

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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 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 31 Ill. Reg. 6185, effective May 1, 2007; amended at 31 Ill. Reg. 14837, effective November 1, 2007; amended at 33 Ill. Reg. 282, effective January 1, 2009.

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 1001.410 Definitions

"Abstinence" means to refrain from consuming any type of alcohol, from any source, 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.

"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

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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 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

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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 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 MDDP offenders](#) and distribute, supply, install, maintain and monitor BAIID devices. A "BAIID provider" may be an authorized agent or

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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.

"BUI" means boating under the influence, as defined in the Boat Registration and Safety Act [625 ILCS 45/5-1 through 5-21].

"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.

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"Decertification" means the removal or cancellation by the Secretary of the authorization ~~to sell, rent, distribute, supply, install, service, repair, or monitor BAIDs for BAID permittees and BAID multiple offenders. The Secretary may decertify for~~ a BAID provider ~~to use, distribute or provide~~ a particular type of BAID ~~to BAID permittees, MDDP offenders and BAID multiple offenders.~~ ~~"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 the Code.)

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

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

"Disqualification" means the removal or cancellation by the Secretary of the authorization for a BAID provider to sell, rent, distribute, supply, install, service, repair or monitor BAIDs for BAID permittees, MDDP offenders and BAID multiple offenders.

"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.

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"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.

"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

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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 [and MDDP offenders](#) through ~~those~~ 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 90% certainty or near absolute lock at 99.5% certainty.

"Manufacturer" means the maker of a BAIID or its authorized representative.

["MDDP" means a monitoring device driving permit, issued pursuant to Section 6-206.1 of the IVC. A MDDP is not a restricted driving permit.](#)

["MDDP offender" means a person who is a first offender as defined in Sections 11-500 and 6-206.1 of the IVC.](#)

"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 [or MDDP offender](#) for which the Department may authorize a modification of the BAIID or its programming to accommodate the condition without violating the

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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 [or MDDP offender](#) 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).)

"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.

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"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(eb)(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 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 [or MDDP offender](#) to either take the vehicle with the device installed to the BAIID provider or installer or send the device to the

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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, found at 625 ILCS 40/5-1 through 5-7.6].

"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 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

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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.

"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

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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 BAIID permittee [or MDDP offender](#) 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 [and vehicles that require a commercial driver's license to operate](#).

"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 alcohol per 210 liters of breath.

(Source: Amended at 33 Ill. Reg. 282, effective January 1, 2009)

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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 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 ~~\$30~~~~\$20~~ per month on an annual basis, for a total annual payment of ~~\$360~~~~\$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.
 - 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 ~~\$30~~~~\$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.
- 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

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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 or commercial motor vehicles requiring a commercial driver's license.
- 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.
 - 2) If the hearing officer determines that an RDP should be granted, an order

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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 [make available](#) 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;

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- 3) For any BAIID permittee whose monitor reports show a failure to 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

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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;

- 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

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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 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

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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 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:

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- 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 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 BAIIID permittee and used solely for commuting to and from employment.
- r) [Disqualification](#)/Decertification of BAIIID Providers and BAIIID Device. The Secretary must notify the BAIIID permittee of the ~~disqualification~~[decertification](#) of a BAIIID provider or the decertification of a particular type of BAIIID. The BAIIID permittee must then select a new BAIIID provider or type of BAIIID from the list of approved BAIIID providers maintained by the Secretary. The BAIIID permittee must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The BAIIID permittee must complete registration with a new BAIIID provider and/or installation of a new BAIIID 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 BAIIID permittee's RDP. All costs related to any change in BAIIID provider or BAIIID shall be paid by the BAIIID permittee.
- s) Reciprocity with Other States. The Secretary will honor the BAIIID 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 BAIIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Amended at 33 Ill. Reg. 282, effective January 1, 2009)

Section 1001.442 BAIIID Providers [Qualification](#)~~Certification~~ Procedures and Responsibilities; [Certification](#)~~Approval~~ of Breath Alcohol Ignition Interlock Devices; Inspections; BAIIID Installer's Responsibilities; Disqualification of a BAIIID Provider

- a) [Qualification](#)~~Certification~~ Required to Provide BAIIID Services. No person or entity may provide BAIIID services pursuant to this Subpart D unless

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~~qualifiedcertified~~ as a BAIID provider by the Secretary. ~~The Secretary shall begin accepting applications for certification immediately after August 1, 2003.~~ All ~~qualifiedcertified~~ BAIID providers must apply for ~~requalificationrecertification~~ on an annual, calendar year basis, with applications for ~~requalificationrecertification~~ due in the Secretary's office no later than December 1 of each year. ~~Upon the certification of one or more BAIID providers under this amended Subpart D, the Secretary will cease assigning BAIID permittees to BAIID manufacturers pursuant to the geographic districts set forth in previous rules.~~

- b) Who May Provide BAIID Services. BAIID providers may be a manufacturer of BAIIDs, an authorized representative of a manufacturer of BAIIDs, an installer of BAIIDs or other business entity. Without regard to the specific business operations of the BAIID provider, all certified BAIID providers under this Section shall be responsible for insuring that all of the duties and responsibilities of a BAIID provider are carried out in accordance with this Subpart D, including, but not limited to, providing, distributing, installing and servicing approved BAIIDs. BAIID providers may provide these services through their own resources, through a subsidiary, or through contractual relationships with third parties.
- c) Information Required in Application for QualificationCertification. Persons or entities desiring to be ~~qualifiedcertified~~ as BAIID providers may submit an application for ~~qualificationcertification~~ at any time ~~after August 1, 2003~~. An application for ~~qualification or requalificationcertification or recertification~~ as a BAIID provider shall include all of the following information:
- 1) The name, business address and telephone number of the applicant. If the applicant is a business entity other than a corporation, the application must include the names and addresses of the owners of the entity. If the applicant is a corporation, the application must include the names and addresses of any person or entity owning 10% or more of the outstanding shares of the corporation;
 - 2) The names, business addresses and telephone numbers, and titles of any officers, managers or supervisors of the applicant who will be involved in the provision of BAIID services;
 - 3) A description of each BAIID the applicant proposes to install, including the name and address of the manufacturer and the model of the unit.

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Unless the BAIID has been certified by the Secretary pursuant to this Section, the application must include the information necessary to obtain certification of the BAIID pursuant to this Section;

- 4) If the applicant is not a BAIID manufacturer, the application must include proof of the applicant's right to distribute and install the particular types of BAIIDs the applicant is proposing to utilize. Such proof may include a letter (composed on letterhead stationary), or a copy of a purchase, lease, rental or distribution agreement with the manufacturer;
- 5) A detailed description of the applicant's plan for distribution, installation and service of BAIIDs in Illinois, including the names and addresses of all installers the applicant intends to use. This plan must demonstrate the applicant's ability to distribute and install BAIIDs and submit reports to the Secretary within the time frames established by this Subpart D;
- 6) Proof the applicant possesses the minimum liability insurance coverage required by this Section, and a statement agreeing to the indemnification and hold harmless provisions of this Section;
- 7) In the event an original or amended application to be qualified or requalified~~certified or recertified~~ as a BAIID provider is denied, the Secretary shall limit additional applications from that applicant to one every 12 months;
- 8) In deciding whether to grant or deny an application to be a BAIID provider, the Secretary may take into consideration the applicant's past performance in manufacturing, distributing, installing or servicing BAIIDs if the applicant has previously engaged in this type of business;
- 9) A BAIID provider who has been qualified~~certified~~ pursuant to this Section may at any time submit an amended application seeking certification approval to distribute and install a type of BAIID in addition to or other than the types previously certified~~approved~~ for that BAIID provider;
- 10) The Secretary shall notify the applicant in writing of his decision regarding the application for qualification or requalification~~certification~~ as a BAIID provider.

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- d) Services that Must be Provided. After [qualification or requalification certification](#) by the Secretary, BAIID providers shall provide the following services and meet the following requirements:
- 1) The BAIID provider shall submit proof of liability insurance with its application to the Secretary. General commercial liability and/or product liability insurance, which shall include coverage for installation services, shall be maintained with minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. If the BAIID provider is not both the manufacturer and installer of the device, proof of liability insurance must be provided showing coverage of both the manufacturer and the installers. If proof of separate policies for the manufacturer and installers is provided, each policy must have minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. Other commercially acceptable insurance arrangements, in the same minimum amounts, may be accepted at the discretion of the Secretary;
 - 2) As a condition of being certified as a BAIID provider, the BAIID provider shall agree to indemnify and hold the State of Illinois and the Secretary, their officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of the BAIID provider, its employees, agents, or contractors in the manufacture, installation, service, repair, use or removal of a BAIID or performance of any other duties required by this Section;
 - 3) All installations of BAIIDs shall be done in a workmanlike manner and shall be in accordance with the standards set forth in this Section and with the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this Section. All BAIIDs must be installed and all reports to the Secretary must be made within the time frames established by this Subpart D;

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- 4) The BAIID provider shall only install models of BAIIDs that the provider has been authorized to install pursuant to this Section and the BAIIDs shall only be installed at installation sites reported to the Secretary pursuant to this Section;
- 5) Any BAIID provider that sells, rents, and/or leases ignition interlock devices in Illinois pursuant to this Subpart D shall report to the Secretary within 7 days all such sales, rentals, and/or leases listing the name of the individual, his or her driver's license number, the installer, the installer's location, the make and serial number of the device, the make and model of the vehicle it is installed in, and VIN number of the vehicle;
- 6) The BAIID provider shall provide a toll free customer service/question/complaint hotline that is answered, at a minimum, during normal business hours, Monday through Friday;
- 7) The BAIID provider shall provide a course of training and written instructions for the BAIID permittee or MDDP offender on operation, maintenance, and safeguards against improper operations, and. ~~The BAIID provider shall warn the BAIID permittee that any tampering with or unauthorized circumvention of the device will result in the immediate cancellation of his or her RDP. The BAIID provider shall~~ instruct the BAIID permittee or MDDP offender to maintain a journal of events surrounding failed readings or problems with the device. The BAIID provider will warn the BAIID permittee or MDDP offender that a violation of the BAIID or MDDP program or a finding of guilt for any of the offenses listed in Section 6-206.1(c-1) or Section 6-206.2 of the IVC will result in an extension of the summary suspension or a re-suspension for 3 months or immediate cancellation of the MDDP. Copies of all materials used in this course of training shall be provided to the Secretary;
- 8) The BAIID provider shall provide service for malfunctioning or defective BAIIDs within a maximum of 48 hours after notification of a request for service. This support shall be in effect during the period the device is required to be installed in a motor vehicle;
- 9) The BAIID provider shall provide, at the request of the Secretary, expert or other required testimony in any civil or criminal proceedings or

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administrative hearings as to issues involving BAIIDs, including the method of manufacture of the device and how the device functions;

- 10) If a BAIID provider requires a security deposit by a BAIID permittee or MDDP offender and the amount of the deposit required is more than an amount equal to one month's rental or lease fee, the security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the State of Illinois. The BAIID provider will provide the Secretary with a certified statement of the escrow account upon his request;
- 11) BAIID providers must submit monitor reports or reports of any other service to the Secretary whenever a BAIID is brought in for monitoring or whenever a BAIID is brought in pursuant to a service or notification report. Except as provided in subsection (d)(~~1214~~), the reports must be submitted to the Secretary no later than 7 days from the date the BAIID is brought in or an appropriate portion of the BAIID is sent to the BAIID provider. All BAIIDs shall be recalibrated whenever they are brought in for any type of service or monitoring using a wet bath simulator or other approved equivalent procedure; i.e., dry gas standard. The Secretary reserves the discretion to require a physical inspection, to be conducted by the BAIID provider or the BAIID Division, if monitor reports reflect repeated violations, or a reading or readings indicate tampering or circumvention of the device;
- 12) The BAIID provider shall report to the Secretary within two business days the discovery of any evidence of tampering with or attempts to circumvent a BAIID. The BAIID provider shall preserve any available physical evidence of tampering circumvention and shall make that evidence available to the Secretary;
- 13) BAIID providers shall provide to the Secretary, upon request, additional reports, to include but not be limited to, records of installation, reinstallations, deinstallations, calibrations, maintenance checks and usage records on devices placed in service in the State;
- 14) The BAIID provider shall provide service to all BAIID permittees or MDDP offenders who request services from the BAIID provider and who have met the requirements of this Subpart D, including the payment of

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fees due to the provider, [unless the fees are otherwise waived by rule or statute](#);

- 15) The BAIID provider must immediately notify the Secretary in writing if it or its manufacturer or installer becomes unable to produce, supply, service, repair, maintain, or monitor BAIIDs in a manner that enables it to service BAIID permittees [and MDDP offenders](#) as required and within the deadlines specified in this Subpart D;
- 16) The BAIID provider shall provide the Secretary a list of all locations in Illinois where the device may be purchased, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored. The BAIID provider shall notify the Secretary within 48 hours of any new installation locations or any installation locations that are closed;
- [17\)](#) [The BAIID provider shall install, monitor and deinstall authorized BAIIDs without fee to any MDDP offender found to be indigent by the court of venue who requests services from the BAIID provider and who presents written documentation of indigency from the court in a form prescribed by the Secretary](#);
- [1817\)](#) The Secretary may designate the form, format and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary pursuant to this Subpart D, including, but not limited to, installation verification forms, monitoring report forms, noncompliance report forms, notices of calibration, verification, tampering or circumvention, ~~and~~ removal or deinstallation report forms, [and information necessary to implement and monitor the indigent surcharge payments to the Indigent BAIID Fund and payment provisions from the Indigent BAIID Fund set forth in Section 6-206.1 of the IVC and Section 1001.444](#);
- [1918\)](#) The Secretary shall review and approve leases or rental agreements the BAIID provider intends to utilize between the BAIID provider and the BAIID permittee [or MDDP offender](#). The BAIID provider shall submit to the Secretary a copy of the schedule of all fees that will be charged to BAIID permittees [or MDDP offenders](#), and shall submit an amended schedule of fees whenever there is a change to the BAIID provider's fees;

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- [2019](#)) The BAIID providers shall agree to take assignments to unserved areas of Illinois pursuant to this Section, as those areas are defined in subsection (i)(2);
- [2120](#)) The Secretary shall have the right to conduct independent inspections of BAIID providers, manufacturers and installers, including inspection of any devices present at the time of the inspection, to determine if they are in compliance with the requirements of this Subpart D. The Secretary shall notify in writing and require the BAIID provider to correct any noncompliance revealed during any inspections. Within 30 days after receiving a notice of noncompliance, the BAIID provider shall notify the Secretary in writing of any corrective action taken;
- [2221](#)) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, provide the Secretary with not more than two BAIIDs for each model that is certified under this Section. These models will be used for demonstration and training purposes.
- e) Criteria for Certification of Interlock Devices. Only BAIIDs that have been certified for use in Illinois pursuant to this Section may be installed in the vehicles of BAIID permittees [and MDDP offenders](#) by BAIID providers. Certification of a BAIID may be granted by the Secretary based on the following criteria:
- 1) [CertificationApproval](#) of a device may be granted by the Secretary, based on a review and evaluation of test results from any nationally recognized and certified laboratory test facility that is accredited by one of the following: International Standards Organization (ISO-25), National Voluntary Lab Accreditation Program – National Institutes of Standards & Technology (NVLAP), or Clinical Laboratory Improvement Amendments – U.S. Department of Health and Human Services (CLIA). The evaluation and test results must affirm the device's ability to meet the Model Safety and Utility Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) promulgated by the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, 400 S. 7th St. SW, Washington, D.C. 20590, (202)366-5593, 57 Fed. Reg. 1172, April 7, 1992 (no subsequent dates or editions), except for:

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- A) 1.4.S, Power, if the device is not designed to be operated from the battery;
 - B) 1.5.2.S, Extreme Operating Range, if the device is not designed to be operated below -20° C and above $+70^{\circ}$ C;
 - C) 2.3.S, Warm Up, if the device is not designed to be operated below -20° C;
 - D) 2.5.S, Temperature Package, if the device is not designed to be operated below -20° C and above $+70^{\circ}$ C;
- 2) The BAIID provider must certify that the BAIID:
- A) Does not impede the safe operation of a vehicle;
 - B) Minimizes opportunities to bypass the device;
 - C) Performs accurately and reliably under normal conditions;
 - D) Prevents a BAIID permittee [or MDDP offender](#) from starting a vehicle when the BAIID permittee [or MDDP offender](#) has a prohibited BrAC; i.e., $P \geq 0.025$;
 - E) Satisfies the requirements for certification set forth in this Section;
- 3) No device shall be [certified](#)~~given approval~~ if it demonstrates an accuracy rate ≥ 0.01 in unstressed conditions or ≥ 0.02 in stressed conditions. The terms "stressed" and "unstressed" shall be defined according to the NHTSA standards referred to in subsection (e)(1);
- 4) Any device to be [certified](#)~~approved~~ shall be designed and constructed with an alcohol setpoint of 0.025;
- 5) Any device to be [certified](#)~~approved~~ shall require the operator of the vehicle to submit to a running retest at a random time within 5 to 15 minutes after starting the vehicle. Running retests shall continue at a rate of two per hour in random intervals not to exceed 45 minutes after the first running retest;

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- 6) Any device to be ~~certified~~approved shall be designed and constructed to immediately begin blowing the horn if:
- A) The running retest is not performed;
 - B) The BrAC readings of the running retest is 0.05 or more; or
 - C) Tampering or circumvention attempts are detected;
- 7) The BAIID shall be required to have permanent lockout 5 days after it gives service or inspection notification to the BAIID permittee or MDDP offender if it is not serviced or calibrated within that five day period.
- A) The BAIID shall give service or inspection notification to the BAIID permittee or MDDP offender upon the occurrence of any of the following events:
 - iA) Every instance in which the device registers 3 BrAC readings of .05 or more within a 30 minute period;
 - iiB) Any attempted tampering or circumvention;
 - iiiC) The time for the BAIID permittee or MDDP offender to take the vehicle for the initial monitor report;
 - ivD) Every 60 days after the initial monitor report;
 - v) For MDDP offenders, 5 violations within the 60 days monitoring period;
 - B) In addition, the BAIID shall record and communicate to the BAIID permittee or MDDP offender and to the Secretary's office via monitor reports all of the preceding events and all starts of the vehicle, both successful and unsuccessful;
- 8) The device shall be required to have 24 hour lockout anytime the BAIID permittee or MDDP offender registers 3 BrAC readings of 0.05 or more within a 30 minute period;

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- 9) Certification Approval of a device may be withdrawn by the Secretary, based on a field testing protocol developed by the Secretary to determine the device's ability to operate in a consistently reliable manner and based upon review of field performance results; a review of BAIID usage by BAIID permittees and MDDP offenders; and BAIID monitor reports;
- 10) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, install not more than three of each model of BAIID for which certification is sought in the vehicles provided by the Secretary for field testing. The Secretary may independently evaluate each device to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering;
- 11) Upon the request of the Secretary, for each model of BAIID certified under this Section, the BAIID provider shall provide a total of at least 10 hours of training to the Secretary's employees at no cost to the State of Illinois. This training shall be held at the times and locations within the State designated by the Secretary. The training shall be designed to familiarize the Secretary's employees with the installation, operation, service, repair and removal of the BAIIDs and with the training and instructions that the BAIID provider will give to BAIID permittees and MDDP offenders. The BAIID provider shall also provide the Secretary, upon request, the following materials:
 - A) A detailed description of the device, including complete instructions for installation, operation, service, repair and removal of the BAIID;
 - B) Complete technical specifications describing the BAIID's accuracy, reliability, security, data collection and recording, tamper and circumvention detection, and environmental features;
- 12) Any device that is not certified approved shall be re-tested at the request of the BAIID provider but not more often than once in a calendar year;
- 13) The After August 1, 2003, the Secretary shall not accept for certification approval any BAIID that uses Taguchi cell technology to

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determine BrAC. ~~By September 1, 2003, the Secretary shall publish an initial list of BAIIDs that do not utilize Taguchi cell technology and that have been approved for use in Illinois by the Secretary. The devices on this list shall meet all standards set forth in this Section. Between January 1, 2004 and December 31, 2004, approved BAIID service providers shall only install approved devices that do not utilize Taguchi cell technology. Taguchi cell devices installed before January 1, 2004 may remain installed until the end of the contract period or until January 1, 2005, whichever occurs first. Beginning January 1, 2005, no devices using Taguchi cell technology shall be permitted in BAIID permittee vehicles;~~

