

2009

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 33, Issue 31
July 31, 2009
Pages 11148-11365

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

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 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
23	May 26, 2009	June 5, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
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
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
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: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 11 to July 1, 2009.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

- 1) Heading of Part: Procurement
- 2) Code Citation: 44 Ill. Adm. Code 550
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
550.101	Repeal
550.102	Repeal
550.103	Repeal
550.201	Repeal
550.202	Repeal
550.203	Repeal
550.204	Repeal
550.205	Repeal
550.206	Repeal
550.207	Repeal
550.208	Repeal
550.209	Repeal
550.301	Repeal
550.302	Repeal
550.303	Repeal
550.304	Repeal
550.305	Repeal
550.306	Repeal
550.307	Repeal
550.308	Repeal
550.309	Repeal
550.310	Repeal
550.311	Repeal
550.312	Repeal
550.313	Repeal
550.314	Repeal
550.320	Repeal
550.330	Repeal
550.331	Repeal
550.332	Repeal
550.340	Repeal
550.341	Repeal
550.342	Repeal
550.350	Repeal

ENVIRONMENTAL PROTECTION AGENCY

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550.360	Repeal
550.401	Repeal
550.402	Repeal
550.403	Repeal
550.404	Repeal
550.405	Repeal
550.406	Repeal
550.407	Repeal
550.408	Repeal

- 4) Statutory Authority: 30 ILCS 500
- 5) A Complete Description of the Subjects and Issues Involved: The procurement procedures set forth in 44 Ill. Adm. Code 550 are obsolete and no longer used. The procurement procedures were adopted by the Illinois EPA in 1983 in fulfillment of the requirements of the Illinois Purchasing Act (30 Ill. Adm. Code 505). The Illinois Purchasing Act was repealed in 1998 by P. A. 90-572. The Illinois Procurement Code at 30 Ill. Adm. Code 500 is the authority currently used by the Illinois EPA regarding procurement. The Procurement Code has no requirement that individual State agencies adopt regulations concerning procurement and therefore the procurement procedures of 44 Ill. Adm. Code 550 are being repealed.
- 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 incorporation by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not impact local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Stephanie Flowers, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other proposed procedures required for compliance:
None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER VI: ENVIRONMENTAL PROTECTION AGENCY

PART 550
PROCUREMENT ([REPEALED](#))

SUBPART A: INTRODUCTION

Section	
550.101	Authority
550.102	Applicability
550.103	Definitions

SUBPART B: REQUIREMENTS APPLICABLE TO ALL AGENCY PROCUREMENT

Section	
550.201	Different Requirements under Illinois Purchasing Act or State Comptroller Act
550.202	Adoption of Standard Procurement Rules
550.203	Content of Contracts
550.204	Filing of Contracts
550.205	Contracts for Professional or Artistic Skills
550.206	Supervision of Architect or Engineer
550.207	Disclosures of Beneficial Interests
550.208	Contract for Consultant Services
550.209	Void Contracts

SUBPART C: REQUIREMENTS APPLICABLE TO AGENCY PROCUREMENT
UNDER FEDERAL ASSISTANCE AGREEMENTS

Section	
550.301	Applicability
550.302	Agency Procurement Responsibilities
550.303	Additional Requirements Applicable to Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980
550.304	Competition
550.305	Profit

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550.306	Small, Minority and Women's Businesses
550.307	Documentation
550.308	Specifications
550.309	Bonding
550.310	Code of Conduct
550.311	Cost Principles and Considerations
550.312	Payment to Consultants
550.313	Subagreements Awarded by Contractor
550.314	Reporting Requirements
550.320	Small Purchase – Procurement Method
550.330	Formal Advertising – Procurement Method
550.331	Formal Advertising – Public Notice and Bids
550.332	Formal Advertising – Award of Contract
550.340	Competitive Negotiation – Procurement Method
550.341	Competitive Negotiation – Public Notice, Evaluation, Negotiation and Award
550.342	Competitive Negotiation – Optional Procedure for Negotiation and Award of Agreement for Architectural and Engineering Services
550.350	Noncompetitive Negotiation – Procurement Method
550.360	Standard Contract Clauses

SUBPART D: PROTESTS

Section	
550.401	Applicability and Scope of this Subpart
550.402	Limitations on Protests
550.403	General Requirements
550.404	Filing Requirements for Protests
550.405	Protest Documents
550.406	Deferral of Procurement Action
550.407	Extension of Bid and Bid Bonds
550.408	Agency Review

AUTHORITY: Implementing and authorized by Section 4 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111½, par. 1004) and by Section 5 of The Illinois Purchasing Act (Ill. Rev. Stat. 1981, ch. 127, par. 132.5).

SOURCE: Filed December 20, 1977; rules repealed, new rules adopted and codified at 7 Ill. Reg. 13871, effective November 4, 1983; recodified at 8 Ill. Reg. 12931; repealed at 33 Ill. Reg. _____, effective _____.

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SUBPART A: INTRODUCTION

Section 550.101 Authority

Section 5 of the Illinois Purchasing Act, (Ill. Rev. Stat. 1981, ch. 127, par. 132.5) requires all purchases, contracts or other obligation or expenditure of funds by a state agency to be in accordance with rules and regulations promulgated by the state agency governing procurement practices and procedures. These rules are adopted by the Agency in fulfillment of the requirements of the Illinois Purchasing Act.

Section 550.102 Applicability

- a) These rules shall govern all purchases, contracts or other obligation or expenditure of funds by the Agency.
- b) The Agency shall use the procurement facilities and prescribed forms of the Department of Central Management Services for purchases of, including, but not limited to, commodities, equipment, printing, printing paper, stationery, and envelopes, except where the Agency has received approval from the Department to directly purchase or obtain such items.
- c) Federal regulations referenced in this Part will be applicable as of the effective date of this Part.

Section 550.103 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Illinois Purchasing Act.
- b) For purposes of these rules, the following definitions apply:
 - 1) "USEPA" or "EPA" means the United States Environmental Protection Agency
 - 2) "IEPA" or "Agency" means the Illinois Environmental Protection Agency.
 - 3) "Responsive bidder or offeror" means a bidder or offeror who complies with the invitation for bid or proposal in all material respects, both as to

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the method and timeliness of submission and as to the substance of any resulting contract.

- c) For Agency procurement under federal assistance agreements the definitions set forth in 40 CFR 33 shall apply.

SUBPART B: REQUIREMENTS APPLICABLE TO ALL AGENCY PROCUREMENT

Section 550.201 Different Requirements under Illinois Purchasing Act or State Comptroller Act

These regulations are intended to reflect the requirements of the Illinois Purchasing Act and the State Comptroller Act (Ill. Rev. Stat. 1981, ch. 15, pars. 201 et seq.) as they exist on the date of the adoption of these rules and as they apply to the Agency's operations. To the extent the requirements of these Acts, as amended, differ from the requirements of these rules, the requirements of the Acts shall govern.

Section 550.202 Adoption of Standard Procurement Rules

The Agency adopts the Standard Procurement Rules promulgated by the Department of Central Management Services, effective December 17, 1982, (44 Ill. Adm. Code 1) except as modified herein.

Section 550.203 Content of Contracts

- a) Each contract must include provisions defining a sound and complete agreement, including the:
 - 1) Nature, scope, and extent of work to be performed;
 - 2) Time frame for performance;
 - 3) Total cost for the agreement; and
 - 4) Payment provisions.
- b) All contracts entered by the Agency shall meet the contract contents requirements established by the State Comptroller. (74 Ill. Adm. Code 290)

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- c) Contracts that are executed prior to June 30 of a fiscal year which will be performed in a succeeding fiscal year and contracts that are executed during a fiscal year which will extend into the lapse period (July 1 - September 30) of the following fiscal year shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of such contracts.

Section 550.204 Filing of Contracts

Except as the Comptroller Act allows otherwise, whenever the Agency incurs a contract liability exceeding \$2500, a copy of the contract, purchase order or lease shall be filed with the Comptroller within 30 days.

Section 550.205 Contracts for Professional or Artistic Skills

- a) Whenever the Agency contracts for services involving professional, or artistic skills and involving an expenditure of more than \$2,500 for the same type of service at the same location during any fiscal year, the contract must be reduced to writing and a copy filed with the Comptroller. All copies of contracts filed pursuant to this Section are public records.
- b) A voucher for payment for professional or artistic skills which is in excess of \$2,500 may not be approved by the Comptroller unless the contract for such services has been reduced to writing before such services are performed.

Section 550.206 Supervision of Architect or Engineer

Any contract entered into or expenditure of funds by the Agency for remodeling, renovation or construction, involving an expenditure in excess of \$5,000, shall be subject to the supervision of a licensed architect or engineer and no payment shall be paid for such remodeling, renovation or construction unless the vouchers or invoice for such work is accompanied by a written certificate of such licensed architect or engineer that the payment represents work satisfactorily completed; labor; or materials incorporated in or stored at the site of such work; provided, periodic payments can be made during the course of such work upon a certificate of such licensed architect or engineer and indicating the proportionate amount of the total work completed satisfactorily.

Section 550.207 Disclosures of Beneficial Interests

- a) Any person who submits a bid in relation to any purchase in excess of \$5,000

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shall disclose in his proposal on a bidder list the name of each individual having a beneficial interest of more than 7½% in the bidding enterprise and, if the bidder is a corporation, the names of all its officers and directors. The bidder shall notify the Agency of any changes in its ownership or officers at the time such changes occur. Where the Agency solicits bids from certain bidders, either because an emergency exists or because the item being purchased is available only from limited sources, and such bidders have not applied to be placed on a bidder list, the Agency need not require compliance with the Section by such bidder.

- b) Any person participating in the making of a contract, or who enters into a contract, on behalf of the Agency with the knowledge that his spouse, child, parent, brother or sister is entitled to receive more than 7½% of the total distributable income, or in which that child, parent, brother or sister, together with his spouse or minor children, is entitled to receive more than 15%, in the aggregate, of the total distributable income of the other contracting party, shall immediately file a written statement setting out the facts of the transaction. Such statement shall be filed with the Director and be kept available for public inspection. Any such contract is contrary to public policy and may be voided at the option of the Agency unless it is shown to be in the best interests of the Agency.