- 14) ~~After January 1, 2005, new BAIIDs~~BAIID installations must use, as their anti-circumvention method, one of the following technologies: either a positive>negative>positive air pressure test requirement, or a mid-test hum tone requirement. ~~BAIIDs installed and in use as of January 1, 2005 that do not use one of these anti-circumvention methods must be replaced by March 1, 2005. After January 1, 2005,~~BAIID providers may submit for approval to the Secretary new anti-circumvention technologies. Upon approval by the Secretary, pursuant to the procedures in this subsection (e), these technologies shall be included with the previously mentioned anti-circumvention technologies as acceptable for use by BAIID providers.

f) BAIID Installers

- 1) All installations of BAIIDs must be performed by installers identified to the Secretary as employees of or contractors of a ~~qualified~~certified BAIID provider. The provider must inform the Secretary whether installation is being done by its own employees, contractors, or both. All installations shall be performed in a workmanlike manner. BAIID providers shall be responsible for their installer's compliance with this Subpart D. A BAIID provider may be ~~disqualified~~decertified by the Secretary for the noncompliance of its installer with the requirements of this Subpart D;
- 2) All BAIID installers shall have all tools, test equipment and manuals needed to install devices and screen motor vehicles for acceptable mechanical and electrical condition prior to installation;

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- 3) The installer shall provide adequate security measures to prevent access to the device (tamper seals or installation instructions);
 - 4) The installer shall appropriately install devices on motor vehicles taking into account each motor vehicle's mechanical and electrical condition, following accepted trade standards and the device manufacturer's instructions. All connections shall be soldered and covered with tamper seals. It is the BAIID permittee's [or MDDP offender's](#) responsibility to repair the vehicle if any prior condition exists that would prevent the proper functioning of the device. The installer shall inform the BAIID permittee [or MDDP offender](#) that a problem exists, but shall not be responsible for repairing the vehicle;
 - 5) The installer shall not install devices in a manner that could adversely affect the performance of the device or impede the safe operation of the motor vehicle;
 - 6) The installer shall verify that a device is functioning properly after it has been installed in the motor vehicle;
 - 7) The installer shall restore a motor vehicle to its original condition when a device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent;
 - 8) Where the installer is also providing monitoring and other services for the BAIID after installation, the installer shall perform all of the duties that are associated with service after the installation and that are required by this Section of a BAIID provider. These duties shall include, but are not limited to, completing all monitoring reports [and/or mailing in the appropriate part of the device to the BAIID provider](#), making notification of any evidence of tampering or circumvention, and recalibrating BAIIDs whenever they are brought in for service or monitoring.
- g) Disqualification of BAIID Providers. The Secretary shall disqualify a BAIID provider from providing BAIID services in Illinois, upon written notification and a 30 day opportunity to come into compliance, in any of the following cases:
- 1) Failure to submit monitor reports in a timely manner as provided in subsections (d)(11) and (d)(12). If the Secretary finds, through

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investigation, that the BAIID permittee or MDDP offender did take the vehicle with the installed device to the BAIID provider, or sent the appropriate portion of the device to the BAIID provider for a monitor report in a timely manner, a warning notification shall be sent to the BAIID provider indicating that a third such occurrence within a 12 month period will result in disqualification~~decertification~~;

- 2) Failure to maintain liability insurance as required;
- 3) Failure to install certified~~approved~~ devices within the time requirements of this Subpart D;
- 4) Failure to comply with all of the duties and obligations contained in this Subpart D;
- 5) Failure to provide BAIID permittees or MDDP offenders with correct information regarding the requirements of this Subpart D;
- 6) Failure to submit a required surcharge to the Secretary for deposit in the Indigent BAIID Fund as required in Section 6-206.1 of the IVC and Section 1001.444. If the amount in dispute is not resolved within the above 30 day period, the BAIID provider shall be disqualified unless the BAIID provider submits, within the 30 day period, a written request to review the amount in dispute to the BAIID Division. The dispute will then be resolved according to the terms of the contract entered into between the BAIID provider and the Secretary.
- h) Notification of Decertification/Disqualification. Upon decertification of a BAIID or the disqualification~~decertification~~ of or the cessation of the operation of a BAIID provider, the Secretary shall notify in writing all affected BAIID permittees or MDDP offenders of the decertification of the BAIID or the disqualification~~decertification~~ of or the cessation of the operation of a BAIID provider.
- i) Designation of Installation Sites
 - 1) Each BAIID provider shall be responsible for establishing installation sites within the State to service BAIID permittees and MDDP offenders;

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- 2) The Secretary shall monitor the location of installation sites throughout Illinois. If the Secretary determines that any place in Illinois is not within 75 miles of an installation site, the Secretary shall randomly select one of the certified BAIID providers and require that BAIID provider to establish an installation site in the unserved area. If a second or subsequent area of Illinois is determined not to be within 75 miles of an installation site, the Secretary shall randomly select a BAIID provider other than the one selected previously and require that BAIID provider to establish an installation site in the unserved area. As a condition of being ~~qualified~~certified by the Secretary, BAIID providers must agree to take assignments to unserved areas pursuant to this subsection (i)(2).

(Source: Amended at 33 Ill. Reg. 282, effective January 1, 2009)

Section 1001.444 Monitoring Device Driving Permit (MDDP) Provisions~~Installer's Responsibilities (Repealed)~~

- a) Order of the Court; Breath Alcohol Ignition Interlock Device (BAIID) Required for Issuance; Fee Required
 - 1) The issuance of an MDDP to a first offender (MDDP offender), as defined in Section 11-500 of the IVC, shall be conditioned upon receipt by the Secretary of an order from the court of venue, on a form prescribed by the Secretary, and the installation and use of a BAIID in any vehicle operated, as required by Section 6-206.1 of the IVC. Only BAIIDs certified by the Secretary under Section 1001.442 of this Part may be utilized. As provided in Section 6-206.1 of the IVC, an MDDP offender must pay a non-refundable fee in an amount equal to \$30 per month times the number of months or any portion of a month remaining on the statutory summary suspension at the time of the receipt in the office of the Secretary of the order to issue the MDDP from the court. No fee will be charged for any month in which the court order is received in the office of the Secretary on or after the 20th day of that month. This total, one time payment for each MDDP issued must be paid in advance and prior to the issuance of the MDDP. Payment must be submitted in the form of a money order, check or credit card charge (with a pre-approved card), made payable to the Secretary of State.

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- 2) Any MDDP offender whose summary suspension is extended or who is re-suspended as provided for in Section 6-206.1 and who applies for and obtains an extension or re-issuance of an MDDP, shall likewise be required to pay the non-refundable fee for the length of the period of extension or re-suspension under the same terms and conditions as stated in subsection (a)(1). Any such suspension will not be terminated until payment of any and all fees due under this Section is made.
- 3) Any MDDP offender whose driving privileges are otherwise suspended, revoked, cancelled or become otherwise invalid is not eligible to receive an MDDP.
- 4) Any MDDP shall be invalid and must be surrendered to the Secretary if an MDDP offender's driving privileges subsequently are suspended, revoked, cancelled or become otherwise invalid under any provision of the IVC, during the issuance period of the MDDP. The MDDP offender may petition, at a formal hearing conducted pursuant to Section 2-118 of the IVC, for a restricted driving permit during the period of suspension, revocation, cancellation or invalidation, if available pursuant to the IVC. In order to obtain a restricted driving permit pursuant to this Section, the MDDP offender must also satisfy the other provisions of this Part. Further, should a restricted driving permit be granted, the MDDP offender may only operate vehicles in which a properly working BAID has been installed and is subject to all of the provisions of this Section.
- 5) Any MDDP offender whose MDDP is invalidated as provided in subsection (a)(4), except those MDDP offenders cancelled under Section 6-206.1(c-1) of the IVC, may obtain another MDDP upon termination of the sanction that led to the invalidation as long as the offender is still eligible for an MDDP. The offender must notify the Secretary in writing and submit the statutory permit fee. Upon issuance of an MDDP, the MDDP offender is subject to all of the provisions of this Section.
- 6) The MDDP offender may voluntarily terminate participation in the MDDP program by written notification and surrender of the permit to the Secretary's BAID Division. This voluntary termination does not in any way affect any sanction imposed under this Section. An offender may also resume participation by notifying the BAID Division in writing, but

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may do so only once during the term of the suspension, extension or re-suspension due to a violation of the program.

- b) Compliance – Installation of BAIID/Notification to the Secretary
- 1) The MDDP Offender. Upon the issuance of an MDDP under this Section, the Secretary shall make available a list of certified BAIID providers to the MDDP offender. The MDDP offender may operate the vehicle for 14 days from the issuance date stated on the MDDP without the BAIID installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the BAIID. Failure to comply with this requirement will result in the cancellation of the MDDP issued.
 - 2) The Installer/BAIID Provider. A BAIID provider or installer must:
 - A) Be qualified and comply with all of the procedures and responsibilities set forth in Section 1001.442 of this Part;
 - B) Upon installation, notify the Secretary, in a manner and form specified by the Secretary, that a BAIID has been installed in the vehicles designated by the MDDP offender within 7 days from the date of the installation of the BAIID;
 - C) Upon notification from the MDDP offender, as evidenced by the written form from the court of venue that the MDDP offender has been found to be indigent, not charge the MDDP offender for any installation, monthly monitoring, deinstallation fees, or a security deposit that exceeds one month's BAIID rental fee.
 - D) Upon request, make records available to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
- c) Compliance – Driving with BAIID. Any MDDP offender receiving a MDDP under this Section must comply with the following requirements:
- 1) Operate only vehicles with an installed, operating BAIID certified by the Secretary whether the vehicle is owned, rented, leased, loaned, or

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otherwise in the possession of the MDDP offender, as required by the MDDP issued under this Section.

- 2) Either take any and all vehicles operated by the MDDP offender and with a BAIID installed or send the device to the BAIID provider or installer at least every 60 days, which shall be referred to as the monitoring period, commencing with the date of installation, for the purposes of calibration and having a monitor report of the BAIID's activity prepared and sent to the Secretary by the BAIID provider or installer. The monitoring period will be 30 days for any MDDP offender whose summary suspension is extended or who is re-suspended for a violation of the MDDP program.
 - 3) Either take the vehicle with the BAIID installed or send the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 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 BAIID and the name of the driver operating the vehicle at the time of the event. If BAIIDs have been installed on multiple vehicles, a separate journal must be kept for each vehicle.
 - 5) Shall not have a BAIID removed or deinstalled from vehicles without authorization from the Secretary and when, applicable, surrendering to the Secretary or his designee the MDDP.
 - 6) Shall not commit any of the violations listed in subparagraph (d) of this Section.
- d) Violations. Any of the following, when committed by an MDDP offender, constitutes a violation of the MDDP program:
- 1) A conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC;
 - 2) Tampering or attempting to tamper with, or unauthorized circumvention of, the BAIID;
 - 3) A violation of Section 6-206.2 of the IVC;

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- 4) 10 or more unsuccessful attempts to start the vehicle with a BAIID installed within a 30 day period, excluding a BrAC reading of 0.05 or more;
 - 5) 5 or more unsuccessful attempts to start the vehicle within a 24 hour period, excluding a BrAC reading of 0.05 or more;
 - 6) A BrAC reading of 0.05 or more;
 - 7) Failing a running retest, or failing to take a running retest;
 - 8) Removing the BAIID without authorization from the Secretary;
 - 9) Failing to utilize the BAIID as required;
 - 10) Failing to submit a BAIID for a monitor report in a timely manner.
- e) Sanctions Upon Commission of a Violation. Upon notification of any of the violations in subsection (d), the Secretary shall take the following action:
- 1) For a conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC, immediately cancel the MDDP and authorize the immediate removal/deinstallation of the BAIID. If the MDDP had expired prior to the Secretary receiving notification of the conviction, supervision or violation, the Secretary shall re-suspend the MDDP offender as provided for in Section 6-206.1(l) of the IVC.
 - 2) For any MDDP offender whose monitor report, physical inspection by an installer or the Secretary of State, or other sufficient evidence shows any violation of Section 6-206.2, send the MDDP offender 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, the Secretary shall immediately cancel the MDDP. If the summary suspension is already terminated prior to the Secretary receiving the monitor report/physical inspection showing the violation, the Secretary shall re-suspend for 3 months.

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- 3) For any MDDP offender whose monitor report shows: 10 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 30 day period; or 5 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 24 hour period; or any single BrAC reading of 0.05 or more, send the MDDP offender a letter asking for an explanation of the unsuccessful attempts to start the vehicle or the BrAC reading. 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 Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months. Should any monitor report show multiple violations, each violation provided for in this subsection shall be a separate violation requiring a separate 3 month extension or re-suspension.
- 4) For any MDDP offender whose monitor reports show a failure to successfully complete a running retest, send the MDDP offender 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 reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.
- 5) For a removal/deinstallation of a BAIID without authorization, including a removal or deinstallation caused by the MDDP offender's failure to pay lease or rental fees due to the BAIID provider, the Secretary shall immediately cancel the MDDP.
- 6) For a failure to utilize the BAIID by the MDDP offender as required, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving

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the monitor report showing the violation, the Secretary shall re-suspend for 3 months.

- 7) For a failure to submit a BAIID for a monitor report in a timely manner, the following procedure will be followed: unless notified by a BAIID provider that the BAIID has been removed, all monitor reports shall be submitted to the Secretary within 37 days after installation and within every 37 days thereafter. If the Secretary fails to receive an MDDP offender's monitor reports within the 37 days, the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and MDDP offender 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 MDDP offender failed to take in a vehicle with the BAIID or send the device in for timely monitor reports, then the Secretary will send a letter to the MDDP offender stating that, if the BAIID is not taken in for a monitor report within 10 days after the date of the letter, the Secretary will extend the summary suspension for 3 months, or, if the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary will re-suspend for 3 months.
- 8) Violations detected in any one monitoring period shall not, however, result in extensions or re-suspensions totaling more than six months.
- f) Hearing to Contest Cancellation of MDDP or Extension of the Summary Suspension. Any MDDP offender whose summary suspension is extended or re-suspended, or whose MDDP is cancelled as provided for in this Section, may request a hearing to contest that action. A written request, along with the \$50 filing fee, must be received or postmarked within 30 days from the date the notice of extension, re-suspension or cancellation was mailed by the Secretary. The hearing will be conducted as any other formal hearing under this Part.
- g) MDDPs – Content. Any MDDPs issued as provided for in this Section shall, in addition to all other requirements, state at a minimum that:
 - 1) The MDDP is issued pursuant to the BAIID requirements of this Section and that a vehicle operated by an MDDP offender must be equipped with a certified, installed, properly operating BAIID;

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- 2) The provisions of the MDDP also allow the MDDP offender to drive to and from the BAIID provider or installer for the purpose of installing the BAIID within 14 days after the issuance date on the MDDP;
 - 3) Once the BAIID is installed, the MDDP offender may drive the vehicle with the BAIID properly installed for any purpose and at any time;
 - 4) If applicable, the MDDP offender qualifies for any modification or waiver of BAIID, as provided in subsection (i), or employment exemption from BAIID, as provided in subsection (j).
- h) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the MDDP offender's performance and compliance with the BAIID requirements under this Subpart D. The reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.
- i) Modification or Waiver of BAIID. Upon request of the MDDP offender, the Secretary may consider a medical or physical BAIID modification or waiver for an MDDP issued under this Section. The MDDP offender must:
- 1) Submit a medical report establishing the inability to utilize the BAIID.
 - 2) Have a hearing, pursuant to Subpart A, at which the MDDP offender must prove compliance with the alcohol/drug requirements under this Subpart D.
- j) Employment Exemption from BAIID Requirements. In determining whether an MDDP offender is exempt from the BAIID requirements pursuant to the waiver provided for in Section 6-206.1 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 MDDP offender or any member of the MDDP offender's immediate family, unless the entity is a corporation and the MDDP offender and the MDDP offender's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;

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- 2) The exemption shall not apply when the employer's vehicle is assigned exclusively to the MDDP offender and used solely for commuting to and from employment.
- k) Disqualification/Decertification of BAIID Provider and BAIID Device. The Secretary must notify the MDDP offender of the disqualification of a BAIID provider or the decertification of a particular type of BAIID. The MDDP offender must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The MDDP offender must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The MDDP offender 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 MDDP offender's MDDP. All costs related to any change in a BAIID provider or a BAIID shall be paid by the MDDP offender, unless the court has deemed the MDDP offender indigent.
- l) Indigent BAIID Fund
- 1) Any BAIID provider who installs a BAIID under the MDDP program must pay 5% of the total gross revenue received by each contract entered into with an MDDP offender who is not found to be indigent by the court of venue, hereinafter referred to as the surcharge.
- A) The surcharge shall include only those fees normally charged an MDDP offender for installation, monthly rental and monitoring, and deinstallation of the BAIID during the term of the MDDP offender's statutory summary suspension.
- B) The surcharge shall be submitted to the Secretary by the 15th of each month and shall include all surcharges incurred during the previous month. The surcharge must be submitted in the form of a check, made payable to the Secretary of State, or by electronic transfer as agreed to by the Secretary and the BAIID Provider.
- C) Should the summary suspension of an MDDP offender be extended or a re-suspension issued under the MDDP program and

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the offender continue to participate in the program, the surcharge is due for the period of extension or re-suspension.

- 2) Any BAIID provider who installs a BAIID under the MDDP program for an MDDP offender who has been found to be indigent by the court of venue may apply for reimbursement for any fees incurred as set out in subsection (b)(2)(C). The request must be in a form and in the manner prescribed by the Secretary. The Secretary will authorize payments in accordance with Section 6-206.1(o) of the IVC.
 - 3) The Secretary may audit the records of BAIID providers or installers to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
- m) 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: Added at 33 Ill. Reg. 282, effective January 1, 2009)

STATE BOARD OF ELECTIONS

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- 1) Heading of the Part: Campaign Financing
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
100.180	New Section
100.EXHIBIT A	New Section
- 4) Statutory Authority: Implements 5/9-35 of the Election Code [10 ILCS 5/9-35] and authorized by Section 9-35(h) of the Election Code [10 ILCS 5/9-35(h)]
- 5) Effective Date of Amendments: January 1, 2009
- 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: This emergency rule will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department:
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The effective date of PA 95-971 is January 1. In order for a business to submit a bid or proposal on a State contract, they must submit a certificate of registration from the State Board of Elections (Board). To obtain such a certificate, the business must register with the Board. Therefore, the Board must have a registration system in place on the effective date of the Act, January 1, 2009. Given the lack of funding and the short time period from the Governor's amendatory veto being overridden (September 22, 2008) and the effective date of the Act, the Board was not able to create a compliant electronic registration system by January 1, 2009.
- 10) A complete Description of the Subjects and Issues Involved: This rulemaking establishes a registration mechanism for business entities to submit their registration forms via postal mail or e-mail using a PDF file attachment. The Board will time stamp the registration form, scan it, and e-mail or mail the form (which is deemed to be the certificate of registration) to the business entity for submission to the chief procurement officer (CPO) of the agency at which the contract is being sought. Businesses with existing bids or contracts must submit the certificate to the CPO within 30 days after the effective date of

STATE BOARD OF ELECTIONS

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the Act. The registration forms will be stored in an e-mail repository and be available for public viewing and downloading of hard copy forms.

- 11) Are there any proposed amendments to this Part pending? A proposed permanent rulemaking will be submitted within 5 months implementing the provisions of P.A. 95-971 as they relate to an electronic registration mechanism.
- 12) Statement of Statewide Policy Objectives: This emergency rulemaking does not create or expand a State mandate on local government.
- 13) Information and questions regarding this rulemaking shall be directed to:

Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939
Ssandvoss@elections.state.il.us

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

STATE BOARD OF ELECTIONS

NOTICE OF EMERGENCY AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 100

CAMPAIGN FINANCING

Section

100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.80	Report Forms
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying (Repealed)
100.110	Loans by One Political Committee to Another
100.120	Receipt of Campaign Contributions
100.125	Receipt by Mail of Pre-Election and Semiannual Reports of Campaign Contributions and Expenditures
100.130	Reporting by Certain Nonprofit Organizations
100.140	Prohibited Contributions – State Property
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity
100.180	Business Entity Registration Procedures
EMERGENCY	
100.EXHIBIT A	Business Entity Registration Form
EMERGENCY	

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill.

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Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005; amended at 30 Ill. Reg. 10261, effective June 1, 2006; amended at 30 Ill. Reg. 17496, effective November 3, 2006; amended at 31 Ill. Reg. 7142, effective May 1, 2007; emergency amendment at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days.