Section 550.208 Contract for Consultant Services

- a) Any person or business entity who enters into a contract for consultant services with the Agency shall state in the contract whether he will utilize the services of a subcontractor. The contract shall include the names and addresses of all subcontractors and the anticipated amount of money which they will receive pursuant to the contract.
- b) If at any time a contractor for consultant services who had not intended to utilize the services of a subcontractor, decides to utilize a subcontractor, the contractor and the Agency shall file an amendment to the original contract with the Comptroller stating the names and addresses of all subcontractors and the anticipated amount of money which they will receive pursuant to the original contract.
- c) For the purposes of this Section, the term "consultant services" is defined as those services provided under contract to the Agency by an individual or group of individuals, acting as an independent contractor, qualified by education,

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experience and technical ability to advise and assist in solving specific management and programmatic problems involving the organization, planning, direction, control and operation of State agencies.

Section 550.209 Void Contracts

Any contract entered into or purchase or expenditure of funds by the Agency in violation of the rules set forth in this Part is void and of no effect.

**SUBPART C: REQUIREMENTS APPLICABLE TO AGENCY PROCUREMENT
UNDER FEDERAL ASSISTANCE AGREEMENTS****Section 550.301 Applicability**

- a) The requirements set forth in Subpart B shall apply, in addition to the requirements of this Subpart C, to Agency procurement under federal assistance agreements. Where the requirements set forth in this Subpart C supercede, they shall control.
- b) The requirements of this Subpart shall apply to activities which USEPA funds as a part of a cooperative agreement under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. (42 U.S.C. Sec. 9601 et seq.)
- c) Procurements under an intergovernmental agreement must follow the procurement requirements in this Subpart except for procurements that are:
 - 1) Incidental to the purpose of the assistance agreement, and
 - 2) Made through the use of the procurement facilities of the Department of Central Management Services.

Section 550.302 Agency Procurement Responsibilities

- a) The Agency shall be responsible for the settlement and satisfactory completion in accordance with sound business judgement and good administrative practice of all contractual and administrative issues arising out of contracts entered into under the assistance agreement. This includes issuance of invitations for bids or requests for proposals, selection of contractors, award of subagreements,

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settlement of protests, claims, disputes, and other related procurement matters.

- b) The Agency shall monitor contracts it enters to assure that contractors perform in accordance with the terms, conditions, and specifications of their contracts.
- c) The Agency shall avoid purchasing unnecessary or duplicative items.
- d) The Agency shall consolidate its procurement or divide into parts to obtain a more economical purchase.
- e) The Agency shall make an analysis of lease versus purchase alternatives in its procurement actions where such analysis is appropriate considering the source of the funding, the length of the contract, and other relevant factors related to the project for which the contract is procured.
- f) The Agency shall award agreements only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. A responsible contractor is one that has:
 - 1) Financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, or a demonstrated ability to obtain these:
 - 2) Resources to meet the completion schedule contained in the contract:
 - 3) A satisfactory performance record for completion of contracts;
 - 4) Accounting and auditing procedures adequate to control property, funds and assets, as required to 40 CFR 30 and 33; and
 - 5) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law and other statutory requirements under 40 CFR 30.
- g) The Agency shall not make awards to contractors who have been suspended, debarred, or voluntarily excluded under 40 CFR 32 nor shall it permit any portion of the work required by the contract to be performed at any facility listed on the USPEA List of Violating Facilities (see 40 CFR 15).

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- h) The Agency shall refer violations of law to the local, State, or federal authority with jurisdiction over the matter.

Section 550.303 Additional Requirements Applicable to Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

- a) Where the Agency determines that a procurement method other than formal advertising is appropriate to assure successful completion of a remedial action in a timely or expeditious manner, the Agency shall reduce the determination to writing and submit it to the USEPA award official for concurrence.
- b) The requirements of this Section shall not apply to studies, investigations, or engineering activities which precede a remedial action activity.

Section 550.304 Competition

- a) All Agency procurement transactions, without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition.
- b) Procurement practices shall not unduly restrict or eliminate competition. Examples of practices considered to be unduly restrictive include:
 - 1) Noncompetitive practices between firms;
 - 2) Organizational conflicts of interest;
 - 3) Unnecessary experience and bonding requirements;
 - 4) Preference to in-State bidders or proposers;
 - 5) Placing unreasonable requirements on firms in order for them to qualify to do business.

Section 550.305 Profit

- a) Only fair and reasonable profits may be paid to contractors. "Fair and reasonable profits" are profits which are sufficient to attract proposers who possess talents and skills necessary to the accomplishment of project objectives and to stimulate

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efficient and expeditious completion of the project;

- b) For each contract in which there is no price competition or where price is based on cost analysis, any profit shall be negotiated as a separate element of price. In such instances, profit shall be determined based on assumption of risk, contribution to total performance of the project and other relevant factors related to the project for which the contract is procured;
- c) Where the Agency receives two or more bids, profit included in a formally advertised, competitively bid, fixed price contract shall be considered reasonable.
- d) Off-the-shelf or catalog supplies are exempt from this section.

Section 550.306 Small, Minority and Women's Businesses

It is Agency policy to award a fair share of agreements to small, minority, and women's businesses. The Agency shall take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, construction, and services. Affirmative steps shall include the following:

- a) Including qualified small, minority, and women's businesses on solicitation lists.
- b) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources as designated by the Department of Central Management Services, USEPA or any other federal or state agency authorized to make such designation.
- c) Dividing total requirements, are required by law or regulation, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses.
- d) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses.
- e) Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce.
- f) If the contractor awards subagreements, requiring the contractor to take the affirmative steps in paragraphs (a) through (e) of this Section.