Section 100.180 Business Entity Registration Procedures
EMERGENCY

The State Board of Elections adopts the following emergency rulemaking to comply with the spirit of the Act to the fullest extent possible. With the understanding that the Act requires the electronic registration of business entities that have existing State contracts whose value exceeds \$50,000 in aggregate, or that submit bids or proposals for State contracts whose value exceeds \$50,000 in aggregate, or a combination of the two, the Board is implementing a temporary filing system by which such entities must file the required registration forms provided by the Board via e-mail attachment in a PDF file or other type of mail service and receive registration certificates via e-mail or on paper from the Board. Upon completion of the electronic registration system required by the Act, the Board will accept registrations exclusively by electronic means and issue the certificate of registration electronically as well.

- a) For purposes of this Section, the terms "business entity", "State contract", "affiliated entity" and "affiliated person" have the meanings ascribed to those terms in Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37].

- b) No later than February 2, 2009, business entities whose existing State contracts have an aggregate value in excess of \$50,000, or whose aggregate bids and proposals on State contracts, either separately or combined with existing State contracts, exceed \$50,000 in value, shall register with the State Board of Elections by transmitting a registration form provided by the Board (see Appendix A) in an e-mail attachment using a PDF file. The transmission shall be sent to a dedicated e-mail address to be provided by the Board. The registration form shall then be stored electronically and may be viewed by interested persons pursuant to subsection (n) or downloaded and printed as a paper copy if requested by the viewer. The transmitted form must contain a scanned original signature of the authorized business entity representative. In the alternative, the business entity may file the form in one of the two following ways:

STATE BOARD OF ELECTIONS

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- 1) On a paper form provided by the Board. (See Appendix A.)
- 2) Using a form contained on the Board's website (www.elections.il.gov) that the registrant can fill out while accessing the website, printing out the completed form.
- c) The provisions of subsection (b) shall also apply to those business entities who intend to submit bids or proposals on State contracts valued in excess of \$50,000. However their registration with the Board must occur prior to the submission of the bid or proposal. The business entities shall include with the bid or proposal the certificate of registration referred to in subsection (d).
- d) Upon receipt of the form described in subsection (b), the Board shall provide a stamped copy of the form to the business entity, either by e-mail or first class mail. The stamped copy is deemed to be the certificate of registration that is to be submitted to the applicable chief procurement officer as provided in Section 20-160(c) of the Illinois Procurement Code. The stamped copy of the form will be transmitted or sent to the business entity within 2 business days after receipt of the registration by the Board.
- e) A copy of the form shall be provided by the business entity to any affiliated person or affiliated entity of the business entity by e-mail, first class mail or hand delivery within 10 days following the registration. The failure to timely provide this notice is a business offense and shall subject the business entity to a civil penalty not to exceed \$1,001. Complaints for violations of this subsection shall be resolved in the same manner as those referred to in subsection (j).
- f) Business entities that are required to register with the Board pursuant to Section 20-160 of the Procurement Code shall notify any political committee to which it makes a contribution that it is registered with the Board. Any affiliated person or affiliated entity of the business entity that makes a contribution to any political committee shall also notify that committee of its affiliation with the business entity.
- g) A business entity whose aggregate bids and proposals on State contracts exceed \$50,000 has a continuing duty to update the information provided on its registration form, and the update must be submitted to the Board by e-mail or in paper form within 2 business days following the change in information.

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- h) Registration Form
- 1) The registration form must contain the following information:
 - A) The name and address of the business entity.
 - B) The name and address of any affiliated entity of the business entity, including a description of the affiliation.
 - C) The name and address of any affiliated person of the business entity, including a description of the affiliation.
 - D) The original signature or original scanned signature of the agent or business entity representative who shall be a person who has authority to act on behalf of the business entity.
 - E) The Federal Tax Identification Number assigned to the business entity by the Internal Revenue Service.
 - 2) Items in subsection (h)(1)(B) and (C) may be submitted on a CD Rom, along with a duplicate copy. The information shall be in Microsoft Word compatible format and must not be password protected.
- i) The provisions of Article 9 relating to complaints for violations of that Article shall apply to complaints for violations of Section 9-35, specifically, but not limited to Section 9-35(d) (failure to notify affiliated persons and entities of a business entity that the business entity is registered with the Board) and 9-35(e) (failure to update a registration and intentional, willful or material failure to disclose information required for registration). In addition to third parties, the Board is authorized to initiate a complaint pursuant to this subsection.
- j) Failure to update a registration pursuant to Section 20-160(d) and (e) of the Illinois Procurement Code, which requires that any change in information must be reported to the Board within 2 business days after the change, will result in a \$1,000 per day penalty for each day the information remains unreported. Recognizing the fact that this 2-day reporting period is premised upon an electronic system in which the changes are reported electronically, and the fact that under this Section any updates to the registration would be reported to the Board via e-mail or on paper via hand delivery or mail, in the event of a

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complaint for failing to timely report an update, the Board will take into consideration the method of reporting the change when determining whether a violation has occurred.

- k) Willful or intentional failure by a business entity to disclose material information on its registration shall subject the entity to a civil penalty assessed by the Board not to exceed \$5,000.
- l) Upon the establishment of a fully functional and statutorily compliant electronic registration system, business entities will be required to submit their registrations electronically consistent with Section 9-35 of the Act. Within 60 days after establishment of the electronic system, all business entities that have submitted their registrations via e-mail attachment and paper copy pursuant to this Section shall re-submit their registration electronically. At the time of re-submission, the Board shall provide an electronic certificate of registration to the business entity.
- m) The Board will retain the stored registrations submitted by business entities for a period of at least 6 months following the establishment of the electronic registration system referred to in subsection (l).
- n) The public may view the registration submissions of business entities at the Board's principal office in Springfield during normal business hours. Copies of registrations of business entities submitted to the Board shall also be available for public inspection at the Board's principal office in Springfield.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days)

STATE BOARD OF ELECTIONS

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Section 100.EXHIBIT A BUSINESS ENTITY REGISTRATION FORM
EMERGENCY

	<p align="center"><u>Business Entity Registration</u></p> <p align="center"><i><u>PLEASE TYPE OR PRINT IN BLACK INK</u></i></p>	<p align="center"><u>FOR OFFICE USE ONLY</u></p>
<p><u>Full name and complete mailing address of Business Entity:</u></p> 		
<p><u>E-MAIL ADDRESS:</u></p> <p align="center"><input type="checkbox"/> <u>CHECK HERE IF NAME OR ADDRESS CHANGE</u></p>		<p align="center"><u>FEDERAL TAX IDENTIFICATION NUMBER</u></p>
<p align="center"><u>SEE 10 ILCS 5/9-35 FOR GUIDANCE.</u></p>		
<p align="center"><input type="checkbox"/> <u>NEW REGISTRATION</u> <input type="checkbox"/> <u>AMENDED REGISTRATION</u></p>		
<p><u>1.</u></p>	<p><u>AFFILIATED ENTITY:</u> [List all affiliated entities as defined in 30 ILCS 50-37(a) of the Illinois Procurement Code.]</p> <p><u>NAME:</u></p> <p><u>STREET ADDRESS:</u></p> <p><u>CITY:</u></p> <p><u>STATE:</u></p> <p><u>ZIP CODE:</u></p> <p><u>NATURE OF AFFILIATION:</u></p> <p><u>NAME:</u></p> <p><u>STREET ADDRESS:</u></p> <p><u>CITY:</u></p>	

STATE BOARD OF ELECTIONS

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STATE:

ZIP CODE:

NATURE OF AFFILIATION:

NAME:

STREET ADDRESS:

CITY:

STATE:

ZIP CODE:

NATURE OF AFFILIATION:

*IF MORE SPACE FOR INFORMATION IS REQUIRED, PLEASE ATTACH ADDITIONAL SHEETS.

THIS FORM MAY BE REPRODUCED

NOVEMBER 2008

STATE BOARD OF ELECTIONS

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<u>NAME OF BUSINESS ENTITY</u>	<u>FEDERAL TAX IDENTIFICATION NUMBER:</u>
<u>2.</u>	<p><u>AFFILIATED PERSON: [List all affiliated persons as defined in 30 ILCS 50-37(a) of the Illinois Procurement Code.]</u></p> <p><u>NAME:</u> <u>IS THE AFFILIATED PERSON UNDER 18 YEARS OF AGE? YES <input type="checkbox"/> NO <input type="checkbox"/></u> <u>RESIDENTIAL STREET ADDRESS:</u> <u>RESIDENTIAL CITY:</u> <u>RESIDENTIAL STATE:</u> <u>RESIDENTIAL ZIP CODE:</u> <u>NATURE OF AFFILIATION:</u></p> <p><u>NAME:</u> <u>IS THE AFFILIATED PERSON UNDER 18 YEARS OF AGE? YES <input type="checkbox"/> NO <input type="checkbox"/></u> <u>RESIDENTIAL STREET ADDRESS:</u> <u>RESIDENTIAL CITY:</u> <u>RESIDENTIAL STATE:</u> <u>RESIDENTIAL ZIP CODE:</u> <u>NATURE OF AFFILIATION:</u></p> <p><u>NAME:</u> <u>IS THE AFFILIATED PERSON UNDER 18 YEARS OF AGE? YES <input type="checkbox"/> NO <input type="checkbox"/></u> <u>RESIDENTIAL STREET ADDRESS:</u> <u>RESIDENTIAL CITY:</u> <u>RESIDENTIAL STATE:</u> <u>RESIDENTIAL ZIP CODE:</u> <u>NATURE OF AFFILIATION:</u></p>

*IF MORE SPACE FOR INFORMATION IS REQUIRED, PLEASE ATTACH ADDITIONAL SHEETS.

VERIFICATION OF ACCURACY

I DECLARE THAT THIS CERTIFICATE OF REGISTRATION (INCLUDING ALL AFFILIATED BUSINESSES AND AFFILIATED PERSONS) HAS BEEN EXAMINED BY ME AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS A TRUE, CORRECT AND

STATE BOARD OF ELECTIONS

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COMPLETE CERTIFICATE OF REGISTRATION AS REQUIRED BY ARTICLE 9-35 OF THE ELECTION CODE. I UNDERSTAND THAT A COPY OF THIS CERTIFICATE WILL BE PROVIDED TO EACH AFFILIATED ENTITY AND EACH AFFILIATED PERSON WITHIN 10 BUSINESS DAYS OF REGISTRATION. VIOLATION OF THIS REQUIREMENT IS SUBJECT TO A FINE NOT TO EXCEED \$1001. I UNDERSTAND ANY CHANGE IN THE INFORMATION PROVIDED IN THIS REGISTRATION SHALL BE REPORTED TO THE ILLINOIS STATE BOARD OF ELECTIONS WITHIN 2 BUSINESS DAYS (10 BUSINESS DAYS FOR BUSINESSES WITH EXISTING STATE CONTRACTS). FAILURE TO DO SO IS SUBJECT TO A CONTINUING PENALTY OF \$1000 PER DAY.

PRINTED NAME AND SIGNATURE OF BUSINESS ENTITY AGENT

DATE

THE ILLINOIS STATE BOARD OF ELECTIONS REQUIRES A CERTIFICATE OF REGISTRATION IF YOU QUALIFY AS A BUSINESS ENTITY, AFFILIATE OF A BUSINESS ENTITY, OR AN AFFILIATED PERSON OF A BUSINESS ENTITY AS OUTLINED UNDER PUBLIC ACT 95-0971. WILLFUL FAILURE TO FILE OR WILLFUL FILING OF FALSE OR INCOMPLETE INFORMATION REQUIRED BY THIS ARTICLE SHALL CONSTITUTE A BUSINESS OFFENSE SUBJECT TO A FINE OF UP TO \$5000 PER DAY. THIS FORM IS IN COMPLIANCE WITH THE FORMS MANAGEMENT PROGRAM ACT. THIS FORM IS AUTHORIZED BY PUBLIC ACT 95-0971 AND IS REQUIRED FOR BUSINESS ENTITIES COVERED BY THE ACT. FAILURE TO COMPLY WITH THE REGISTRATION REQUIREMENTS OF THE ACT MAY RESULT IN ANY CONTRACT BETWEEN THE STATE AND SUCH BUSINESS ENTITY BEING VOIDED, OR ANY BID OR PROPOSAL BEING REJECTED.

BUSINESS ENTITIES FILE THIS FORM AT:

STATE BOARD OF ELECTIONS
1020 S SPRING ST
SPRINGFIELD, IL 62704-2924

(Source: Added by emergency rulemaking at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days)

DEPARTMENT ON AGING

JANUARY 2009 REGULATORY AGENDA

- a) Heading and Code Citations: General Programmatic Requirements, 89 Ill. Adm. Code 220; Older Americans Act Programs, 89 Ill. Adm. Code 230; and Community Care Program, 89 Ill. Adm. Code 240
- 1) Rulemaking:
- A) Description: Incorporate comprehensive care coordination into the existing case management system for older adult services in Illinois.
- B) Statutory Authority: 20 ILCS 105/4.01(11), 20 ILCS 105/4.02, and 320 ILCS 42/15(b)
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.
- E) Effect on small businesses, small municipalities or not for profit corporations: Entities that provide case management services for the Department will need to transition from a demonstration project to permanent status so unmet needs can be better identified for older adults using a comprehensive assessment tool utilizing all available services regardless of funding source.
- F) Agency contact person for information:
- Karen Alice Kloppe, Deputy General Counsel
Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
217/785-3346
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Livestock Waste Regulations, 35 Ill. Adm. Code 506
- 1) Rulemaking:
- A) Description: The current regulations require the owner or operator of a livestock waste handling facility constructed with concrete to provide a storage volume of at least 150 days and facilities holding solid livestock waste to provide a storage volume of at least 6 months. The proposed rulemaking, as required by recent amendments to the Act, would allow for a reduction in the required storage volumes for facilities with animal unit capacities of 300 or less if the owner or operator can demonstrate to the Department that adequate land area is available for the agronomic application of the manure or another manure disposal method is proposed that would allow for the reduced storage design capacity.
- B) Statutory Authority: Livestock Management Facilities Act [510 ILCS 77]
- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have a positive effect on small livestock businesses because of the possible reduction in manure storage design volumes. The rulemaking should have no impact on small municipalities or not-for-profit corporations.
- F) Agency contact person for information:
- Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
- 217/785-2427

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

FAX: 217/524-4882

G) Related rulemakings and other pertinent information: Noneb) Part(s) (Heading and Code Citation): Insect Pest and Plant Disease Act, 8 Ill. Adm. Code 2401) Rulemaking:

- A) Description: Create a new section of the rule regarding limitations on the importation of firewood into the State of Illinois to control insect pests such as the Emerald Ash Borer
- B) Statutory Authority: Insect Pest and Plant Disease Act [505 ILCS 90]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: August 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will impact small businesses that engage in the importation of firewood into the State of Illinois. It will create certain state registration requirements for such businesses.
- F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/785-2427

FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

c) Part(s) (Heading and Code Citation): Livestock Management Facility Regulations, 8 Ill. Adm. Code 900

1) Rulemaking:

- A) Description: The current regulations require owners of livestock facilities with an animal unit capacity of 1,000 or greater to develop and maintain a formal waste management plan, the components of which are defined in the Livestock Management Facilities Act and regulations. One component in a waste management plan from which manure application rates are determined is the targeted crop yield goal. The present regulation stipulates the sources of targeted crop yield goals that can be used in the development of plans but somewhat limits those sources. The proposed rulemaking would expand approved yield goal sources to include county crop yield averages as well as soil-based yield goals as published by the University of Illinois.
- B) Statutory Authority: Livestock Management Facilities Act [510 ILCS 77]
- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. Small businesses, such as some types of livestock facilities, may benefit from the additional approved data sources.
- F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/785-2427

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

FAX: 217/524-4882

G) Related rulemakings and other pertinent information: Noned) Part(s) (Heading and Code Citation): Illinois Pesticide Act, 8 Ill. Adm. Code 2501) Rulemaking:

A) Description: Amend the licensing provisions of the regulation to allow for an abbreviated pesticide certification and licensing process for volunteers working on public lands such as park districts, forest preserves, or other natural areas under public ownership. The new provisions would only be applicable to volunteers who would be working under the direct supervision of a public employee charged with the oversight of the public land and would be limited to a very narrow scope of pesticide application.

B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: November 2008

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking should have little impact on small businesses. The rulemaking may have a limited impact on some municipalities or not for profit corporations that have responsibility for natural areas and currently utilize volunteers to conduct pest control activities. In such cases, the rulemaking will reduce the pesticide certification and licensing requirements for some volunteers.

F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

217/785-2427

FAX: 217/524-4882

G) Related rulemakings and other pertinent information: Nonee) Part(s) (Heading and Code Citation): Farmland Preservation Act, 8 Ill. Adm. Code 7001) Rulemaking:

A) Description: The Farmland Preservation Act requires that state agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois' agricultural land base from needless state agency farmland conversion impacts.

B) Statutory Authority: Farmland Preservation Act [505 ILCS 75/1-8]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.

D) Date Agency anticipates First Notice: August 2008

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.

F) Agency contact person for information:

Steve Chard
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/785-2661

FAX: 217/524-4882

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- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Definitions, 8 Ill. Adm. Code 20
- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- B) Statutory Authority: Section 15 of the Illinois Swine Disease Control and Eradication Act [510 ILCS 100/15]; Section 15 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/15]; Section 15 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15]; Section 18 of the Illinois Bovine Tuberculosis Eradication Act [510 ILCS 35/18]; Section 10 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/10] as amended by HB1020; Section 7 of the Illinois Swine Brucellosis Eradication Act [510 ILCS 95/7]; Section 12 of the Illinois Dead Animal Disposal Act [225 ILCS 610/12]; Section 2 of the Illinois Diseased Animals Act [510 ILCS 50/2] as amended by HB1019; Sections 8a and 11 of the Livestock Auction Market Law [225 ILCS 640/8a and 11]; Section 2.3 of the Poultry Inspection Act [510 ILCS 85/2.3]; and Section 5 of the Illinois Pseudorabies Control Act [510 ILCS 90/5].
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
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State Fairgrounds
Springfield, IL 62794-9281

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

217/782-4944

FAX: 217/524-7702

G) Related rulemakings and other pertinent information: Noneg) Part(s) (Heading and Code Citation): Animal Welfare Act, 8 Ill. Adm. Code 251) Rulemaking:A) Description: Cites to the Code of Federal Regulations will be updated to 2008.

Language will be added regarding how quarantines will be released.

Section 25.70 and 25.80 may be revised or combined.

B) Statutory Authority: Animal Welfare Act [225 ILCS 605]C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.D) Date Agency anticipated First Notice: November 2008E) Effect on small businesses, small municipalities or not for profit corporations: The proposed rule will further define how quarantines are released by the Department, positively affecting small businesses impacted by quarantines as the rule will provide better notice on how to remediate the quarantine restrictions.F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
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217/782-4944

FAX: 217/524-7702

DEPARTMENT OF AGRICULTURE

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- G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Horsemeat, 8 Ill. Adm. Code 70
- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008. Section 70.70 will be repealed. Section 70.80 will be amended to remove the exemption for horsemeat slaughtered in a federally inspected plant that is under the supervision of the United States Department of Agriculture.
- B) Statutory Authority: Illinois Horse Meat Act [225 ILCS 635] as amended by PA 95-0002.
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
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Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: PA 95-0002.
- i) Part(s) (Heading and Code Citation): Swine Brucellosis, 8 Ill. Adm. Code 100

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- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- B) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95/1], the Illinois Pseudorabies Control Act [510 ILCS 90/1] and the Illinois Diseased Animals Act [510 ILCS 50/1]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
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- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None
- j) Part(s) (Heading and Code Citation): Pseudorabies Control Act, 8 Ill. Adm. Code 115
- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- The site to the State-Federal-Industry Program Standards will be updated to November 1, 2003.

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- B) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90/1]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.
- D) Date Agency anticipated First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:

Dr. Colleen O'Keefe
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State Fairgrounds
Springfield, IL 62794-9281

217/782-4944
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- G) Related rulemakings and other pertinent information: None

k) Part(s) (Heading and Code Citation): Diseased Animals, 8 Ill. Adm. Code 85

1) Rulemaking:

- A) Description: The reportable diseases and contagious or infectious diseases lists will be reviewed for possible changes or additions.

Changes may need to be made in Johnne's disease program to reflect possible changes in the U.S. Department of Agriculture's program.

Section 85.120 will be revised to include brucellosis testing for all cervidae entering Illinois (currently only elk). Animals will be required to originate from a certified brucellosis-free herd or be negative to an official test within 30 days prior to entry on all animals six months of age and

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older. The Department may also change the brucellosis certification method for cervids.