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Section 550.307 Documentation

- a) Procurement records and files for procurements in excess of \$10,000 shall include the following:
 - 1) Basis for contractor selection;
 - 2) Written justification for selection of the procurement method;
 - 3) Written justification for use of any specification which does not provide for maximum free and open competition;
 - 4) Written justification for the type of subagreement;
 - 5) Basis for award cost or price, including a copy of the cost price analysis made under Section 3500.305 and documentation of negotiations; and
 - 6) Written justification for rejecting bids.
- b) The Agency shall state the reasons for rejecting any or all bids and the justification for procurements on noncompetitively negotiated basis and shall make them available for public inspection.

Section 550.308 Specifications

- a) The Agency shall incorporate in its specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition, unless the features are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment or to promote innovative technology. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- b) The Agency shall avoid the use of detailed product specifications.

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- c) When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The Agency need not establish the existence of any source other than the named brand. The Agency must clearly state in the specification the salient requirements of the named brand which must be met by offerors.
- d) Each solicitation for bids shall include a copy of the current prevailing wage determination issued by the Department of Labor, for any project of construction (as defined by the Secretary of Labor) in excess of \$2,000, when USEPA assistance program legislation requires compliance with the Davis Bacon Act (40 U.S.C. 276a to 1-7) as supplemented by Department of Labor regulations (29 CFR Part 5).

Section 550.309 Bonding

- a) These requirements apply only to contracts for construction.
- b) For contracts exceeding \$100,000 the following bonding requirements shall apply unless other requirements are approved by the USEPA award official:
 - 1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - 2) A performance bond for 100 percent of the contract price. A "performance bond" is one that the contractor executes in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - 3) A payment bond for 100 percent of the contract price. A "payment bond" is one that the contractor executes in connection with a contract to assure payment as required by law, to all persons supplying labor and material in the execution of the work provided for in the contract.
- c) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties

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(31 CFR 223).

- d) The flood hazard area requirements contained in 40 CFR 30 apply.

Section 550.310 Code of Conduct

- a) No employee, officer, or agent of the Agency shall participate in selection, or in the award or administration of a contract supported by USEPA funds if a conflict of interest, real or apparent, would be involved.
- b) Such a conflict would arise when:
 - 1) Any employee, officer, or agent of the Agency, any member of their immediate families, or their partners, have a financial or other interest in the firm selected for award; or when
 - 2) An organization which may receive or has been awarded on agreement employs, or is about to employ any person under paragraph (b)(1) of this Section.
- c) The Agency's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or other parties to contracts.

Section 550.311 Cost Principles and Considerations

- a) The Agency shall conduct a cost analysis of all negotiated change orders and all negotiated contracts estimated to exceed \$10,000.
- b) The Agency shall conduct a price analysis of all formally advertised procurements under Section 550.330 estimated to exceed \$10,000 if there are fewer than three bidders.
- c) For negotiated procurement under Section 550.340 contractors and subcontractors shall submit to the Agency cost or pricing data in support of their proposals.
- d) In determining allowable costs the Agency shall comply with 40 CFR 33.275(a).
- e) The cost-plus-percentage-of cost (e.g., a multiplier which includes profit) and the

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percentage of construction cost types of contracts shall not be used.

Section 550.312 Payment to Consultants

- a) For all USEPA assistance agreements, the salary rate (excluding overhead) paid to individual consultants retained by the Agency or the Agency's contractors or subcontractors will not exceed the maximum daily rate for a GS-18. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed.
- b) Agreements for services which are awarded using the procurement requirements in this Part are not affected by this limitation.

Section 550.313 Subagreements Awarded by Contractor

A contractor must comply with the following provisions in its award of subagreements. This section does not apply to a supplier's procurement of materials to produce equipment, materials and catalog off-the-shelf, or manufactured items.

- a) 40 CFR 32 (Debarment and Suspension);
- b) The limitations on contract award in Section 550.302(f)(1) through (f)(5);
- c) Section 550.305 (Profit);
- d) Section 550.306 (Small, Minority, and Women's Businesses);
- e) Section 550.308 (Specifications);
- f) Section 550.311 and 40 CFR 33.275 (Cost Principles and Considerations); and
- g) Applicable standard contract clauses under Section 550.360.

Section 550.314 Reporting Requirements

The Agency shall notify the USEPA award official, in writing, of each construction contract which has or is expected to have an aggregate value over \$10,000 within a 12-month period. The Agency shall notify the USEPA award official within ten (10) calendar days after the award

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of each construction contract. The notice shall include:

- a) Name, address, telephone number and employee identification number of the construction contractor,
- b) Amount of the award,
- c) Estimated starting and completion dates,
- d) Project number, name and site location of the project, and
- e) Copy of the tabulations of bids or offers and the name of each bidder or offeror.