General regulations will be added for removal of quarantines for diseases not specifically covered in other laws.

References to the Code of Federal Regulations will be updated to 2008.

Regulation changes may be needed to deal with contamination of livestock.

- B) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50/1] as amended by PA95-0554, Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6] as amended by PA-0093, Livestock Auction Market Law [225 ILCS 640/1], and Equine Infectious Anemia Control Act [510 ILCS 65] as amended by PA 95-0002..
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will be meeting in Spring 2008.
- D) Date Agency anticipates First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: Will require additional testing on cervidae entering Illinois which will affect cervid producers outside of Illinois. No effect on Illinois producers.
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
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Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information:

DEPARTMENT OF AGRICULTURE

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- l) Part(s) (Heading and Code Citation): Animal Disease Laboratories Act, 8 Ill. Adm. Code 110

1) Rulemaking:

- A) Description: Disposal fees will be added for all necropsy cases, regardless of species.

Distribution of laboratory reports will be clarified. They will be issued once (by US mail, faxed or email). If a second delivery method is requested, a charge will be assessed.

Various laboratory fees will be reviewed and increased for serology and immunohistochemistry samples. A fee for pooled Johne's disease samples may be established.

Persons who do not have an account with the Department of Agriculture and do not create one, will be required to pay in advance of services rendered. The laboratory has many submissions from individuals who only use their services once, then do not pay when billed.

Other fees will be reviewed for possible increase or addition.

- B) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10/0.01]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will be meeting in Spring 2008.
- D) Date Agency anticipates First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: Veterinarians, livestock producers and others using the animal disease laboratories will pay higher laboratory fees for requested tests. There is no change for testing mandated by state laws or regulations.
- F) Agency contact person for information:

DEPARTMENT OF AGRICULTURE

JULY 2008 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Humane Slaughter of Livestock (8 Ill. Adm. Code 50)

1) Rulemaking:

A) Description: References to the Code of Federal Regulations will be updated to 2008. A definition of livestock will be added that will exclude members of the equine family.

Sections 50.20, 50.30, 50.40, and 50.50 will be rewritten to adopt the corresponding Code of Federal Regulations pertaining to humane slaughter of livestock and the present wording will be deleted.

New sections will be added to adopt the Code of Federal Regulations that address livestock pens, driveways and ramps (9 CFR 313.1), handling of livestock (9 CFR 313.2) and tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connection with slaughter (9 CFR 313.50)

B) Statutory Authority: Humane Slaughter of Livestock Act [510 ILCS 75] as amended by PA 95-0002.

C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.

D) Date Agency anticipated First Notice: November 2008

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- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated as the Code of Federal Regulations pertaining to humane slaughter are identical to the Illinois regulations, with the exception that they also apply to members of the equine family.
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: PA95-0002
- n) Part(s) (Heading and Code Citation): Animal Control Act, 8 Ill. Adm. Code 30
- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- B) Statutory Authority: Animal Control Act [510 ILCS 5/1]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.
- D) Date Agency anticipated First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture

DEPARTMENT OF AGRICULTURE

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G) Related rulemakings and other pertinent information: None

o) Part(s) (Heading and Code Citation): Bovine Brucellosis, 8 Ill. Adm. Code 75

1) Rulemaking:

A) Description: Cites to the Code of Federal Regulations will be updated to 2008. Regulations changes may be required as a result of P.A. 92-0093.

B) Statutory Authority: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30] as amended by HB1020.

C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.

D) Date Agency anticipated First Notice: November 2008

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.

F) Agency contact person for information:

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Illinois Department of Agriculture
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G) Related rulemakings and other pertinent information: HB1020

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p) Part(s) (Heading and Code Citation): Swine Disease Control and Eradication Act, 8 Ill. Adm. Code 105

1) Rulemaking:

A) Description: Cites to the Code of Federal Regulations will be updated to 2008.

The site to the State-Federal-Industry Program Standards will be updated to November 1, 2003.

The Department may consider recognizing split state status in regards to pseudorabies and may delete references to Stage I and Stage II stage states, as the U.S. is currently Pseudorabies Free and it is unlikely that any state would regress to Stage I or Stage II.

B) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95/1], the Illinois Pseudorabies Control Act [510 ILCS 90/1] and the Illinois Diseased Animals Act [510 ILCS 50/1]

C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.

D) Date Agency anticipated First Notice: November 2008

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.

F) Agency contact person for information:

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DEPARTMENT OF AGRICULTURE

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G) Related rulemakings and other pertinent information: None

q) Part(s) (Heading and Code Citation): New Regulations Pertaining to the Animals Intended for Food Act

1) Rulemaking:

A) Description: The Department may need to formulate regulations pertaining to the Animal Intended For Food Act as a result of PA95-002 and PA-95-0554. Regulations may include provisions for quarantining and release of quarantines.

B) Statutory Authority: Animals Intended For Food Act [410 ILCS 605] as amended by PA95-0002 and the Illinois Diseased Animals Act [510 ILCS 50/1] as amended by PA-0554.

C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.

D) Date Agency anticipated First Notice: November 2008

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.

F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
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217/782-4944

FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

r) Part(s) (Heading and Code Citation): Grain Code, 8 Ill. Adm. Code 281

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- 1) Rulemaking:
- A) Description: The administrative rules are being updated pursuant to the statutory changes made to the Grain Code. Statutory amendments include the use of electronic warehouse receipts and other electronic documents to be used in the industry.
- B) Statutory Authority: Grain Code [240 ILCS 40]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date Agency anticipated First Notice: August 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: The rule change will allow electronic warehouse receipts, allowing business to be transacted electronically with transactions being completed expeditiously and having a positive impact for small business.
- F) Agency contact person for information:
- Stuart Selinger
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/785-8302
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None
- s) Part(s) (Heading and Code Citation): Weights and Measures Act, 8 Ill. Adm. Code 600
- 1) Rulemaking:

DEPARTMENT OF AGRICULTURE

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- A) Description: Define and provide enforcement for Maintenance Requirement contained in the General Code of the National Institute of Standards and Technology's Handbook 44.
- B) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: July 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. This rule will only affect small businesses that do not properly maintain their weighing and measuring devices.
- F) Agency contact person for information:
- Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
- 217/785-8301
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None

t) Part(s) (Heading and Code Citation): Weights and Measures Act, 8 Ill. Adm. Code 600

1) Rulemaking:

- A) Description: Repeal implementation date for Grain Moisture Meter specifications and tolerances. Rule provided an extension to the implementation date contained in Handbook 44. (Effective date in rule is January 1, 2000.)

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Repeal exemption of the ticket printer requirement for vehicle-tank meters. This requirement was adopted by the National Conference on Weights and Measures in 1992. The ticket printer requirement is contained in the Vehicle-Tank Meter User Requirement Section of NIST Handbook 44. This handbook is adopted as regulation in Illinois. However, the requirement for the ticket printers on vehicle-tank meters was rejected by regulation. The national requirement was retroactive as of January 1, 1999, to provide device owners a reasonable period of time to install printers. The requirement for a printed ticket enables customers to receive accurate delivery information to evaluate transactions and invoices. The repeal of this exemption will include an effective date to allow device owners time to be in compliance with the printer requirement. The exemption should be repealed to protect consumers and to be consistent with national regulations.

Repeal requirement that the advertised price for liquid petroleum products be equal to the price setting shown on the pump. This requirement prohibits the discounting of petroleum products unless the pump is capable of computing the discounted price. There are many marketing strategies which allow discounts for petroleum products such as with purchase of car wash, with use of a company credit card, or by participation in a discount club. Eliminating this requirement will enable companies to offer these discounts without violating advertising regulations.

Repeal requirement that the type of service (full-service, self-service, etc.) be displayed in the advertisement of petroleum products. The majority of businesses do not include the type of service in the advertisement since many stations no longer offer full service.

- B) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or

DEPARTMENT OF AGRICULTURE

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not-for-profit corporations. This rule will only affect small businesses that do not have ticket printers on their vehicle-tank meters.

F) Agency contact person for information:

Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/785-8301
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: Noneu) Part(s) (Heading and Code Citation): Motor Fuel and Petroleum Standards Act, 8 Ill. Adm. Code 8501) Rulemaking:

A) Description: Amend regulation for Label on Motor Fuel Dispensing Device to clarify placement of label. The current language does not specify that all grades which contain at least 1% by volume of ethanol, of methanol or a combination thereof be labeled with the maximum percentage contained in the motor fuel. The requirement is only that a label be placed on the front or sides of the dispenser and within the top 30% of the height of the dispenser. For dispensers where more than one grade of gasoline is offered for sale, this requirement does not indicate if only one grade or all grades contain ethanol, methanol or combination thereof.

B) Statutory Authority: Motor Fuel and Petroleum Standards Act [815 ILCS 370]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: November 2008

DEPARTMENT OF AGRICULTURE

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- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. The effect on small businesses would be minimal to properly label all grades of gasoline that contain at least 1% by volume of ethanol.
- F) Agency contact person for information:
- Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
- 217/785-8301
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None
- v) Part(s) (Heading and Code Citation): Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Programs, Illinois, 8 Ill. Adm. Code 290
- 1) Rulemaking:
- A) Description: The Department will amend Section 290.210(a) to change "registered Illinois conceived and foaled horses that were conceived before May 30, 1995" to "registered Illinois conceived and foaled horses prior to May 30, 1995."
- B) Statutory Authority: The Illinois Horse Racing Act of 1975 [230 ILCS 5/30]
- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: November 2008

DEPARTMENT OF AGRICULTURE

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- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:
- Charlyn Fargo
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
- 217/782-4231
FAX: 217/785-4059
- G) Related rulemakings and other pertinent information: None
- w) Part(s) (Heading and Code Citation): Illinois Seed Law, 8 Ill. Adm. Code 230
- 1) Rulemaking:
- A) Description: The rule changes will allow the Department to offer different tests that are currently available for seed products and allow the establishment of fees for these tests (i.e. TZ, seed count, etc.).
- Section 230.70 may be amended to allow the Department to increase seed permit fees.
- Section 230.80 may be amended to allow the Department to increase fees for established services offered (i.e. purity, germination and noxious weed seed testing).
- These amendments allow for the Department to update its services offered to those groups or individuals wishing to utilize them.
- B) Statutory Authority: The Illinois Seed Law [505 ILCS 110]
- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

DEPARTMENT OF AGRICULTURE

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- D) Date Agency anticipates First Notice: November 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: Entities utilizing the Department's seed lab will have to pay a fee or increase in fee.
- F) Agency contact person for information:

Jim Larkin
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281

217/785-8212
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None
- x) Part(s) (Heading and Code Citation): Illinois AgriFIRST Program Act, 8 Ill. Adm. Code 950
- 1) Rulemaking:
- A) Description: Sections 950.50, 950.130 and 950.220 will be repealed in an effort to improve the program and eliminate delays.

Other non-substantive changes will be made to the rules to better reflect the Illinois Grant Funds Recovery Act [30 ILCS 705].
- B) Statutory Authority: Illinois AgriFIRST Program Act of 2001 [505 ILCS 19]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: November 2008

DEPARTMENT OF AGRICULTURE

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- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed changes will be beneficial to grant applicants because it will enable the Department to speed up the application review process and award grant funds more quickly.
- F) Agency contact person for information:
- Delayne Reeves
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
- 217/524-9129
FAX: 217/785-4505
- G) Related rulemakings and other pertinent information: None
- y) Part(s) (Heading and Code Citation): Meat and Poultry Inspection (8 Ill. Adm. Code, Chapter 1, Subpart c, Part 125)
- 1) Rulemaking:
- A) Description: Type II establishments are conducting slaughter and processing activities exempt from the provisions of the Act. Custom exempt product could be consumed only by the owner, owners family and nonpaying guests. Adopting reference to federal regulations 9 CFR 200 to End 303.1(a)(2)(i) and 381.10(3)et seq. will mandate custom operators to observe good sanitation for facilities and products and allow Department to address noncompliance for reoccurring violations in an efficient manner. This will provide additional assurance in protecting public health for Citizens of State of Illinois
- B) Statutory Authority: Meat and Poultry Inspection Act [225 ILCS 650]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date Agency anticipates First Notice: November 2008

DEPARTMENT OF AGRICULTURE

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- E) Effect on small businesses, small municipalities or not for profit corporations: There are only 19 red meat custom exempt plants states wide and there will be no significant impact on daily operations performed by these establishments
- F) Agency contact person for information:
- Kris Mazurczak DVM
Bureau of Meat and Poultry Inspection
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281.
- 217 782 6684
FAX: 217 558 6033
- G) Related rulemakings and other pertinent information: None

BOARD OF HIGHER EDUCATION

JANUARY 2009 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): A Master Plan for Postsecondary Education in Illinois (23 Ill. Adm. Code 1070)
- 1) Rulemaking:
- A) Description: The Board is reviewing this Part to ensure the current rules are accurate and up-to-date.
- B) Statutory Authority: Implementing Section 6 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/6 and 9.05]
- C) Scheduled meeting/hearing date: No meetings or hearings have been scheduled at this time.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: Undetermined
- F) Agency contact person for information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, IL 62701-1404
217/557-7352
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): A Master Plan for Postsecondary Education in Illinois (23 Ill. Adm. Code 1070)
- 1) Rulemaking:
- A) Description: The Board will review the recommendations of the Task Force on Higher Education and the Economy (a.k.a. Public Agenda Task Force) which may result in review of this Part and potential changes in the future.

BOARD OF HIGHER EDUCATION

JANUARY 2009 REGULATORY AGENDA

- B) Statutory Authority: Implementing Section 6 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/6 and 9.05]
- C) Scheduled meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, IL 62701-1404
217/557-7352
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Nurse Educator Fellowship Program (23 Ill. Adm. Code 1105)
- 1) Rulemaking:
- A) Description: The Board may review this Part to align with critical workforce needs of the state and diminishing resources.
- B) Statutory Authority: Implementing Section 9.32 of the Board of Higher Education Act [110 ILCS 205/9.32] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05]
- C) Scheduled meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Undetermined

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- E) Effect on small businesses, small municipalities or not for profit corporations: Private institutions (colleges and universities) offering health education programs.
- F) Agency contact person for information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, IL 62701-1404
217/557-7352
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Nursing School Grant Program (23 Ill. Adm. Code 1100)
- 1) Rulemaking:
- A) Description: The Board may review this Part to align with critical workforce needs of the state and diminishing resources. The Board may also review the Nursing School Expansion Grant Program, which will be open to a new pool of applicants in fiscal year 2010, to ensure the eligibility and accountability requirements are consistent with grant objectives.
- B) Statutory Authority: Implementing Section 9.31 of the Board of Higher Education Act [110 ILCS 205/9.32] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05]
- C) Scheduled meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: Private institutions (colleges and universities) offering health education programs.

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- F) Agency contact person for information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, IL 62701-1404
217/557-7352
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Public Information, Rulemaking, and Organization (2 Ill. Adm. Code 5050).
- 1) Rulemaking:
- A) Description: The Board is reviewing this Part to reconsider the number and composition of the standing advisory committees. Also, the student membership was amended in PA 93-429 and the Joint Education Committee was abolished in PA 94-905.
- B) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05]
- C) Scheduled meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, IL 62701-1404
217/557-7352

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- G) Related rulemakings and other pertinent information: None

OFFICE OF THE AUDITOR GENERAL

JANUARY 2009 REGULATORY AGENDA

- a) Part Heading and Code Citation: Public Information, Rulemaking, Organization and Personnel (2 Ill. Adm. Code 600)
- 1) Rulemaking:
- A) Description: Our personnel rules were last amended in 2004 and need to be updated to provide for changes in law.
- B) Statutory Authority: Implementing and authorized by Sections 2-10 and 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-10 and 2-12 (a)].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated at this time.
- D) Date agency anticipates First Notice: No First Notice date has been determined.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Rebecca Patton
Office of the Auditor General
740 E. Ash St.
Springfield, IL 62703
217/782-6698 or 888/261-2887 (TTY)
- G) Related rulemakings and other pertinent information: None.
- b) Part Heading and Code Citation: Purchases and Contracts (44 Ill. Adm. Code 500)
- 1) Rulemaking:
- A) Description: Our procurement rules were last updated in 2000 and need to be updated to provide for changes in law.

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- B) Statutory Authority: Implementing and authorized by Section 1-30 (b) of the Illinois Procurement Code [30 ILCS 500/1-30 (b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12].
- C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings or hearings at this time.
- D) Date agency anticipates First Notice: No first notice date has been determined.
- E) Effect on small businesses, small municipalities or not for profit corporations: The rulemaking may impact small businesses doing business with or seeking to do business with the Auditor General's Office.
- F) Agency contact person for information:
- Rebecca Patton
Office of the Auditor General
740 E. Ash St.
Springfield, IL 62703
217/782-6698 or 888/261-2887 (TTY)
- G) Related rulemakings and other pertinent information: None

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2009 REGULATORY AGENDA

- a) Part(s)(Heading and Code Citation): Fire Sprinkler Contractor Licensing Rules, 41 Ill. Adm. Code 109
- 1) Rulemaking:
- A) Description: Propose amendments which provide inspection and maintenance as activities which require a licensed contractor. The Act exempts municipal and state inspectors.
- B) Statutory Authority: 225 ILCS 317/50 Fire Sprinkler Contractor Licensing Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will increase costs for small businesses due to the inability to use unqualified employees to inspect and maintain sprinkler systems but the cost should be marginal.
- F) Agency contact person for information:
- Misty Matykiewicz
Fire Prevention Division
1035 Stevenson Drive
Springfield, IL. 62703
217-558-0639 (Phone)
217-558-4992 (Facsimile)
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances, 41 Ill. Adm. Code 170
- 1) Rulemaking:

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- A) Description: Propose amendments that will recodify Parts 170, 171, 172, and incorporate NFPA 30 along with newly enacted Federal EPA requirements for underground storage tanks.
- B) Statutory Authority: 430 ILCS 15/2 Gasoline Storage Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have some effect on small business that construct new installations or replace existing equipment. Generally there will be a positive effect because most interested parties are already performing according to the new amendment provisions.
- F) Agency contact person for information:
- Shelly Bradley, Director
Petroleum and Chemical Safety Division
1035 Stevenson Drive
Springfield, IL 62703
217-557-3131 (Phone)
217-524-9284 (Facsimile)
- G) Related rulemakings and other pertinent information: 41 Ill. Adm. Code 171 and 41 Ill. Adm. Code 172.
- c) Part(s) (Heading and Code Citation): Compliance Certification for Underground Storage Tanks, 41 Ill. Adm. Code 171
- 1) Rulemaking:
- A) Description: Propose amendments that will recodify Parts 170, 171, 172, and incorporate NFPA 30 along with newly enacted Federal EPA requirements for underground storage tanks.
- B) Statutory Authority: 430 ILCS 15/3.5 Gasoline Storage Act

OFFICE OF THE STATE FIRE MARSHAL

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- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have some effect on small business that construct new installations or replace existing equipment. Generally there will be a positive effect because most interested parties are already performing according to the new amendment provisions.
- F) Agency contact person for information:
- Shelly Bradley, Director
Petroleum and Chemical Safety Division
1035 Stevenson Drive
Springfield, IL 62703
217-557-3131 (Phone)
217-524-9284 (Facsimile)
- G) Related rulemakings and other pertinent information: 41 Ill. Adm. Code 170 and 41 Ill. Adm. Code 172.
- d) Part(s) (Heading and Code Citation): Petroleum Equipment Contractor Licensing, 41 Ill. Adm. Code 172
- 1) Rulemaking:
- A) Description: Propose amendments that will recodify Parts 170, 171, 172, and incorporate NFPA 30 along with newly enacted Federal EPA requirements for underground storage tanks.
- B) Statutory Authority: 225 ILCS 729 Petroleum Equipment Contractors Licensing Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2009

OFFICE OF THE STATE FIRE MARSHAL

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- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have some effect on small business that construct new installations or replace existing equipment. Generally there will be a positive effect because most interested parties are already performing according to the new amendment provisions.
- F) Agency contact person for information:
- Shelly Bradley, Director
Petroleum and Chemical Safety Division
1035 Stevenson Drive
Springfield, IL 62703
217-557-3131 (Phone)
217-524-9284 (Facsimile)
- G) Related rulemakings and other pertinent information: 41 Ill. Adm. Code 170 and 41 Ill. Adm. Code 171.
- e) Part(s) (Heading and Code Citation): National Fire Incident Reporting System Rules, 41 Ill. Adm. Code 500
- 1) Rulemaking:
- A) Description: Proposed rules will codify the requirements of the National Fire Reporting System into Illinois reporting requirements.
- B) Statutory Authority: 425 ILCS 25/6.1 Fire Investigation Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: April 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have little or no effect on municipalities. Businesses and not for profit corporations are not effected.
- F) Agency contact person for information:
- Nereida Avendano, Director

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2009 REGULATORY AGENDA

Public Education and NFIRS Division
1035 Stevenson Drive
Springfield, IL. 6270
217-785-1040 (Phone)
217-558-0330 (Facsimile)

- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Appeals and Enforcement Proceedings, 41 Ill. Adm. Code 210
- 1) Rulemaking:
- A) Description: Proposed amendments will correct some old and inaccurate procedures in the existing rules.
- B) Statutory Authority: 425 ILCS 25/9a Fire Investigation Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have little or no effect on municipalities. Businesses and not for profit corporations are affected in a positive manner due to the outdated procedures in the existing rules.
- F) Agency contact person for information:
- John J. Fennell, Jr.
General Counsel
1035 Stevenson Drive
Springfield, IL 62703
217-785-4144 (Phone)
217-785-1002 (Facsimile)
- G) Related rulemakings and other pertinent information: None

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g) Part(s) (Heading and Code Citation): Storage, Transportation, Sale And Use Of Gasoline And Volatile Oils, 41 Ill. Adm. Code 160

1) Rulemaking:

- A) Description: Proposed amendments will update the Codes applicable to above ground storage tank systems.
- B) Statutory Authority: 430 ILCS 15/2 of the Gasoline Storage Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: June 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have little or no effect on municipalities. Businesses and not for profit corporations are affected only if they upgrade or install new systems. Most are complying with the current rules already.
- F) Agency contact person for information:
- John J. Fennell, Jr.
General Counsel
1035 Stevenson Drive
Springfield, IL 62703
217-785-4144 (Phone)
217-785-1002 (Facsimile)
- G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Storage, Transportation, Sale And Use Of Gasoline And Volatile Oils, 41 Ill. Adm. Code 180

1) Rulemaking:

- A) Description: Proposed amendments will update the Codes for above ground storage tank systems.