Section 550.320 Small Purchase – Procurement Method

- a) If the aggregate amount involved in any one procurement transaction does not exceed \$10,000 including all estimated handling and freight charges overhead, and profit, the Agency may use the small purchase procedures of this Section. Any procurement transaction which may exceed \$5,000 shall comply with the requirements of Subpart B.
- b) The Agency shall not divide a procurement into smaller parts to avoid the dollar limitations for competitive procurement.
- c) The Agency shall obtain price or rate quotations from two or more qualified sources.

Section 550.330 Formal Advertising – Procurement Method

- a) The requirements in Sections 550.330 through 550.332 apply to all formally advertised contracts in excess of \$10,000. Any procurement transaction which may exceed \$5,000 shall comply with the requirements of Subpart B. Formal advertising means the public solicitation of sealed bids and agreement award based on a fixed price (lump sum, unit price, or a combination of the two) to the lowest, responsive, responsible bidder.
- b) Formal advertising requires at a minimum:
 - 1) A complete, adequate, and realistic specification or purchase description

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of what is required;

- 2) Two or more responsible bidders which are willing and able to complete effectively for the Agency business;
- 3) A procurement that lends itself to the award of a fixed-price contract; and
- 4) The selection of the successful bidder made principally on the basis of price.

Section 550.331 Formal Advertising – Public Notice and Bids

- a) The Agency shall give public notice of the solicitation as required by Subpart B, inviting bids and stating when and how the bidding documents may be obtained and examined.
- b) The Agency shall allow adequate time, generally not less than 30 days, between the date the public notice is first published and the date by which bids must be submitted.
- c) Bidding documents shall include:
 - 1) A complete statement of work to be performed, including, where appropriate, design drawings and specifications and the required performance schedule;
 - 2) The terms and conditions of the contract to be awarded, including, where appropriate, payment, delivery schedules, point of delivery, and acceptance criteria;
 - 3) A clear explanation of the method of bidding and the method of evaluating bid prices, and the basis and method for awarding the contract;
 - 4) The responsibility requirements or criteria which will be employed in evaluating bidders;
 - 5) The prevailing wage determination, made under the Davis-Bacon Act, if applicable; and

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- 6) The deadline and place to submit bids and a copy of Section 550.313, Standard Contract Clauses under 550.360, and Subpart D.
- d) The Agency shall publicly open bids at the place, date, and time announced in the bidding documents.

Section 550.332 Formal Advertising – Award of Contract

- a) The Agency shall evaluate all bids in accordance with the methods and criteria in the bidding documents.
- b) The Agency shall award a fixed price agreement to the lowest, responsive, responsible bidder. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining the low bid. Payment discounts may be used to determine low bid only when prior experience of the Agency indicates that it generally accepts such discounts.
- c) The Agency may reject all bids only when it has sound, documented business reasons which are in the best interest of the program for which USEPA assistance is awarded (see Section 550.307 "Documentation").

Section 550.340 Competitive Negotiation – Procurement Method

- a) The requirements in Section 550.340 through 550.342 apply to all competitively negotiated subagreements in excess of \$10,000. Any procurement transaction which may exceed \$5,000 shall comply with the requirements of Subpart B.
- b) Competitive negotiation will be used only if allowed under Subpart B.

Section 550.341 Competitive Negotiation – Public Notice, Evaluation, Negotiation and Award

- a) The Agency shall give public notice for competitively negotiated procurements as required by Subpart B.
 - 1) The notice of a request for proposals must state how to obtain associated documents, including a copy of Section 550.313, Standard Contract Clauses under 550.360, and Subpart D, and the basis for award.

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- 2) Requests for proposals must be written, contain enough information to enable a prospective offeror to prepare a proposal, contain all evaluation criteria and the relative importance attached to each, and clearly state the deadline and place to submit proposals.
- b) The Agency shall uniformly and objectively evaluate all proposals submitted in response to the request for proposals. The Agency shall base its determination of qualified offerors and acceptable proposals solely on the evaluation criteria stated in the request for proposals.
- c) Unless the request for proposals states that award may be based on initial offers alone, the Agency shall conduct meaningful negotiations with the best qualified offerors with acceptable proposals within the competitive range, and permit revisions to obtain best and final offers. The best qualified offerors shall have equal opportunities to negotiate or revise their proposals. During negotiations, the Agency shall not disclose the identity of competing offerors or of any information derived from proposals submitted by competing offerors.
- d) The Agency shall award the contract to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Agency, taking into consideration price and other evaluation criteria set forth in the request for proposal.
- e) The Agency shall promptly notify unsuccessful offerors that their proposals were rejected.
- f) The Agency shall document its procurement file to indicate how proposals were evaluated, what factors were used to determine the best qualified offerors within the competitive range, and what factors were used to determine the contract award.

Section 550.342 Competitive Negotiation – Optional Procedure for Negotiation and Award of Agreement for Architectural and Engineering Services

- a) The Agency may evaluate and select an architect or engineer using the procedures in this Section in place of the procedures in Section 550.340.
- b) The Agency may use either a prequalified list or responses to requests for

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statement of qualifications to determine the most technically qualified architects or engineers.