OFFICE OF THE STATE FIRE MARSHAL

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- B) Statutory Authority: 430 ILCS 15/2 of the Gasoline Storage Act
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: June 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will have little or no effect on municipalities. Businesses and not for profit corporations are affected only if they upgrade or install new systems. Most are complying with the current rules already.
- F) Agency contact person for information:
- John J. Fennell, Jr.
General Counsel
1035 Stevenson Drive
Springfield, IL 62703
217-785-4144 (Phone)
217-785-1002 (Facsimile)
- G) Related rulemakings and other pertinent information: None

POLLUTION CONTROL BOARD

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a) Parts (Headings and Code Citations):

General Rules (35 Ill. Adm. Code 101)

Regulatory and Informational Hearings and Proceedings (35 Ill. Adm. Code 102)

Enforcement (35 Ill. Adm. Code 103)

Regulatory Relief Mechanisms (35 Ill. Adm. Code 104)

Appeals of Final Decisions of State Agencies (35 Ill. Adm. Code 105)

Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106)

Petition to Review Pollution Control Facility Siting Decisions (35 Ill. Adm. Code 107)

Administrative Citations (35 Ill. Adm. Code 108)

Tax Certifications (35 Ill. Adm. Code 125)

Identification and Protection of Trade Secrets and Other Non-disclosable Information (35 Ill. Adm. Code 130)

1) Rulemaking: R04-08A) Description:

The Board is preparing a rulemaking to amend its procedural rules to allow for electronic filings in all Board proceedings through the Board's "Clerk's Office On-Line" (COOL). The rules will address electronic filings and payment of filing fees.

B) Statutory authority:

Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. Section 28 of the Act [415 ILCS 5/28] does not require public hearings concerning procedural rules. The Board therefore does not currently plan to schedule hearings in this rulemaking. The Board would conduct hearings, however, if the level of public interest indicates that they are desirable.

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D) Date agency anticipates First Notice:

The Board anticipates that it may propose amendments for first notice publication in the *Illinois Register* in the Spring or Summer of 2009.

E) Effect on small business, small municipalities, or not-for-profit corporation:

There may be an effect on any small business, small municipality, or not-for-profit corporation that appears before the Board in any type of proceeding. Proceedings before the Board include enforcement complaint actions, administrative citation actions, rulemaking proceedings, variance proceedings, adjusted standard proceedings, site-specific rulemaking proceedings, permit appeals, property tax certifications, underground storage tank appeals, pollution control facility siting appeals, and any other actions provided by law.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking as follows:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Name: Richard McGill
Address: Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6983
Internet: mcgillr@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

No other presently anticipated proceedings would affect the text of Parts

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101 through 130.

b) Parts (Headings and Code Citations):

Permits and General Provisions (35 Ill. Adm. Code 201)

Definitions and General Provisions (35 Ill. Adm. Code 211)

Organic Material Emission Standards and Limitations (35 Ill. Adm. Code 215)

Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)

Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved

A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board setting forth regulations that will incorporate the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for certain area sources, including but not limited to gasoline dispensing facilities.

B) Statutory authority: Implemented by Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by the Section 27 of the Environmental Protection Act [415 ILCS 5/27].

C) Scheduled meeting/hearing dates:
The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].

D) Date agency anticipates First Notice:
An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.

E) Effect on small business, small municipalities, or not-for-profit

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corporation:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that would fall under the classification of a gasoline dispensing facility.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Ave. East
P.O. Box 19274
Springfield, Illinois 62794
Telephone: 312-814-6983
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Kent Mohr
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

c) Part (Heading and Code Citation):

Definitions and General Provisions (35 Ill. Adm. Code 211)

1) Rulemaking: Docket number R09-12

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A) Description:

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM) to reflect the additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds" (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.

The Board has reserved docket number R09-12 to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period July 1, 2008 through December 31, 2008. At this time, the Board is not aware of any federal amendments to the federal definition of VOM that occurred during this update period.

The Board will verify the existence of any other federal actions that may affect the definition of VOM by about mid-February 2009. The Board will then either propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure or dismiss docket R09-12, as necessary and appropriate.

Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, July 1, 2008, the due date for Board adoption of amendments in docket R09-12 would be July 1, 2009.

B) Statutory authority:

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Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 118 of the federal Clean Air Act (42 USC § 7418) for amendment of the Illinois ozone SIP.

D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after which time the Board will either dismiss this docket or propose any amendments to the Illinois definition of VOM that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2009, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by early April 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.

F) Agency contact person for information:

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

Address written comments concerning the substance of the rulemaking, noting docket number R09-12, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R09-12, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

Two other presently known proceedings could affect the general provisions of Part 211. Both pertain to nitrogen oxides emissions control. The Board adopted a proposal for First Notice in docket R07-19 on September 16, 2008. The Board has held public hearings, but has not yet proposed amendments, in pending docket R08-19.

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

d) Parts (Headings and Code Citations):

Sulfur Limitations (35 Ill. Adm. Code 214)

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- 1) Rulemaking: No docket presently reserved
- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board setting forth regulations that will regulate the emissions of SO₂ from several source categories within the nonattainment areas.
- B) Statutory authority: Implemented by Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by the Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting/hearing dates:
The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice:
An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation:
This rulemaking may affect any small business, small municipality, or not-for-profit corporations that owns or operates an affected emission unit.
- F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:
For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Gina Roccaforte
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

e) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)
Regional Haze (35 Ill. Adm. Code 226)

- 1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. This proposal would address the State's obligation to meet the requirements of the Clean Air Act (CAA) for Retrofit Technology, specifically the requirement for Best Available Regional Haze (BART). Section 169A of the CAA requires that each major source in existence in 1977, but not in operation before 1962, that may reasonably anticipated to cause or contribute to any impairment of visibility in any Class I area shall procure, install, and operate BART. Major sources are defined as ones that have the potential to emit 250 tons per year or more of a visibility impairing pollutant in one of 26 specified

POLLUTION CONTROL BOARD

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categories, including but not limited to petroleum refineries, lime plants, steel mills, and fossil-fuel fired steam electric plants greater than 250 mmBtu. USEPA has identified sulfur dioxide, NO_x, and primary particulate matter (PM) as visibility impairing pollutants. This rule will affect BART applicable emission units statewide.

B) Statutory authority:

Implementing and authorized by Sections 10 and 27 of the Act [415 ILCS 5/10 and 5/27].

C) Scheduled meeting/hearing dates:

The Agency has stated that it anticipates submitting its rulemaking proposal to the Board in the Spring or Summer of 2009. Once a proposal is filed, the Board will hold hearings on the schedule established in Section 27 of the Environmental Protection Act [415 ILCS 5/27] for rulemakings that are required under the federal CAA.

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Effect on small business, small municipalities, or not-for-profit corporation:

Any small businesses, small municipalities, or not-for-profit corporations that owns or operates an affected emission unit could be affected by the proposed amendments.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk

POLLUTION CONTROL BOARD

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Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Gina Roccaforte
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

f) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)
Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will set

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forth state-wide regulations pertaining to volatile organic compounds (VOC) from several categories of products, including but not limited to the following: flexible packaging printing materials, lithographic printing materials, letterpress printing materials, industrial cleaning solvents, and flat wood paneling coatings. The proposal will establish VOC content limits for the various product categories as set forth in USEPA's Control Technique Guidelines.

B) Statutory authority:

Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Sections 27 of the Act [415 ILCS 5/27].

C) Scheduled meeting/hearing dates:

The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Effect on small business, small municipalities, or not-for-profit corporation:

This proposal may affect any small business, small municipality or not-for-profit corporation that produces the various categories of products.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Dana Vetterhoffer
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

g) Parts (Headings and Code Citations):

Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)

1) Rulemaking: R06-22

A) Description:

On January 19, 2006, the Board received a rulemaking proposal submitted by the Illinois Environmental Protection Agency (Agency) pursuant to Section 27 and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27 and 28 (2004)). Included in this proposal are amendments to the regulations governing Nitrogen Oxide (NOx) emissions found at 35 Ill.

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Adm. Code Part 217, Subparts A, T, U, and W.

The amendments propose to update Part 217 to reflect recent amendments made by the United States Environmental Protection Agency (USEPA) to the Code of Federal Regulations concerning several test methods and procedures, and by the Illinois General Assembly to Section 9.9 of the Act concerning the sale of NO_x allowances and the repeal of the stay provisions. The Agency proposes amendments intended to ensure that the NO_x budgets for both the Electrical Generating Units (EGU) and the non-EGUs are not reduced by low-emitters in a way that was not anticipated at the time the rules were originally adopted by the Board. Finally, the Agency proposes clarifications to the dates and timing of allocations designed to simplify the administration of the NO_x Trading Program. The Agency asserts that this proposal does not change the emission limits or require new control devices on affected sources.

B) Statutory authority:
Implementing Sections 9.9 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9.9, 10 and 27].

C) Scheduled meeting/hearing dates:

In its most recent status report filed with the Board on October 30, 2008, the Agency stated that it was determining whether proposed amendments affecting the NO_x SIP Call are now moot or whether they would be best addressed when the Agency addresses its obligations to mitigate interstate transport. Upon receipt of the Agency's next status report, the Board will determine whether to schedule hearings.

D) Date agency anticipates First Notice:

The Board anticipates adopting a first notice opinion and order in this rulemaking in the Spring or Summer of 2009.

E) Effect on small business, small municipalities, or not-for-profit corporation:

This rule change may affect any small business, small municipality, or not-for-profit corporation subject to the Board's nitrogen oxide (NO_x) emission

POLLUTION CONTROL BOARD

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rules.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking, noting docket number R06-22 to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R06-22 to:

Name: Tim Fox
Address: 100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6085
Internet: foxt@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Rachel L. Doctors
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

h) Parts (Headings and Code Citations):

Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)

1) Rulemaking: No docket presently reserved.

A) Description:

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The rulemaking would amend Subpart U to provide consistency with recently adopted provisions of 35 Ill. Adm. Code 225.

B) Statutory authority:

Implementing Section 9.9 and authorized by Sections 10 and 27 of the Environmental Protection Act [415 ILCS 5/9.9, 10 and 27].

C) Scheduled meeting/hearing dates:

The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Effect on small business, small municipalities, or not-for-profit corporation:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that meets the applicability requirements set forth in 35 Ill. Adm. Code Section 217.454.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:
For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: John J. Kim, Managing Attorney
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

- i) Parts (Headings and Code Citations):
Definitions and General Provisions (35 Ill. Adm. Code 211)
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)
Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

- 1) Rulemaking: No docket presently reserved

- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board dealing with the Board's regulations for organic material emission standards and limitations for the Metro East and Chicago areas. More specifically, the Agency will be setting forth a proposal that amends Gasoline Volatility Standards. The rulemaking will also contain amendments to provide consistency between Illinois' regulations and the Federal rules.
- B) Statutory authority: Implemented by Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by the Section 27 of the

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Environmental Protection Act [415 ILCS 5/27].

- C) Scheduled meeting/hearing dates:
The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice:
An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation:
This rulemaking may affect any small business, small municipality, or not-for-profit corporation that is currently regulated by 35 Ill. Adm. Code 219.585.
- F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

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- G) Related rulemakings and other pertinent information:
For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Kent Mohr
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

- j) Parts (Headings and Code Citations): Open Burning (35 Ill. Adm. Code 237)

- 1) Rulemaking: No docket presently reserved

- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board that would amend the time period of permit effectiveness and other related amendments to the regulatory language.
- B) Statutory authority: Implementing Section 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27]
- C) Scheduled meeting/hearing dates:
The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice:
An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.

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E) Effect on small business, small municipalities, or not-for-profit corporation:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that has previously obtained an open burning permit from the Agency or will in the future apply for an open burning permit from the Agency.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Rachel Doctors
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

k) Parts (Headings and Code Citations): Mobile Sources (35 Ill. Adm. Code 240)

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- 1) Rulemaking: No docket presently reserved
- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board dealing with the Board's regulations for the vehicle inspection and maintenance testing program. The regulations will be revised to reflect changes in relevant law and operational aspects of the underlying vehicle inspection and maintenance testing program.
- B) Statutory authority: Implementing and authorized by the Vehicle Emissions Inspection Law [625 ILCS 5/ch. 13B] and Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting/hearing dates:
The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice:
An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation:
This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operates a motor vehicle that is subject to enhanced I/M testing regulations.
- F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk

POLLUTION CONTROL BOARD

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Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:
For information regarding the Agency's development of this proposal,
please contact the following Agency attorney:

Name: Kent Mohr
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794
(217) 782-5544

- l) Parts (Headings and Code Citations):

Air Quality Standards (35 Ill. Adm. Code 243)

- 1) Rulemaking: R09-19

- A) Description:

On December 1, 2008, the Board received a rulemaking proposal from the Illinois Environmental Protection Agency (Agency) pursuant to Sections 27 and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27, 28 (2006)). The Agency proposes to amend Part 243 to reflect new National Ambient Air Quality Standards (NAAQS) adopted by the United States Environmental Protection Agency (USEPA). Specifically, the

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Agency proposes to repeal the one-hour ozone standard and replace it with the eight-hour ozone standard. The Agency also proposes to incorporate the new particulate matter (PM_{2.5}) standard.

B) Statutory Authority:

Implementing Section 10 of the Act (415 ILCS 5/10 (2006)) and authorized by Sections 27 and 28 of the Act (415 ILCS 5/27, 28 (2006)).

C) Scheduled meeting/hearing dates:

The Board has scheduled two hearings in this rulemaking, as required by Sections 27 and 28 of the Act (415 ILCS 5/27, 28 (2006)). The first hearing will take place in Edwardsville on February 3, 2009, and the second hearing will take place in Chicago on March 10, 2009.

D) Date agency anticipates First Notice:

The Board anticipates First Notice publication of the proposed rules in the *Illinois Register* in the Spring or Summer of 2009.

E) Effect on small business, small municipalities, or not-for-profit corporations:

Any small business, small municipality, or not-for-profit corporation that emits the contaminants regulated by Part 243 could be affected by the proposed amendments.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Assistant Clerk
Address: Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Address questions concerning this regulatory agenda to:

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Charles Matoesian
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

m) Part (Heading and Code Citation):

Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)

1) Rulemaking: R08-9A) Description:

On November 1, 2007, the Board accepted a proposal for hearing in Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304 (R08-9). The proposal filed by the Illinois Environmental Protection Agency (Agency) on October 26, 2007, seeks to amend the Board's water quality standards for the "Chicago Area Water Way System" (CAWS) and the Lower Des Plaines River. On November 15, 2007, after the response time to the motion had run out, the Board granted the Agency's request to hold the hearings in this rulemaking in Chicago and Joliet.

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In this rulemaking, the Agency proposes amendments to update the designated uses and criteria necessary to protect the uses for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Uses. These specific designations were for those waters not suited for General Use activities. All waters in Illinois that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River and are known as the CAWS and the Lower Des Plaines River. In 2000 and 2002, the Agency began pilot programs for the Lower Des Plaines River and CAWS to develop use attainability analysis (UAA) for these waters. These proposed rule changes incorporate the findings of the pilot programs.

B) Statutory authority:

Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].

C) Scheduled meeting /hearing date:

The Board has scheduled and held multiple days of hearings in this rulemaking as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. All hearings have been held during calendar year 2008. The hearings were held in Chicago on January 28, June 16, September 8-10, and September 23-25. Hearings were held in Joliet on March 10-12, October 27- 28, and November 17. Hearings were held in Des Plaines on April 23-25, and December 2-3. Additional hearings will be scheduled in 2009.

D) Date agency anticipates First Notice:

The Board will consider this rulemaking for first notice publication in the *Illinois Register* in the Spring or Summer of 2009.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the lower Des Plaines River.

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address concerning this regulatory agenda to:

Name: Marie Tipsord
Address: Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-4925
Internet: tipsorm@ipcb.state.il.us

G) Related rulemaking and other pertinent information:

For information regarding the Agency's development of this proposal, please contact:

Name: Deborah J. Williams
Address: Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Il. 62794-9276

n) Parts (Headings and Code Citations):

Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)

1) Rulemaking: R07-21A) Description:

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On May 30, 2007, the City of Joliet (Joliet) filed a proposal for a site-specific rulemaking with the Board. Joliet's proposal seeks site-specific relief from the Board's general use water quality standards for copper and fluoride (35 Ill. Adm. Code 302.208(e) and (g)) and provisions for determining water quality based effluent limitations (35 Ill. Adm. Code 304.105). Joliet states that under its proposal, the general use water quality standards for copper and fluoride and the provisions for determining water quality based effluent limitations would not apply to that portion of Hickory Creek downstream from the Joliet Street Bridge in Joliet to the juncture with the Des Plaines River that receives the discharge from the Joliet East Side waste water treatment plant (WWTP). Instead, Joliet proposes that its East Side WWTP discharge would have to comply with limits of 0.15 milligrams per liter (mg/L) for copper and 3.5 mg/L for fluoride as monthly average values.

Joliet explains that its petition is a follow-up to a March 30, 2007 Consent Order entered in a Will County Circuit Court case between Joliet, the Illinois Environmental Protection Agency, and the Attorney General's Office. According to Joliet, the Consent Order set interim daily maximum limits for copper limit (0.1156 mg/L) and fluoride (3.5 mg/L).

B) Statutory authority:

Implementing and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27]

C) Scheduled meeting/hearing dates:

The assigned Board hearing officer is awaiting word from Joliet on Joliet's readiness to proceed with a hearing in this site-specific rulemaking.

D) Date agency anticipates First Notice:

The Board anticipates that it may propose a site-specific rule for first-notice publication in the *Illinois Register* in the Spring or Summer of 2009.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

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This rule may affect any small business, small municipality, or not-for-profit corporation that discharges downstream of Joliet's discharge into the Des Plaines River, as outlined above.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Richard McGill
Address: Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6983
Internet: mcgillr@ipcb.state.il.us

G) Related rulemakings and other pertinent information:
Noneo) Parts (Headings and Code Citations):

Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)

1) Rulemaking: Docket Number R09-11A) Description:

On October 17, 2009, the City of Galva filed with the Board a proposal for site specific rule docketed as Proposed Site Specific Rule Applicable to the City of Galva Sewage Treatment Plants Discharge to Edwards River and Mud Run Creek, 35 Ill. Adm. Code 302.208(g) (R09-11). Galva (located in Henry County) explains that it seeks an alternative water

POLLUTION CONTROL BOARD

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quality standard for boron for discharges from its two sewage treatment plants into the South Branch of the Edwards River and Mud Run Creek. The source of the boron is the groundwater from aquifers that supply Galva's drinking water. The general use water quality standard in 35 IAC 302.208(g) for boron is 1.0 mg/l. There is no effluent standard established by Board rule, but Galva's permit under the National Pollutant Discharge Elimination System (NPDES) has a 1.0 mg/l boron effluent limit. Galva requests a change in the boron water quality standard to 3.0 in delimited portions of the receiving waters, suggesting that the rule should be codified within 35 Ill. Adm. Code 303.Subpart C.