- c) After selecting and ranking the most qualified architects or engineers, the Agency will request technical proposals from those architects or engineers and inform them of the evaluation criteria the Agency will use to rank the proposals.
- d) The Agency shall then select and determine, in writing, the best technical proposal.
- e) After selecting the best proposal, the Agency shall negotiate fair and reasonable compensation with the offeror. "Fair and reasonable compensation" is compensation which is sufficient to reward offerors who possess talents and skills necessary to the accomplishment of project objectives and to stimulate efficient and expeditious completion of the project.
- f) If the Agency and the offeror of the best proposal cannot agree on the amount of compensation, the Agency shall formally terminate negotiations with the offeror. The Agency shall then negotiate with the offeror with the next best proposal. This process will continue until the Agency reaches agreement on compensation with an offeror with an acceptable proposal. Once the Agency terminates negotiations with an offeror, the Agency shall not renegotiate with that offeror.

Section 550.350 Noncompetitive Negotiation – Procurement Method

The Agency may use noncompetitive negotiation only when allowed under Subpart B and when the award of a contract is not appropriate under small purchase, formal advertising, or competitive negotiation procedures because:

- a) The item is available only from a single source;
- b) A public exigency or emergency exists and the urgency for the requirement will not permit a delay incident to competitive procurement;
- c) After solicitation from at least two sources, competition is determined to be inadequate; or
- d) The UAEPA award official authorizes noncompetitive negotiation.

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Section 550.360 Standard Contract Clauses

Agency procured agreements, for which the Agency is a recipient of federal assistance, shall include, as appropriate, the clauses, or their equivalent, required by 40 CFR 33, Subpart F.

SUBPART D: PROTESTS

Section 550.401 Applicability and Scope of this Subpart

- a) This subpart sets forth the administrative process that the Agency will use for the resolution of protests filed with the Agency.
- b) A protest is a written complaint concerning the award of an agreement filed with the Agency by a party with a direct financial interest adversely affected by an Agency procurement action.

Section 550.402 Limitations on Protests

A protest may only be filed with the Agency for:

- a) Issues arising under the procurement provisions of this Part;
- b) Alleged violations of State law and when there is a superceding federal requirement;
- c) Basic project design determinations which clearly relate to questions of source selection or application of restrictive specifications; or
- d) Award of lower tier subagreements;
 - 1) If the Agency mandated award to a particular entity; or
 - 2) If based on a violation of the requirements in Section 550.313.

Section 550.403 General Requirements

- a) Any party with an adversely affected direct financial interest may file a written protest with the Agency in accordance with this subpart.

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- b) The Agency may summarily dismiss an appeal without proceedings under this subpart, if the protest is untimely under Section 550.404(a) or entirely addresses issues which are beyond the scope of this subpart, or the protester fails to comply with the intent of the procedural requirements of this subpart.
- c) The Agency shall summarily deny a protest without proceedings under this subpart, if, after considering the facts in a light most favorable to the protester, the Agency believes that the protest lacks merit.

Section 550.404 Filing Requirements for Protests

- a) A protest appeal to the Agency must be in writing and must adequately state the basis for the protest. Protests must be received by the Director of the Agency within 10 working days after the action of the Agency creating the cause for protest occurred.
- b) The Agency will dismiss as untimely any protests based upon alleged improprieties in the solicitation which were apparent before bid opening or the closing date for receipt of initial proposals if the initial protest was not received by the Agency before bid opening or the closing date for receipt of proposals respectively. In the case of negotiated procurements, protests of alleged improprieties which were incorporated in a new solicitation must have been received by the Agency before bid opening or the closing date for receipt of proposals respectively. In the case of negotiated procurements, protests of alleged improprieties which were incorporated in a new solicitation must have been received by the Agency not later than the next closing date for receipt of proposals.
- c) The protester may notify the Agency of a protest by brief telegraphic notice but the protester must provide the award official with a more detailed statement of the basis for the protest appeal within 5 working days after the date on the telegraphic notice.
- d) The Agency will not consider oral protests.

Section 550.405 Protest Documents

- a) The protest document must state the legal and factual grounds for the protest and request a determination under this subpart.

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- b) Upon filing of a protest with the Agency the protester must concurrently transmit a copy of the documents and any attachments to all other parties with a direct financial interest which may be adversely affected by the determination of the protest. Also, a party which submits a document to the Agency during the course of a protest must simultaneously furnish all other affected parties with a copy of the document.

Section 550.406 Deferral of Procurement Action

The Agency shall review each protest filed with it to determine whether it is appropriate to defer the protested procurement action based on the impact to the project for which the contract is procured. Such deferral of the procurement action shall be limited to the award of the agreement, subagreement or subitem which is the basis of the protest.

Section 550.407 Extention of Bid and Bid Bonds

- a) If a protest is filed, the Agency may request an extension of the bid and bid bond for a reasonable period of time sufficient to resolve the protest and execute the contract.
- b) If the protester does not agree to the Agency's request for a reasonable extension of the bid and bid bond period, the Agency shall summarily dismiss the protest.

Section 550.408 Agency Review

- a) The Agency will give the protester and any other party with a financial interest which may be adversely affected by the determination of protest, an opportunity to present arguments in support of their views in writing or at a conference.
- b) The Agency shall review the documents or arguments presented by the parties to determine whether there has been compliance with the procurement requirements of this Part. It shall be the burden of the protester to establish a failure to comply with the procurement requirements of this Part.
- c) After the Agency's announced date for receipt of written arguments, the record shall be closed.
- d) The Agency's determination shall constitute final action.