Galva's petition for rule change (Pet.) analyses and summarizes six potential compliance options. The cost would range from \$2 million to \$13.6 million. Pet. at 23. Galva asserts that there is no technologically feasible or technically reasonable alternative to the relief sought. It also asserts that no adverse effect is expected on aquatic life in either of the affected receiving waters.

B) Statutory authority:

Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].

C) Scheduled meeting /hearing date:

The Board has yet to accept the petition for hearing. Once the Board does so, it will hold at least one hearing in Henry County

D) Date agency anticipates First Notice:

The Board may propose a site-specific rule for first notice publication in the *Illinois Register* in the Spring or Summer of 2009.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into South Branch of the Edwards River and Mud Run Creek.

POLLUTION CONTROL BOARD

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F) Agency contact person for information:

Address written comments concerning the substance of the R09-11 rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemaking and other pertinent information:

The City of Springfield has also requested-site specific relief for boron discharges from its sewage treatment plant. This request is being handled in Proposed Site Specific Rule for City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power and Springfield Metro Sanitary District From 35 Ill. Adm. Code Section 302.208(g) (R09-8). See the Notice of Proposed Amendment in R09-8 at 32 *Ill. Reg.* 16303 (Oct. 10, 2008).

p) Parts (Headings and Code Citations):

Sewer Discharge Criteria (35 Ill. Adm. Code 307)
Pretreatment Programs (35 Ill. Adm. Code 310)

1) Rulemaking: Docket number R09-18A) Description:

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Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved docket number R09-18 to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period July 1, 2008 through December 31, 2008. At this time, the Board is not aware of any federal amendments to the federal wastewater pretreatment regulations that occurred during this update period.

The Board will verify the existence of any federal actions that may affect the text of the federal wastewater pretreatment regulations and the Board action required in response to each set of federal amendments in coming weeks, by about mid-February 2009. The Board will then propose corresponding amendments to the Illinois wastewater pretreatment regulations using the identical-in-substance procedure under docket R09-18, as necessary and appropriate.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R09-18, if the earliest federal amendments in the applicable period occurred on July 1, 2008, the due date for Board adoption would be July 1, 2009.

B) Statutory 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 & 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

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D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after which time the Board will propose any amendments to the Illinois wastewater treatment rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be July 1, 2009, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-April 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois wastewater pretreatment rules is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that pretreatment engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking, noting docket number R09-18, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R09-18, as follows:

Name: Michael J. McCambridge, Attorney

POLLUTION CONTROL BOARD

JANUARY 2009 REGULATORY AGENDA

Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Telephone: 312-814-6924

Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

No other presently-known proceeding would affect provisions of Parts 307 and 310.

Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

q) Part (Heading and Code Citation):

Standards for Sludge Management (35 Ill. Adm. Code 313)

1) Rulemaking: No docket presently reservedA) Description:

The Illinois Environmental Protection Agency (Agency) is currently preparing a rulemaking proposal for filing before the Board relating to land application of sewage sludge. The rules would establish pollutant limits, pathogen reduction requirements, and vector control measures applicable to sludge applied to land.

B) Statutory authority:

Implementing and authorized by Sections 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 & 27]

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C) Schedule meeting/hearing date:

No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal during the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

This rule may affect any small business, small municipality, or not-for-profit corporation that generates or uses sewage sludge.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

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G) Related rulemakings and other pertinent information:

The Agency has stated that it anticipates proposing amendments to its rules entitled "Design Criteria for Sludge Application on Land," 35 Ill. Adm. Code 391, which involve a related subject matter.

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Stefanie Diers
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Interested persons may also contact the following Agency representative about its prospective rulemaking proposal:

Name: Alan Keller, P.E.
Manager, Northern Municipal Unit
Address: Illinois Environmental Protection Agency
Division of Water Pollution Control
Bureau of Water
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: 217-782-0810

r) Parts (Heading and Code Citation):

Agriculture Related Water Pollution (35 Ill. Adm. Code Subtitle E)

1) Rulemaking: No docket presently reserved.A) Description:

The Illinois Environmental Protection Agency (Agency) will prepare a rulemaking proposal for filing before the Board relating to the United

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States Environmental Protection Agency's Environmental Protection Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System (NPDES) regulations that were adopted on December 15, 2002. The Agency anticipates a review of Subtitle E and a proposal to ensure that it remains consistent with the federal regulations and case law reviewing these regulations. See, Waterkeeper Alliance et al. v. USEPA, 399 F.3d 486 (2d Cir. 2005).

B) Statutory Authority:

Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].

C) Scheduled meeting/hearing dates:

No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice:

An Agency submittal of the rulemaking proposal is anticipated by Spring or Summer of 2009. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.

E) Affect on small businesses, small municipalities or not for profit corporations:

This rule could affect any agri-business that meets the federal definition of a Concentrated Animal Feeding Operation.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk

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Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related Rulemaking and other pertinent information:

Interested persons may contact the Agency about its prospective rulemaking proposal as follows:

Name: Deborah J. Williams
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
Telephone: 217-782-5544

s) Part (Heading and Code Citation):

Primary Drinking Water Standards (35 Ill. Adm. Code 611)

1) Rulemaking: Docket number R09-13

A) Description:

Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois SDWA regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

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The Board has reserved docket number R09-13 to accommodate any amendments to the SDWA national primary drinking water standards, 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period July 1, 2008 through December 31, 2008. At this time, the Board is not aware any federal amendments to the SDWA primary drinking water regulations that occurred during this update period.

The Board will verify the existence of any other federal actions that may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-February 2009. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R09-13, as necessary and appropriate.

Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R09-13, if the earliest federal amendments in the applicable period occurred on July 1, 2008, the due date for Board adoption would be July 1, 2009.

B) Statutory authority:

Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after

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which time the Board will propose any amendments to the Illinois SDWA drinking water rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2009, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by early April 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply," as defined by Section 3.28 of the Act, *i.e.*, it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking, noting docket number R09-13, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R09-13, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

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Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

No other presently-known proceeding would affect provisions of Part 611.

Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

t) Part (Headings and Code Citations):

Laboratory Accreditation Rules (35 Ill. Adm. Code 611)

1) Rulemaking: No docket presently reserved.A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing a proposal for filing with the Board. The proposal will seek to amend the public water supplies rules found in 35 Ill. Adm. Code 611 to cross reference the Agency's own laboratory accreditation rules found at 35 Ill. Adm. Code 186. These prospective amendments to Sections 611.359, 611.611, 611.646, and 611.648 would cross-reference the laboratory accreditation rules at 35 Ill. Adm. Code 186. Currently, the existing text of Part 611 references 35 Ill. Adm. Code 183, which are joint rules of the Agency, the Illinois Department of Public Health, and the Illinois Department of Nuclear Safety. A repeal of Part 183 has been completed.

B) Statutory Authority:

Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS

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5/27 & 28].

C) Scheduled meeting/hearing dates:

No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency Anticipates First Notice:

An Agency submittal of the rulemaking proposal is anticipated by Spring or Summer of 2009. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.

E) Effect on small business, small municipalities or not-for-profit corporations:

These amendments may affect small business, small municipalities, and not-for-profit corporations that own or operate a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance with the federally-derived National Primary Drinking Water Standards of 35 Ill. Adm. Code 611. However, it is anticipated that the proceeding will not likely have a quantifiable effect on these entities because the program for national laboratory certification is voluntary. The burden of compliance with the requirements, such as filing documentation, reporting or completion of the necessary forms, likely will not increase.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board

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100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Other pertinent information concerning these amendments:

Interested persons may contact the Agency about its prospective rulemaking proposal as follows:

Name: Jim Shaw
Division of Laboratories
Illinois Environmental Protection Agency
Address: 1021 North Grand Avenue East
P. O. Box 19276
Springfield, IL 62794-9276

u) Part (Heading and Code Citation):

Groundwater Quality (35 Ill. Adm. Code 620)

1) Rulemaking: R08-18

A) Description:

On February 19, 2008, the Board received a rulemaking proposal from the Illinois Environmental Protection Agency (Agency) to amend the Board's groundwater quality rules (35 Ill. Adm. Code 620). On March 20, 2008, the Board accepted the Agency's proposal for hearing in Proposed Amendments to Groundwater Quality Standards, 35 Ill. Adm. Code 620, docket R08-18. In its proposal, the Agency notes that it is periodically

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necessary to amend the groundwater quality standards to account for new scientific data, federal updates, updated technical references, and the discovery of additional groundwater parameters. To that end, the proposed amendments, according to the Agency are intended to ensure that as the science and technical data behind the standards evolve, the groundwater regulations stay current.

The Agency states that in developing the proposal, the Agency evaluated the electronically-reported groundwater data for Illinois Resource Conservation and Recovery Act (RCRA) and solid waste facilities under its purview. A data query was conducted for some 300 groundwater parameters not included in 35 Ill. Adm. Code 620.Subpart C. The Agency explains that it also evaluated confirmed groundwater contaminants at various cleanup sites. The Agency now proposes, for example, updates to make Part 620 consistent with groundwater remediation objectives listed in the Tiered Approach to Corrective Action Objectives (TACO) (35 Ill. Adm. Code 742) for several chemicals detected in groundwater but not currently included in Part 620. The Agency also proposes a groundwater standard for perchlorate based on the new reference dose published by the United States Environmental Protection Agency (USEPA) and recommended by the National Academy of Science (NAS). Additionally, the Agency is proposing an amendment to the existing groundwater standard of 0.050 milligrams per liter (mg/L) for arsenic based on the amendment of the federal drinking water standard or maximum contaminant level (MCL) for arsenic to 0.010 mg/L. The Agency further proposes amendments to the provisions on incorporations by reference, including the addition of "Guidance Document for Groundwater Protection Needs Assessments (January 1995)," prepared by the Agency, the Illinois State Water Survey, and the Illinois State Geologic Survey.

B) Statutory authority:

Implementing and authorized by Section 8 of the Illinois Groundwater Protection Act (IGPA) [415 ILCS 55/8] and Section 27 of the Environmental Protection Act [415 ILCS 5/27].

C) Scheduled meeting /hearing date:

The Board has scheduled two hearings in this rulemaking as required by

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Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/28]. The first hearing took place in Chicago on June 18, 2008, and the second hearing is scheduled to take place in Springfield on July 16, 2008.

D) Date agency anticipates First Notice:

The Board anticipates that it may propose amendments for first-notice publication in the *Illinois Register* in the Spring or Summer of 2009.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

The Agency does not anticipate that the proposed amendments would have a significant impact on any small business, small municipality, or not-for-profit corporation. Sources and facilities that may be impacted would include those that cause, threaten, or allow the contamination of groundwater. According to the Agency, however, the proposed groundwater quality standards do not establish new corrective action or monitoring programs, and new constituent standards would be phased into existing programs, as appropriate, over time. The Agency explains that any economic impact resulting from applying the new standards therefore would be incremental and occur on a site-by-site basis over time. Considering the resource and its end users, the Agency indicates that economic benefits may result from adopting these standards, including reduced health risks, reduced expenses for treating water at wellheads, and reduced expenses for obtaining water supplies.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Richard McGill

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Address: Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6983
Internet: mcgillr@ipcb.state.il.us

G) Related rulemaking and other pertinent information:

For information regarding the Agency's development of this proposal, please contact:

Name: Richard Cobb
Address: Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

v) Parts (Headings and Code Citations):

RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
UIC Permit Program (35 Ill. Adm. Code 704)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)

1) Rulemaking: Presently reserved docket number R09-14A) Description:

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved docket number R09-14 to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period July 1, 2008 through December 31, 2008. At this time, the Board is not aware of any federal amendments to the federal UIC rules

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that occurred during this update period.

The Board will verify the existence of any federal actions that affect the UIC regulations and the Board action required in response to each in coming weeks, by about mid-February 2009. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R09-14, as necessary and appropriate.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R09-14, if the earliest federal amendments in the applicable period were assumed to have occurred on the first day of the update period, July 1, 2008, the due date for Board adoption would be July 1, 2009.

B) Statutory authority:

Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after which time the Board will propose any amendments to the Illinois UIC rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2009, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-April 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the

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proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking, noting docket number R09-14, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R09-14, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

The reserved RCRA Subtitle C update docket R09-16, and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 702, 705, and 720. No other presently known proceeding would affect Part 730.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)]

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provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

w) Parts (Headings and Code Citations):

RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702)
RCRA Permit Program (35 Ill. Adm. Code 703)
Procedures for Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
Land Disposal Restrictions (35 Ill. Adm. Code 728)
Standards for Universal Waste Management (35 Ill. Adm. Code 733)
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)
Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R09-16

A) Description:

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved docket number R09-16 to accommodate any

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amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period July 1, 2008 through December 31, 2008. At this time, the Board is aware of two sets of federal amendments to the federal RCRA Subtitle C hazardous waste regulations that occurred during this update period which will require Board attention. Those amendments are described as follows:

October 30, 2008 (73 Fed. Reg. 64668)

USEPA amended the definition of solid waste to exclude certain hazardous secondary materials from regulation as hazardous waste. USEPA sought to respond to judicial decisions and to encourage resource conservation and recycling. The rules add an exclusion for certain secondary materials that the generator reclaims. The rules add a conditional exclusion for secondary materials that the generator transfers for reclamation. USEPA also added a procedure (separate from the existing solid waste determination of 40 C.F.R. 260.30) for a "non-waste" determination, through which the generator can obtain a determination that its activities are legitimate, so that the material is not waste. Included are extensive financial assurance requirements applicable to the management of excluded reclaimed materials.

December 1, 2008 (73 Fed. Reg. 64668)

USEPA adopted a set of alternative hazardous waste generator requirements applicable to college and university laboratories and other facilities affiliated with colleges and universities. A regulated entity may opt to comply with the alternative standards in lieu of the pertinent of the generally applicable large-quantity waste generator, small-quantity waste generator, or conditionally exempt small-quantity generator waste regulations.

The Board will verify the existence of any other federal actions that affect the RCRA Subtitle C regulations and the Board action required in response to each in coming weeks, by about mid-February 2009. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R09-16, as necessary and appropriate.

Section 22.4(a) mandates that the Board complete amendments within one

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year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R09-16, the earliest federal amendments in the applicable period appear to have occurred on October 30, 2008. Based on that date, the due date for Board adoption of amendments would be October 30, 2009.

B) Statutory authority:

Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after which time the Board will propose any amendments to the Illinois RCRA Subtitle C hazardous waste rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be October 30, 2009, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-June 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation,

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treatment, storage, or disposal of hazardous waste.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking, noting docket number R09-16, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R09-16, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

The reserved UIC update docket R09-14, and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 702, 705, and 720. No other presently-known proceeding would affect Parts 703, 721, 722, 723, 724, 725, 726, 728, 733, 738, and 739.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

x) Part (Heading and Code Citation):

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Underground Storage Tanks (35 Ill. Adm. Code 731)

1) Rulemaking: Docket number R09-17A) Description:

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved docket number R09-17 to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period July 1, 2008 through December 31, 2008. At this time, the Board is not aware of any federal amendments that occurred during this update period.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-February 2009. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss docket R09-17, as necessary and appropriate.

Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, July 1, 2008, the due date for Board adoption of amendments in docket R09-17 would be July 1, 2009.

B) Statutory authority:

Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].

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C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after which time the Board will propose any amendments to the Illinois UST regulations that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2009, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-April 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois regulations is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking, noting docket number R09-17, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

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Address questions concerning this regulatory agenda, noting docket number R09-17, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

No other presently-known proceeding would impact the text of Part 731.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

y) Part (Headings and Code Citation):

Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing a proposal for filing with the Board to amend the Board rules for a Tiered Approach to Corrective Action Objectives (TACO)(35 Ill. Adm. Code 742). Amendments will be proposed to establish methodologies for developing remediation objectives from risks due to chemicals moving into buildings via soil vapors from contaminated soil and groundwater.

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B) Statutory Authority:

These amendments will be proposed pursuant to Sections 27, and 58.5 of the Environmental Protection Act [415 ILCS 5/27, and 58.5].

C) Scheduled Meeting/Hearing Dates:

None scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency Anticipates First Notice:

The Agency proposal may be filed with the Board as soon as Spring or Summer of 2009, after which the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations:

The amendments may affect any small business, small municipality or not-for-profit corporation subject to the Board's tiered approach to corrective action rules

F) Agency Contact Person for Information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East

POLLUTION CONTROL BOARD

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P.O. Box 19274
Springfield, Illinois 62794-9274

Telephone: 217-524-8509

Internet: webbc@ipcb.state.il.us

G) Related Rulemaking and other pertinent information:

For information regarding the development of these amendments please contact:

Name: Kimberly A. Geving
Address: 1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

z) Part (Headings and Code Citation):

Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Part 807 and 811)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to Part 807 Subpart F and Part 811 Subpart G relating to Financial Assurance. Among other things, the proposal will include adding "evergreen" renewal language to several financial assurance mechanisms.

B) Statutory Authority:

These amendments will be proposed pursuant to Sections 21.1, 22 and 27 of the Environmental Protection Act [415 ILCS 5/21.1, 22 and 27]

C) Scheduled Meeting/Hearing Dates:

No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28

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of the Act [415 ILCS 5/27 & 28].

D) Date Agency Anticipates First Notice:

The Agency anticipates submitting its proposal in Spring or Summer of 2009, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations:

The amendments may affect any small business, small municipality or not-for-profit corporation providing or requesting financial assurance for the closure and post closure care of waste disposal sites.

F) Agency Contact Person for Information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related Rulemaking and other pertinent information:

For information regarding the development of these amendments please

POLLUTION CONTROL BOARD

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contact:

Name: Stephanie Flowers
Address: Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Internet: Stephanie.Flowers@epa.state.il.us

aa) Parts (Headings and Code Citations):

Solid Waste (35 Ill. Adm. Code 807)

Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)

Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)

Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)

Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)

Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)

Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

1) Rulemaking: Presently reserved docket number R09-15

A) Description:

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved docket number R09-15 to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258, that USEPA may make in the period July 1, 2008 through December 31, 2008. At this time, the Board is not aware of any federal amendments to the federal MSWLF rules that occurred during this update period.

The Board will verify the existence of any additional federal actions that

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may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-February 2009. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure or dismiss docket R09-15, as necessary and appropriate.

Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, July 1, 2008, the due date for adoption of amendments in docket R09-15 would be July 1, 2009.

B) Statutory authority:

Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].

C) Scheduled meeting/hearing dates:

None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice:

The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2009, after which time the Board will propose any amendments to the Illinois RCRA Subtitle D MSWLF rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2009, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-April 2009. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition

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is needed, the Board will promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations:

This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking, noting docket number R09-15, as follows:

Name: John T. Therriault, Assistant Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R09-15, as follows:

Name: Michael J. McCambridge, Attorney
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

No other presently-known proceedings would affect the text of Parts 807, 810, 811, 812, 813, 814, or 815.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed

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Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

bb) Part (Headings and Code Citations):

Management of Used And Waste Tires (35 Ill. Adm. Code 848)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to the Board's regulations that will allow better implementation of the used and waste tire management program. The proposal will include, among others, changes necessary to make the Board's rules consistent with legislative amendments to Title XIV of the Environmental Protection Act [415 ILCS 5/53 et seq.] resulting from Public Act 92-0024.

B) Statutory authority:

Sections 27 and 55.2 of the Environmental Protection Act [415 ILCS 5/27 and 55.2].

C) Scheduled meeting/hearing dates:

No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency anticipates First Notice:

The Agency may submit a proposal to the Board as soon as the Spring or Summer of 2009, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

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This rulemaking may affect any small business, small municipality or not-for-profit corporation that manages used or waste tires.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the development of these rules please contact:

Name: Stephanie Flowers
Address: Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
Telephone: 217-782-5544
Internet: Stephanie.Flowers@epa.state.il.us

cc) Parts (Headings and Code Citations):

Procedures for Permit Issuance (35 Ill. Adm. Code 705)

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- 1) Rulemaking: No docket presently reserved.
 - A) Description:

35 Ill. Adm. Code 705 contains procedural requirements the Illinois Environmental Protection Agency (Agency) must follow for the issuance of RCRA (Resource Conservation and Recovery Act) and UIC (Underground Injection Control) permits. The Agency is considering a proposal that would amend 35 Ill. Adm. Code 705.165 to make it consistent with the requirements in the corresponding provision in the U.S. Environmental Protection Agency's RCRA and UIC rules, 40 C.F.R. 124.10(e) (2008).
 - B) Statutory authority:

These rules will be proposed pursuant to Sections 4(i), 22.4(b), 27 and 28 of the Environmental Protection Act [415 ILCS 5/4(i), 22.4(b), 27, 28].
 - C) Scheduled meeting/hearing dates:

No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings in accordance with Sections 27 and 28 of the Act [415 ILCS 5/27, 28].
 - D) Date Agency anticipates First Notice:

The Agency may submit a proposal to the Board as soon as the Spring or Summer of 2009, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations:

Generally, small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal unless they wish to participate in public comment or public hearing proceedings for RCRA or UIC permit applications. If so, they may be required to request the specified documents from the Agency rather than receiving them

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unsolicited along with the public notice of a tentative permit denial, comment period or hearing.

F) Agency contact person for information:

Address written comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the development of these rules please contact:

Name: Mark Wight
Address: Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544
Internet: Mark.Wight@illinois.gov

dd) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)

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Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will set forth state-wide regulations pertaining to volatile organic compounds (VOC) from several categories of products, including but not limited to the following: metal furniture coatings, large appliance coatings, and paper, film and foil coatings. The proposal will establish VOC content limits for the various product categories as set forth in USEPA's Control Technique Guidelines.

B) Statutory authority:

Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].

C) Scheduled meeting/hearing dates:

The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Effect on small business, small municipalities, or not-for-profit corporation:

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This proposal may affect any small business, small municipality or not-for-profit corporation that produces the various categories of products.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Dana Vetterhoffer
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

ee) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)

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Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will set forth state-wide regulations pertaining to volatile organic compounds (VOC) from several categories of products, including but not limited to the following: miscellaneous metal products coatings, plastic parts coatings, auto and light-duty truck assembly coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives. The proposal will establish VOC content limits for the various product categories as set forth in USEPA's Control Technique Guidelines.

B) Statutory authority:

Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Section 27 of the Act [415 ILCS 5/27].

C) Scheduled meeting/hearing dates:

The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 of the Act [415 ILCS 5/27].

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) Effect on small business, small municipalities, or not-for-profit

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corporation:

This proposal may affect any small business, small municipality or not-for-profit corporation that produces the various categories of products.

F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Dana Vetterhoffer
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

ff) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm.

POLLUTION CONTROL BOARD

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Code 218)

Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved.

A) Description:

The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will modify the definitions of "miscellaneous metal parts and products coating" and "coil coating" for Parts 218 and 219 to clarify that lubricating oils are not considered "coatings" for purposes of Subpart F, Coating Operations, but rather protective oils applied to metal for the purpose of providing lubrication, similar to the treatment of such oils under the Federal National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products, 40 CFR Part 63, Subpart Mmmm.

B) Statutory authority:

Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Section 27 of the Act [415 ILCS 5/27].

C) Scheduled meeting/hearing dates:

The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2009. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].

D) Date agency anticipates First Notice:

An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2009. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

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- E) Effect on small business, small municipalities, or not-for-profit corporation:

This proposal may affect any small business, small municipality or not-for-profit corporation that uses lubricating oil that is applied to metal for purposes of lubrication in a metal fabrication process.

- F) Agency contact person for information:

Address comments concerning the substance of the rulemaking to:

Name: John Therriault, Acting Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Name: Carol Webb
Address: 1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-524-8509
Internet: webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Name: Gina Roccaforte
Address: Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

DEPARTMENT OF PUBLIC HEALTH

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a) Part: Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)1) Rulemaking:

A) Description: This proposed rulemaking updates all references to the National Fire Protection Association Life Safety Standards, and other building codes, in the Sections being amended.

B) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]

C) Scheduled meeting/hearing dates: ASTC Licensing Board

D) Date agency anticipates First Notice: Winter 2009

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments may affect ASTCs that are small businesses and not-for-profit corporations.

F) Agency contact person for information:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043

G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: This proposed rulemaking implements Public Act 95-0911, which allows for the administration of anesthesia under the Acts by a podiatrist with the authority to administer anesthesia under the Podiatric Medical Practice Act of 1987.

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- B) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- C) Scheduled meeting/hearing dates: ASTC Licensing Board
- D) Date agency anticipates First Notice: Winter 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect ASTCs that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
- Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043
- G) Related rulemakings and other pertinent information: None
- c) Part: Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); Sheltered Care Facilities Code (77 Ill. Adm. Code 330); Illinois Veterans' Homes Code (77 Ill. Adm. Code 340); Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350); Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
- 1) Rulemaking:
- A) Description: The amendments will implement Public Act 95-0031, which requires that all bedrooms and common areas in facilities regulated by the Nursing Home Care Act [210 ILCS 45] be air conditioned and heated.
- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: January 2009

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- D) Date Agency anticipates First Notice: Winter 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect nursing homes that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043

- G) Related rulemakings and other pertinent information: None

d) Part: Birth Center Demonstration Model Program Code (77 Ill. Adm. Code 265)

1) Rulemaking:

- A) Description: These amendments create a new Part, implementing Public Act 95-0445, which adds freestanding birth centers to the Alternative Health Care Delivery Act [210 ILCS 3].
- B) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- C) Scheduled meeting/hearing dates:
- D) Date Agency anticipates First Notice: Winter 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect freestanding birthing centers that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:

Susan Meister

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2009 REGULATORY AGENDA

Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043

- G) Related rulemakings and other pertinent information: None
- e) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)
- 1) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 95-0911, which allows for the administration of anesthesia under the Acts by a podiatrist with the authority to administer anesthesia under the Podiatric Medical Practice Act of 1987.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates:
- D) Date agency anticipates first notice: Spring 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
- Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

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- 2) Rulemaking:
- A) Description: These proposed amendments are intended to update references to the National Fire Protection Association (NFPA) building and life-safety codes, and other design standards.
 - B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
 - C) Scheduled meeting/hearing dates:
 - D) Date agency anticipates first notice: Winter 2009
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
 - F) Agency contact person for information:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043
 - G) Related rulemakings and other pertinent information:
- 3) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 95-0321, which requires every hospital to establish a methicillin-resistant Staphylococcus aureus (MRSA) control program.
 - B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
 - C) Scheduled meeting/hearing dates:

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- D) Date agency anticipates first notice: Winter 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
- Susan Meister
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Illinois Department of Public Health
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Springfield, Illinois 62761
dph.rules@illinois.gov
217-782-2043
- G) Related rulemakings and other pertinent information: None
- 4) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 95-0401, which requires every hospital to staff nurses according to patient needs in acute care settings.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates:
- D) Date agency anticipates first notice: Spring 2009
- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
- Susan Meister
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G) Related rulemakings and other pertinent information: None

5) Rulemaking:

A) Description: The amendments will add new Sections to the rule to provide construction requirements for mobile units.

B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

C) Scheduled meeting/hearing dates:

D) Date agency anticipates first notice: Spring 2009

E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

f) Part: Home Health, Home Services, and Home Nursing Agency (77 Ill. Adm. Code 245)

1) Rulemaking:

A) Description: The rulemaking will implement Public Act 95-0951, which amended the list of services that home nursing agencies may provide

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under the direction of a registered professional nurse or advanced practice nurse and also clarified that a home nursing agency does not require licensure as a home health agency

- B) Statutory Authority: Home Health, Home Services, and Home Nursing Agency [210 ILCS 55]
- C) Scheduled meeting/hearing dates:
- D) Date agency anticipates first notice: Winter 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rulemaking will affect agencies licensed under the Act that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:

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217-782-2043
- G) Related rulemakings and other pertinent information: None

g) Part: Hospice Programs (77 Ill. Adm. Code 280)

- 1) Rulemaking:
 - A) Description: The amendments will correct chapter numbers in references to the National Fire and Protection Association Life Safety Code as well as dates for federal regulations that also are incorporated.
 - B) Statutory Authority: Hospice Program Licensing Act [210 ILCS 60]
 - C) Scheduled meeting/hearing dates:

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- D) Date agency anticipates first notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rulemaking will affect hospice programs that are small businesses or not-for-profit corporations.
- F) Agency contact person for information:
- Susan Meister
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- G) Related rulemakings and other pertinent information: None

h) Part: Perinatal HIV Prevention Code (77 Ill. Adm. Code 699)

- 1) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 95-0702, which amended the Perinatal HIV Prevention Act [410 ILCS 335] to require that women who have already been tested for HIV during the current pregnancy shall be given a repeat test, with right to refuse, later in pregnancy or at delivery. Additionally, the Act was amended to allow refusal for HIV testing to be verbal or written and to require that a woman who has already been tested for HIV during the current pregnancy will be given a repeat test, with the right to refuse.
- B) Statutory Authority: Perinatal HIV Prevention Act [410 ILCS 225]
- C) Scheduled meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: Spring 2009.

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- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments may affect health care providers and hospitals.
- F) Agency contact person for information:
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217-782-2043
- G) Related rulemakings and other pertinent information: See (i).
- i) Part: HIV Confidentiality and Testing Code (77 Ill. Adm. Code 697)
- 1) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 95-0007, which amended the AIDS Confidentiality Act [410 ILCS 305] by broadening the definition of "informed consent" to mean written or verbal agreement by the subject of a test or the subject's legally authorized representative without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The Act requires certain pre-test information and provides that no person may order a test for human immunodeficiency virus (HIV) without first receiving the documented informed consent of the subject of the test or the subject's legally authorized representative. Health care facilities or providers may offer opt-out HIV testing, where the subject or the subject's legally authorized representative is informed that the subject will be tested for HIV unless he or she refuses; however, the provision of informed consent, including pre-test information, and whether the subject or the subject's legally authorized representative declined the offer of HIV testing must be documented.
- B) Statutory Authority: AIDS Confidentiality Act [410 ILCS 305]

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- C) Scheduled meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: Spring 2009.
- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments may affect hospitals and health care providers.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: See (h)

j) Part: Animal Population Control Code (77 Ill. Adm. Code (new Part))

1) Rulemaking:

- A) Description: This rulemaking will establish procedures involving enrollment and participation in the Animal Population Control program in regard to both veterinarians and citizens. The rulemaking will also establish a collection procedure for monies collected by local animal control entities to be submitted to the Animal Population Control Fund, as well as for the distribution of those funds. The rulemaking will also define the percentage of the fund to be utilized for educational purposes.
- B) Statutory Authority: Implementing and authorized by Section 10 of the Animal Control Act [510 ILCS 5/10] and Section 35 of the Illinois Public Health and Safety Animal Population Control Act [510 ILCS 92] [Public Act 094-0639]
- C) Schedule of meeting/hearing dates: Spring 2009

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- D) Date agency anticipates First Notice Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None known at this time.
- F) Agency contact person for information:
- Susan Meister
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dph.rules@illinois.gov
217-782-2043
- G) Related rulemakings and other pertinent information: None
- k) Part: Control of Tuberculosis Code (77 Ill. Adm. Code 696)
- 1) Rulemaking:
- A) Description: The proposed amendments will include: an update of references to current U.S. Centers for Disease Prevention and Control guidelines and other referenced publications; an update of enforcement rules in accordance with the new State isolation and quarantine requirements; removal of requirements for skin testing for school teachers; and a general update of the rules.
- B) Statutory Authority: Communicable Disease Report Act [745 ILCS 45], Department of Public Health Act [20 ILCS 2305]
- C) Scheduled meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals and health care providers.

DEPARTMENT OF PUBLIC HEALTH

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F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Nonel) Part: Illinois Water Well Pump Installation Code (77 ILCS 925)1) Rulemaking

- A) Description: The amendments will specify the documentation required to verify that an individual has the required experience installing water wells and water well pumps. To pass an examination, an applicant will have to obtain a grade of not less than 70 in each part of the examination, rather than achieving an average grade of 75 for both parts of each examination. The rulemaking will also increase the time period that requests for continuing education sessions must be submitted to the Department from four weeks to 120 days before any training session is presented; specify the time the Department must be notified in advance by those conducting required continuing education sessions; and establish requirements for approving continuing education topics.
- B) Statutory Authority: Sections 1.5 and 7 of the Illinois Water Well and Pump Installation Contractor's License Act [225 ILCS 345]
- C) Schedule of meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2009 REGULATORY AGENDA

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Nonem) Part: Private Sewage Disposal Code (77 Ill. Adm. Code 905)1) Rulemaking:

- A) Description: The statute sets forth requirements to maintain and service private sewage disposal systems installed in Illinois. The rulemaking will clarify the legislative mandate in rule form and establish how and when maintenance requirements are to be met. Additionally, the amendments will clarify the site requirements necessary to install various types of approved private sewage disposal systems and will address portable toilet requirements.
- B) Statutory Authority: Illinois Private Sewage Disposal Licensing Act [225 ILCS 225]
- C) Schedule of meeting/hearing dates: The Private Sewage Advisory Board will review the rules in Spring 2009.
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
- F) Agency contact person for information:

Susan Meister

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- G) Related rulemakings and other pertinent information: None
- n) Part): Structural Pest Control Code (77 Ill. Adm. Code 830)
- 1) Rulemaking:
- A) Description: Existing rules require pest control technicians to obtain seven hours of training during the three years covered by their certifications. Public Act 93-0922 amended the Structural Pest Control Act to require certified technicians to accumulate nine classroom hours instead of seven and also stipulates that the hours may be obtained in increments of three hours or more. The amendments will bring the Code into compliance with the Act.
- B) Statutory Authority: Structural Pest Control Act [225 ILCS 235]
- C) Schedule of meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
- F) Agency contact person for information:
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G) Related rulemakings and other pertinent information: Noneo) Part: Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820)1) Rulemaking:A) Description: Revisions to the Code will clarify several Sections to provide consistency with industry standards under the federal Virginia Graeme Baker Pool and Spa Safety Act (15 USC 8001 et seq.).B) Statutory Authority: Illinois Swimming Facility Act [210 ILCS 125].C) Schedule of meeting/hearing dates: State Board of HealthD) Date agency anticipates First Notice: Spring 2009E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have an impact on the regulated industry.F) Agency contact person for information:

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217-782-2043

G) Related rulemakings and other pertinent information: Nonep) Part: Illinois Water Well Construction Code (77 Ill. Adm. Code 920)1) Rulemaking:

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- A) Description: The amendments will clarify the requirements for grouting drilled wells; establish the minimum time to grout a well following the removal of the drill rig from the drill site and requirements for bored well construction materials; clarify the notification requirement for sealing abandoned wells; and clarify the setback requirements between closed-loop wells, water wells and sources of contamination.
- B) Statutory Authority: Illinois Water Well Construction Act [415 ILCS 30]
- C) Schedule of meeting/hearing dates: Spring 2009
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimal impact on the regulated industry.
- F) Agency contact person for information:
- Susan Meister
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- G) Related rulemakings and other pertinent information: None
- q) Part: Family Practice Residency Code (77 Ill. Adm. Code 590)
- 1) Rulemaking:
- A) Description: This rulemaking will amend Subpart C: Medical Student Scholarships to clarify limitations on the use of scholarship funds, terms of performance, designation of shortage areas and notification of shortage area designations.
- B) Statutory Authority: Family Practice Residency Act [110 ILCS 935]

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- C) Scheduled meeting/hearing dates:
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

r) Part: Distribution of Medical Student Scholarship Payback Funds (77 Ill. Adm. Code 594)

1) Rulemaking:

- A) Description: Part 594 implements Section 10 of the Family Practice Residency Act [110 ILCS 935/10] and Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-200 and 2310-205]. These statutory provisions are designed to increase the availability of health care professionals to meet the health care needs of citizens living in underserved areas. The amendments alter the origin of matching dollars awarded to repay a health professional's student loans and alter the location of practice from a designated shortage area to a federal health professional shortage area. Payment schedules are also being changed from a semiannual to a quarterly basis.
- B) Statutory Authority: Family Practice Residency Act [110 ILCS 935/10] and Sections 2310-200 and 2310-205 of the Department of Public Health

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Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-20 and 2310-205]

- C) Scheduled meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: Spring 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rules are designed to increase the availability of health care professionals to meet health care needs of citizens living in underserved areas.
- F) Agency contact person for information:

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535 W. Jefferson St.
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- G) Related rulemakings and other pertinent information: None

s) Part: Newborn Metabolic Screening and Treatment Code (77 Ill. Adm. Code 661)

- 1) Rulemaking:
 - A) Description: The rulemaking will add five lysosomal storage disorders to the panel of newborn screening tests performed on all infants born in Illinois, as required by Public Act 95-695.
 - B) Statutory Authority: Newborn Metabolic Screening Act [410 ILCS 240]
 - C) Scheduled meeting/hearing dates: State Board of Health
 - D) Date agency anticipates First Notice: Spring 2009

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: It will be necessary to increase the fee charged to hospitals for newborn screening to fund this additional testing.
- F) Agency contact person for information:
- Susan Meister
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Springfield, Illinois 61761
dph.rules@illinois.gov
217-782-2043
- G) Related rulemakings and other pertinent information: None
- t) Part: Physical Fitness Facility Medical Emergency Preparedness Code (77 Ill. Adm. Code 527)
- 1) Rulemaking:
- A) Description: This rulemaking will make changes pursuant to Public Act 95-0712 and Public Act 95-0447. References to outdoor physical fitness facilities will be added and the requirement to register AEDs with a local Resource Hospital will be removed.
- B) Statutory Authority: Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74]
- C) Scheduled meeting/hearing dates: March 2009
- D) Date agency anticipates First Notice: March 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Outdoor "physical fitness facilities" will be required to have an AED.
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

u) Part: Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)

1) Rulemaking:

A) Description: This rulemaking will remove from the Code all references to specific testing fee amounts assessed to candidates sitting for an exam pursuant to the Emergency Medical Services (EMS) Systems and Trauma Center Act. In addition, the rulemaking will allow the Department to use a third party to administer Department exams.

B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

C) Scheduled meeting/hearing dates: June 2009

D) Date agency anticipates First Notice: June 2009

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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DEPARTMENT OF PUBLIC HEALTH

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G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: This rulemaking will define and address the use of reserve ambulances.

B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

C) Scheduled meeting/hearing dates: March 2009

D) Date agency anticipates First Notice: March 2009

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

v) Part: Illinois Vital Records Code (77 Ill. Adm. Code 500)

1) Rulemaking:

A) Description: Every Section of Part 500 will be edited and information will be amended. Instructions regarding the new Electronic Death Registration System will be added. The Illustrations that are not required by the Vital Records Act will be repealed.

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- B) Statutory Authority: Vital Records Act [410 ILCS 535]
- C) Scheduled meeting/hearing dates: State Board of Health
- D) Date agency anticipates First Notice: July 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The revised rules will provide a streamlined approach for funeral directors, local registrars, county clerks, medical examiners and coroners to file death data, obtain permits, correct mistakes and obtain/issue certified copies of death certificate.
- F) Agency contact person for information:

Susan Meister
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217-782-2043
- G) Related rulemakings and other pertinent information: None
- w) Part: Illinois Regenerative Medicine Institute Code (77 Ill. Adm. Code 995)
- 1) Rulemaking:
- A) Description: These new rules will set forth requirements for grant awards under the Stem Cell Research and Human Cloning Prohibition Act. The rules will include eligibility provisions; conditions on the use and disbursement of grant funds; research requirements and limitations; application and review provisions; monitoring and compliance; and suspension, termination, and recovery of grant awards.
- B) Statutory Authority: Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310] and the Stem Cell Research and Human Cloning Prohibition Act [410 ILCS 110]

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C) Scheduled meeting/hearing dates: State Board of Health, March 2009

D) Date agency anticipates First Notice: March 2009

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

x) Part: Narrative and Planning Policies (77 Ill. Adm. Code 1100)

1) Rulemaking:

A) Description: The rules will be reviewed and revised to: update language to coincide with revisions to the Illinois Health Facilities Planning Act; update standards to reflect changes in the health care industry; and eliminate redundancy in requirements and language.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

C) Scheduled meeting/hearing dates: Health Facilities Planning Board Meeting – June 2009

D) Date agency anticipates First Notice: July 2009

E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed revisions to the Certificate of Need rules will

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provide updated policies and standards for the review process that are in step with the evolving health care industry.