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- e) If a protest involves legal issues not explicitly addressed by this Part or State law, the Agency shall resolve the issue by referring to other protest determinations under this Part, decisions, procedures, and regulations of other federal or State agencies, and decisions of federal or state courts addressing requirements comparable to the procurement requirements of this Part.

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.992	Amendment
140.994	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking requires individuals enrolled in Persons with Disabilities Home and Community-Based Waiver program, and clients 65 years of age and older enrolled in the Persons who are Elderly Home and Community-Based Waiver program, to participate in the Primary Care Case Management (PCCM) Program. The amendments also specify that the maximum number of patients who can enroll with a primary care provider (PCP) shall be set based not only on the number of full-time equivalent (FTEs) physicians, but shall include FTE Advanced Practice Nurses (APNs) or Physician Assistants (PAs) within the site. In addition, the rulemaking provides the Department with the authority to allow a PCP to exceed its panel limit in an area where there is an insufficient number of PCPs to adequately serve the eligible population.
- 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>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
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

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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
140.3	Amendment	33 Ill. Reg. 1617; January 30, 2009
140.403	New Section	33 Ill. Reg. 1617; January 30, 2009
140.400	Amendment	33 Ill. Reg. 4468; March 27, 2009
140.425	Amendment	33 Ill. Reg. 5178; April 10, 2009

- 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:

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:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: it was not anticipated by the Department at the time these agendas were prepared.

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 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,

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	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Sanctioned Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

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140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)

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- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

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140.398 Hearings (Recodified)

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140.402	Copayments for Noninstitutional Medical Services
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140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
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140.433	Payment for Clinical Laboratory Services
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140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
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140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
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- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
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- 140.453 Definitions
- 140.454 Types of Mental Health Services
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- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
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- 140.473 Prior Approval for Home Health Services
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- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
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- 140.582 Cost Adjustments
- 140.583 Campus Facilities
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- 140.948 Negotiation Procedures (Recodified)
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- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (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

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Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a 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.

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Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 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;

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emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended 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

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December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 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,

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effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, 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

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December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 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

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days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; 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; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; 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; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. _____, effective _____.

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section 140.992 Populations Eligible to Participate in the Primary Care Case Management Program

- a) Individuals enrolled in programs administered by the Department under Article V of the Public Aid Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or the Veterans' Health Insurance Program Act and not excluded by subsection (b) or (c) of this Section are eligible to participate in the Primary Care Case Management (PCCM) program.

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- b) Excluded populations are:
- 1) Individuals covered by Medicare;
 - 2) Children under age 21 receiving Supplemental Security Income (SSI);
 - 3) Department of Children and Family Services (DCFS) wards and individuals participating in the Subsidized Guardianship or Adoption Assistance programs;
 - 4) Children under age 21 covered under the Aid to the Aged, Blind and Disabled (AABD) program;
 - 5) Residents of nursing facilities;
 - 6) American Indian/Alaska natives;
 - 7) Spend-down individuals;
 - 8) [Persons enrolled in the following Home and Community Based Waiver \(HCBS\) Programs: Home and Community Based \(HCBS\) waiver enrollees;](#)
 - A) [Adults with developmental disabilities \(DD\);](#)
 - B) [Residential waiver for children and young adults with DD;](#)
 - C) [Support waiver for children and young adults with DD;](#)
 - D) [Persons with brain injury;](#)
 - E) [Persons with HIV or AIDS;](#)
 - F) [Supportive living facilities;](#)
 - G) [Persons who are elderly \(age 60-64\); and](#)
 - H) [Children who are medically fragile/technology dependent;](#)

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- 9) Individuals in community integrated living arrangements (CILAs);
 - 10) Individuals in presumptive eligibility programs;
 - 11) Refugees;
 - 12) Children, under the age 21, who are receiving services through a family-centered, community based, coordinated care system that receives grant funds under Section 501(a)(1)(D) of Title V of the Social Security Act or whose care is otherwise managed by the Division of Specialized Care for Children of the University of Illinois at Chicago or the Department;
 - 13) Individuals enrolled in the following programs with limited benefits:
 - A) Illinois Healthy Women;
 - B) All Kids Rebate and FamilyCare Rebate;
 - C) Illinois Cares Rx;
 - D) Transitional Assistance, age 19 or older;
 - E) Emergency Medical Only;
 - F) Hospice; and
 - G) Sexual Assault, Renal, and Hemophilia programs.
- c) Populations already managed are:
- 1) Individuals with high level Third Party Liability (TPL) private insurance; and
 - 2) Individuals in the Program for All-Inclusive Care for the Elderly (PACE) participants.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 140.994 Panel Size and Affiliated Providers