F) Agency contact person for information:

Claire Burman
Coordinator, Rules Development
Illinois Health Facilities Planning Board – IDPH
122 S. Michigan Avenue, Room 2026
Chicago, Illinois 60603
312-814-2565

G) Related rulemakings and other pertinent information: Noney) Part: Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)1) Rulemaking:

A) Description: The rules will be reviewed and revised to: update language to coincide with revisions to the Illinois Health Facilities Planning Act; update standards to reflect changes in the health care industry; and eliminate redundancy in requirements and language.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

C) Scheduled meeting/hearing dates: Health Facilities Planning Board

D) Date agency anticipates First Notice: Spring 2009

E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed revisions to the Certificate of Need rules will provide a more concise and better organized review process that is in step with the evolving health care industry.

F) Agency contact person for information:

Claire Burman
Coordinator, Rules Development

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2009 REGULATORY AGENDA

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122 S. Michigan Avenue, Room 2026
Chicago, Illinois 60603
312-814-2565

- G) Related rulemakings and other pertinent information: None
- z) Part: Economic and Fiscal Feasibility Review (77 Ill. Adm. Code 1120)
- 1) Rulemaking:
- A) Description: The rules will be reviewed and revised to: update language to coincide with revisions to the Illinois Health Facilities Planning Act; update standards to reflect changes in the health care industry; and eliminate redundancy in requirements and language.
- B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
- C) Scheduled meeting/hearing dates: Health Facilities Planning Board Meeting: March 2009
- D) Date agency anticipates First Notice: April 2009
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The revisions to the Certificate of Need rules will provide a more concise and better organized review process that is in step with the evolving health care industry.
- F) Agency contact person for information:
- Claire Burman
Illinois Health Facilities Planning Board – IDPH
122 S. Michigan Avenue, Room 2026
Chicago, Illinois 60603
312-814-2565
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

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aa) Part: Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)

1) Rulemaking:

A) Description: Rules will be developed in response to changes to the Alternative Healthcare Delivery Act [P.A. 95-0445] concerning the development of Certificate of Need rules for freestanding birth centers.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

C) Scheduled meeting/hearing dates: Health Facilities Planning Board Meeting – February 2009

D) Date agency anticipates First Notice: March 2009

E) Effect on small businesses, small municipalities or not for profit corporations: The proposed rulemaking will provide criteria and standards for the Certificate of Need review and approval of proposed freestanding birth centers in Illinois.

F) Agency contact person for information:

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Coordinator, Rules Development
Illinois Health Facilities Planning Board –IDPH
122 S. Michigan Avenue, Room 2026
Chicago, Illinois 60603
312-814-2565

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF TRANSPORTATION

JANUARY 2009 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Roadside Memorials; 92 Ill. Adm. Code 549
- 1) Rulemaking:
- A) Description: The Department will be revising this Part to change the crash victim eligibility date for marker qualification from January 1, 2003 to January 1, 1990, in accordance with PA 95-0873, effective August 21, 2008.
- B) Statutory Authority: 605 ILCS 125
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This amendment will not affect small businesses, not-for-profit corporations or small municipalities.
- F) Agency contact person for information:
- Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 317
2300 South Dirksen Parkway
Springfield, IL 62764
217/524-3838
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Illinois Hazardous Materials Transportation Regulations (IHMTR); 92 Ill. Adm. Code 107-180
- 1) Rulemaking:
- A) Description: These amendments will update the IHMTR for consistency with the federal regulations by incorporating by reference all applicable federal final rules published in 49 CFR 107-180 as of the October 2008

DEPARTMENT OF TRANSPORTATION

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edition; and also the applicable final rules in the *Federal Register* since October 2008.

- B) Statutory Authority: 430 ILCS 30/4(a) and 9(a)
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments will affect small businesses, small municipalities and not-for-profit corporations that own or operate commercial motor vehicles that transport placarded hazardous materials in Illinois.
- F) Agency contact person for information:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 317
2300 South Dirksen Parkway
Springfield, IL 62764
217/524-3838
- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Inspection Procedures for Type I and Type II School Buses; 92 Ill. Adm. Code 441 and 443

1) Rulemaking:

- A) Description: The Department will be amending these Parts by adding and revising provisions pursuant to PA 95-0176, effective January 1, 2008; PA 95-0260, effective August 17, 2007; and PA 95-0352, effective August 23, 2007.
- B) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII]

DEPARTMENT OF TRANSPORTATION

JANUARY 2009 REGULATORY AGENDA

- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments will affect small businesses and school districts within small municipalities that own or operate school buses in Illinois.
- F) Agency contact person for information:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 317
2300 South Dirksen Parkway
Springfield, IL 62764
217/524-3838
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Accommodation of Utilities on Right-of-Way; 92 Ill. Adm. Code 530
- 1) Rulemaking:
- A) Description: The revisions to this Part will address delays in construction activities due to the lack of movement by a utility; apportionment of costs; and utility location. Additionally, the Department will be updating certain construction techniques and descriptions of latest technologies. Finally, construction terms and definitions will be revised and clarified.
- B) Statutory Authority: 605 ILCS 5/4-201.1 and 9-113
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months

DEPARTMENT OF TRANSPORTATION

JANUARY 2009 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: The changes to this rule will not affect small businesses, small municipalities or not-for-profits.
- F) Agency contact person for information:
- Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 317
2300 South Dirksen Parkway
Springfield, IL 62764
217/524-3838
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Regulations for State Operating Assistance to Downstate Areas; 92 Ill. Adm. Code 653
- 1) Rulemaking:
- A) Description: Public Act 95-0708, effective January 18, 2008, amended the Downstate Public Transportation Act (the Act) [30 ILCS 740] to provide changes in the administration of the Downstate Public Transportation Fund and, also, to establish the Downstate Transit Improvement Fund under the State Finance Act [30 ILCS 105/5.708]. The Department will be updating this Part for consistency with the Act, to reflect current practice and for ease of comprehension. Definitions will be added as well as provisions that allow the Division to make grants to downstate area transit providers, in accordance with appropriations by the Illinois General Assembly.
- B) Statutory Authority: 30 ILCS 740/Arts. I and II, as amended by PA 95-0708, effective January 18, 2008 and 30 ILCS 105/5.708
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months

DEPARTMENT OF TRANSPORTATION

JANUARY 2009 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: Since most of the local transit agencies fall into the not-for-profit or small business categories, they will be impacted by the revisions to this Part.
- F) Agency contact person for information:

Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 317
2300 South Dirksen Parkway
Springfield, IL 62764
217/524-3838
- G) Related rulemakings and other pertinent information: None

ILLINOIS WORKERS' COMPENSATION COMMISSION

JANUARY 2009 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Pre-arbitration, 50 Ill. Adm. Code 7020
- 1) Rulemaking:
- A) Description: The rulemaking would amend the Commission's arbitration procedures, including procedures relating to expedited hearings under Section 19(b) of the Workers' Compensation Act.
- B) Statutory Authority: 820 ILCS 305/16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601
312/814-6559
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Arbitration, 50 Ill. Adm. Code 7030
- 1) Rulemaking:
- A) Description: The rulemaking would amend the Commission's arbitration procedures, including procedures relating to requesting arbitration decisions which include findings of fact and conclusions of law under Section 19(b) of the Workers' Compensation Act.
- B) Statutory Authority: 820 ILCS 305/16 and 19

ILLINOIS WORKERS' COMPENSATION COMMISSION

JANUARY 2009 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601
312/814-6559

- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Review, 50 Ill. Adm. Code 7040

1) Rulemaking:

- A) Description: The rulemaking would amend the Commission's review procedures, including procedures relating to expedited hearings under Section 19(b) of the Workers' Compensation Act.
- B) Statutory Authority: 820 ILCS 305/16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

ILLINOIS WORKERS' COMPENSATION COMMISSION

JANUARY 2009 REGULATORY AGENDA

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601
312/814-6559

- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Miscellaneous, 50 Ill. Adm. Code 7110
- 1) Rulemaking:
- A) Description: The rulemaking would establish requirements for certification of vocational rehabilitation counselors in accordance with Section 8(a) of the Act.
- B) Statutory Authority: 820 ILCS 305/8(a), 16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601
312/814-6559
- G) Related rulemakings and other pertinent information: None

ILLINOIS WORKERS' COMPENSATION COMMISSION

JANUARY 2009 REGULATORY AGENDA

e) Part(s) (Heading and Code Citation): Insurance Regulations, 50 Ill. Adm. Code 7100

1) Rulemaking:

A) Description: The rulemaking would amend the Commission's insurance procedures, including procedures relating to insurance compliance under Section 4 of the Workers' Compensation Act.

B) Statutory Authority: 820 ILCS 305/4, 16 and 19

C) Scheduled meeting/hearing dates: No dates have been set.

D) Date agency anticipates First Notice: No date has been set.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601
312/814-6559

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) The Notice of Proposed Amendments being corrected appeared at 33 Ill. Reg.19, dated January 2, 2009.
- 4) The information being corrected is as follows: The Notice Page information appeared to indicate that the rulemaking was a peremptory amendment although it was proposed amendments. The heading of the rulemaking should have read "NOTICE OF PROPOSED AMENDMENTS" and should have appeared as follows:

ILLINOIS REGISTER

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.414	Amendment
140.422	Amendment
140.427	Amendment
140.443	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and [305 ILCS 5/12-4.25]
- 5) Complete Description of the Subjects and Issues Involved:
The amendments were originally filed due to a change in federal law requiring all non-electronic prescriptions to be written on tamper-resistant prescription pads, effective April 1, 2008, in order to be eligible for reimbursement under Medicaid.

At its May 20, 2008 meeting, JCAR objected to and suspended the peremptory amendments on the grounds it was an unauthorized use of peremptory rulemaking. The

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF CORRECTION TO NOTICE ONLY

objection and suspension appeared at 32 Ill. Reg. 8449 and took effect on May 21, 2008. At its November 12th meeting, JCAR voted to withdraw the suspension (see 32 Ill. Reg. 18323) contingent upon HFS filing an emergency repeal of the preemptory amendments. The emergency repeal appeared at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; this rulemaking makes permanent that emergency repeal.

- 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>Action</u>	<u>Illinois Register Citation</u>
140.6	Amendment	32 Ill. Reg. 13570; October 5, 2007
140.80	Amendment	32 Ill. Reg. 9786; July 11, 2008
140.454	Amendment	32 Ill. Reg. 10782; July 18, 2008
140.455	Amendment	32 Ill. Reg. 10782; July 18, 2008
140.413	Amendment	32 Ill. Reg. 13761; August 22, 2008
140.435	Amendment	32 Ill. Reg. 13761; August 22, 2008
140.436	Amendment	32 Ill. Reg. 13761; August 22, 2008
140.14	Amendment	32 Ill. Reg. 14003; August 29, 2008
140.16	Amendment	32 Ill. Reg. 14003; August 29, 2008
140.44	Amendment	32 Ill. Reg. 14003; August 29, 2008

- 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

NOTICE OF CORRECTION TO NOTICE ONLY

Tamara Tanzillo Hoffman

Chief of Staff

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 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: This rulemaking was not anticipated during the most recent agendas.

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

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
JANUARY 13, 2009

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

Email: jcar@ilga.gov

Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR**PROPOSED RULEMAKINGS**Aging

1. Community Care Program (89 Ill. Adm. Code 240)
 - First Notice Published: 32 Ill. Reg. 7445 – 5/16/08
 - Expiration of Second Notice: 1/22/09

Agriculture

2. Grain Code (8 Ill. Adm. Code 281)
 - First Notice Published: 32 Ill. Reg. 13624 – 8/22/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

-Expiration of Second Notice: 1/23/09

Central Management Services

3. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 32 Ill. Reg. 15147 – 9/26/08
 - Expiration of Second Notice: 1/16/09

Education

4. Program Accounting Manual (Repealer) (23 Ill. Adm. Code 110)
 - First Notice Published: 32 Ill. Reg. 16103 – 10/3/08
 - Expiration of Second Notice: 2/5/09
5. Student Activity Funds and Convenience Accounts (Repealer) (23 Ill. Adm. Code 125)
 - First Notice Published: 32 Ill. Reg. 16218 – 10/3/08
 - Expiration of Second Notice: 2/5/09
6. Determining Special Education Per Capita Tuition Charge (23 Ill. Adm. Code 130)
 - First Notice Published: 32 Ill. Reg. 16226 – 10/3/08
 - Expiration of Second Notice: 2/5/09
7. Education of Homeless Children and Youth State Grant Program (23 Ill. Adm. Code 245)
 - First Notice Published: 32 Ill. Reg. 16240 – 10/3/08
 - Expiration of Second Notice: 2/5/09
8. Replacement of Required Rules (Repealer) (23 Ill. Adm. Code 500)
 - First Notice Published: 32 Ill. Reg. 16243 – 10/3/08
 - Expiration of Second Notice: 2/5/09
9. Regional Offices of Education and Intermediate Services (23 Ill. Adm. Code 525)
 - First Notice Published: 32 Ill. Reg. 16248 – 10/3/08
 - Expiration of Second Notice: 2/5/09

Emergency Management Agency

10. Quality Standards and Certification Requirements for Facilities Performing Mammography (32 Ill. Adm. Code 370)
 - First Notice Published: 32 Ill. Reg. 13657 – 8/22/08
 - Expiration of Second Notice: 2/11/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

11. Analytical Types of X-Ray Equipment (32 Ill. Adm. Code 380)
 - First Notice Published: 32 Ill. Reg. 13673 – 8/22/08
 - Expiration of Second Notice: 2/11/09
12. Registration Requirements for Diagnostic Imaging Specialists and Therapeutic Radiological Physicists (32 Ill. Adm. Code 410)
 - First Notice Published: 32 Ill. Reg. 13678 – 8/22/08
 - Expiration of Second Notice: 2/11/09
13. Status Signals for Nuclear Power Reactors (32 Ill. Adm. Code 504)
 - First Notice Published: 32 Ill. Reg. 13687 – 8/22/08
 - Expiration of Second Notice: 2/11/09

Environmental Protection Agency

14. Procedures for Operation of the Potentially Infectious Medical Waste Transporter Fee System (35 Ill. Adm. Code 1450)
 - First Notice Published: 32 Ill. Reg. 16662 – 10/17/08
 - Expiration of Second Notice: 2/5/09

Financial and Professional Regulation

15. Consumer Installment Loan Act (38 Ill. Adm. Code 110)
 - First Notice Published: 32 Ill. Reg. 13127 – 8/8/08
 - Expiration of Second Notice: 1/21/09

Health Facilities Planning Board

16. Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)
 - First Notice Published: 32 Ill. Reg. 1575 – 2/8/08
 - Expiration of Second Notice: 2/5/09

Human Rights Commission

17. Joint Rules of the Department of Human Rights and the Human Rights Commission: Handicap Discrimination in Employment (56 Ill. Adm. Code 5200)
 - First Notice Published: 32 Ill. Reg. 16672 – 10/17/08
 - Expiration of Second Notice: 1/24/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

Human Rights

18. Joint Rules of the Department of Human Rights and the Human Rights Commission:
Handicap Discrimination in Employment (56 Ill. Adm. Code 5200)
-First Notice Published: 32 Ill. Reg. 16674 – 10/17/08
-Expiration of Second Notice: 1/24/09

Revenue

19. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 32 Ill. Reg. 16682 – 10/17/08
-Expiration of Second Notice: 1/16/09
20. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 32 Ill. Reg. 16951 – 10/24/08
-Expiration of Second Notice: 1/25/09
21. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 32 Ill. Reg. 17105 – 10/31/08
-Expiration of Second Notice: 1/30/09
22. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 32 Ill. Reg. 17394 – 11/7/08
-Expiration of Second Notice: 2/11/09
23. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 32 Ill. Reg. 16057 – 10/3/08
-Expiration of Second Notice: 1/24/09

Secretary of State

24. Sale of Information (92 Ill. Adm. Code 1002)
-First Notice Published: 32 Ill. Reg. 8898 – 6/20/08
-Expiration of Second Notice: 2/5/09
25. Issuance of Licenses (92 Ill. Adm. Code 1030)
-First Notice Published: 32 Ill. Reg. 15782 – 9/26/08
-Expiration of Second Notice: 1/16/09
26. Cancellation, Revocation, Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

- First Notice Published: 32 Ill. Reg. 11347 – 7/25/08
- Expiration of Second Notice: 1/16/09

Workers' Compensation Commission

- 27. Miscellaneous (50 Ill. Adm. Code 7110)
 - First Notice Published: 32 Ill. Reg. 3213 – 3/7/08
 - Expiration of Second Notice: 1/15/09

EMERGENCY RULEMAKINGS

Central Management Services

- 28. Merit and Fitness (89 Ill. Adm. Code 302)
 - Notice Published: 23 Ill. Reg. 19935 – 12/26/08
- 29. Conditions of Employment (80 Ill. Adm. Code 303)
 - Notice Published: 32 Ill. Reg. 19944 – 12/26/08

Education

- 30. Certification (23 Ill. Adm. Code 25)
 - Notice Published: 32 Ill. Reg. 18876 – 12/5/08

PEREMPTORY RULEMAKINGS

Central Management Services

- 31. Pay Plan (80 Ill. Adm. Code 310)
 - Notice Published: 33 Ill. Reg. 98 – 1/2/09

EXEMPT RULEMAKINGS

Pollution Control Board

- 32. Sewer Discharge Criteria (35 Ill. Adm. Code 307)
 - Proposed Date: 11/26/08
 - Adopted Date: 12/12/08
- 33. Pretreatment Programs (35 Ill. Adm. Code 310)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

-Proposed Date: 11/26/08

-Adopted Date: 12/12/08

AGENCY RESPONSES

Board of Higher Education

- 34. Program Review (Private Colleges and universities) (23 Ill. Adm. Code 1030)
- 35. Approval of New Unites of Instruction, Research and public Service at Public Institutions (23 Ill. Adm. Code 1050)

State Board of Education

- 36. Special Education Facilities Under Sections 14-7.02 of the School Code (23 Ill. Adm. Code 401)

State Board of Elections

- 37. Registration of Voters (26 Ill. Adm. Code 216)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 23, 2008 through December 29, 2008 and have been scheduled for review by the Committee at its January 13, 2009 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/5/09	<u>Health Facilities Planning Board</u> , Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)	2/8/08 32 Ill. Reg. 1575	1/13/09
2/5/09	<u>Secretary of State</u> , Sale of Information (92 Ill. Adm. Code 1002)	6/20/08 32 Ill. Reg. 8898	1/13/09
2/5/09	<u>Environmental Protection Agency</u> , Procedures for Operation of the Potentially Infectious Medical Waste Transporter Fee System (35 Ill. Adm. Code 1450)	10/17/08 32 Ill. Reg. 16662	1/13/09
2/5/09	<u>State Board of Education</u> , Program Accounting Manual (Repealer) (23 Ill. Adm. Code 110)	10/3/08 32 Ill. Reg. 16103	1/13/09
2/5/09	<u>State Board of Education</u> , Student Activity Funds and Convenience Accounts (Repealer) (23 Ill. Adm. Code 125)	10/3/08 32 Ill. Reg. 16218	1/13/09
2/5/09	<u>State Board of Education</u> , Determining Special Education Per Capita Tuition Charge (23 Ill. Adm. Code 130)	10/3/08 32 Ill. Reg. 16226	1/13/09
2/5/09	<u>State Board of Education</u> , Education of Homeless Children and Youth State Grant	10/3/08 32 Ill. Reg.	1/13/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Program (23 Ill. Adm. Code 245)	16240	
2/5/09	<u>State Board of Education</u> , Replacement of Required Rules (Repealer) (23 Ill. Adm. Code 500)	10/3/08 32 Ill. Reg. 16243	1/13/09
2/5/09	<u>State Board of Education</u> , Regional Offices of Education and Intermediate Services (23 Ill. Adm. Code 525)	10/3/08 32 Ill. Reg. 16248	1/13/09
2/11/09	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	11/7/08 32 Ill. Reg. 17394	1/13/09
2/11/09	<u>Illinois Emergency Management Agency</u> , Quality Standards and Certification Requirements for Facilities Performing Mammography (32 Ill. Adm. Code 370)	8/22/08 32 Ill. Reg. 13657	1/13/09
2/11/09	<u>Illinois Emergency Management Agency</u> , Analytical Types of X-Ray Equipment (32 Ill. Adm. Code 380)	8/22/08 32 Ill. Reg. 13673	1/13/09
2/11/09	<u>Illinois Emergency Management Agency</u> , Registration Requirements for Diagnostic Imaging Specialists and Therapeutic Radiological Physicists (32 Ill. Adm. Code 410)	8/22/08 32 Ill. Reg. 13678	1/13/09
2/11/09	<u>Illinois Emergency Management Agency</u> , Status Signals for Nuclear Power Reactors (32 Ill. Adm. Code 504)	8/22/08 32 Ill. Reg. 13687	1/13/09

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

Rules acted upon in Volume 33, Issue 2 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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