- a) PCPs may designate to the Department those providers who provide primary care coverage for the PCP's patients when the PCP is unavailable. Providers so designated will not need a referral in order to be reimbursed by the Department for services provided to that PCP's patients.
- b) The Department shall limit the number of patients enrolled with a PCP to 1,800. A PCP practicing with an Advanced Practice Nurse (APN), Physician's Assistant (PA) or Resident may have his or her panel size increased by 900 patients for each Full Time Equivalent APN, PA or Resident in his or her practice. The limit on the number of patients enrolled with a clinic that is allowed to enroll as a PCP shall be based on the number of Full Time Equivalent physicians, [APNs or PAs](#) within the site.
- c) A PCP may limit his or her panel to a specified number of patients less than the maximum number set forth in this Section, may limit that panel to only his or her existing patients or existing patients and their family members, and may limit patients by age or other factors relevant to the scope of his or her practice.
- d) In areas where there is an insufficient number of PCPs to adequately serve the population eligible to enroll in the PCCM program without exceeding the panel limits established in subsection (b), the Department may allow APNs to enroll as PCPs [or allow PCPs to exceed the limit established in subsection \(b\) of this Section](#).
- e) A PCP may decline to have patients auto-assigned to him or her who have not chosen that PCP.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.8 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13]
- 5) A complete description of the subjects and issues involved: The Express Stamps Application Project will test the feasibility of providing Food Stamp Program access to eligible low-income households not currently enrolled in the program when they seek emergency food assistance at local food pantries. Volunteers at the pantries will explain the benefits of food stamp participation and assist individuals in completing an abbreviated food stamp application. The Illinois Department of Human Services' computer system will make an immediate eligibility determination. Successful applicants will leave the pantry with emergency food to meet immediate needs and an Electronic Benefits Transfer (EBT) card for accessing food stamp benefits.
- 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? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
121.94	Amendment	33 Ill. Reg. 4062; March 13, 2009
121.96	Amendment	33 Ill. Reg. 4062; March 13, 2009
121.150	Amendment	33 Ill. Reg. 4062; March 13, 2009
121.10	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.63	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.120	Amendment	33 Ill. Reg. 4537; March 27, 2009

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121.125	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.63	Amendment	33 Ill. Reg. 4811; April 3, 2009
121.57	Amendment	33 Ill. Reg. 5248; April 10, 2009
121.58	Amendment	33 Ill. Reg. 5248; April 10, 2009
121.3	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.7	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.8	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.41	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.55	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.57	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.60	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.61	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.73	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.74	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.76	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.130	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.140	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.26	Amendment	33 Ill. Reg. 6009; April 24, 2009
121.136	New Section	33 Ill. Reg. 7283; June 5, 2009

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:

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

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 11322:

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.3400	Amendment
100.3405	New Section
- 4) Statutory Authority: 35 ILCS 5/304(c) and 1401
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides guidance on the application of the new apportionment formula for business income of financial organizations adopted in Public Act 95-0233 and amended in Public Act 95-0707.
- 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>Section Numbers:</u>	<u>Proposed Action:</u>	<u>IL Register Citation:</u>
100.3374	New Section	32 Ill. Reg. 19894, December 26, 2008
100.7300	Amendment	33 Ill. Reg. 7570, June 12, 2009
100.7300	Amendment	33 Ill. Reg. 9235, July 6, 2009
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton

DEPARTMENT OF REVENUE

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Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-3951

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small financial organizations operating in interstate commerce will receive guidance on the application of the new statutory apportionment formula. Municipalities and not-for-profit corporations are not affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

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Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for

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Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND
APPORTIONMENT OF BASE INCOME

Section

100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3015	Business Income Election (IITA Section 1501)
100.3020	Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

100.3100	Compensation (IITA Section 302)
100.3110	State (IITA Section 302)
100.3120	Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200	Taxability in Other State (IITA Section 303)
100.3210	Commercial Domicile (IITA Section 303)
100.3220	Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)

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100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405	Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

100.4500	Carryovers of Tax Attributes (IITA Section 405)
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SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

100.5000	Time for Filing Returns: Individuals (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions
100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080	Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

Section

100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income

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100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

SUBPART P: COMBINED RETURNS

Section

100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7035	Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

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SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section

- 100.7100 Withholding Exemption (IITA Section 702)
- 100.7110 Withholding Exemption Certificate (IITA Section 702)
- 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section

- 100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

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100.TABLE A	Example of Unitary Business Apportionment
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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg.

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685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378,

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effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))

- a) In ~~General~~ general. For taxable years ending prior to December 31, 2008, ~~business~~ business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. (IITA Section 304(c)(1))
- 1) IITA Section 304(c)(1) expressly provides that the adjusted income of an international banking facility is excluded from the amounts sourced to Illinois under its provisions. Adjusted income from an international banking facility is defined in IITA Section 304(c)(2) to mean amounts reported on a *Consolidated Report of Condition which is filed with the Federal Deposit Insurance Corporation on Schedule A, lines 2.c., 5.b. or 7.a.*, or any successor or substitute report required by the Federal Deposit Insurance Corporation, as applicable to the tax year in question. Accordingly, all references in this Section to items sourced to Illinois must be read to exclude items comprising the adjusted income of an

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international banking facility.

- 2) Any item of income that is excluded from base income or subtracted in the computation of base income of the financial organization must therefore be excluded from the formula. See *Continental Illinois National Bank and Trust Company of Chicago v. Lenckos*, 102 Ill.2d 210 (1984). For example, dividends deducted from federal taxable income under 26 USC 243 or subtracted in the computation of base income under IITA Section 203(b)(2)(O) are excluded from the apportionment formula.
 - 3) In determining the amount of business income included in the numerator or the denominator of the apportionment fraction, amounts of business income received during the tax year shall not be reduced by any expenses allocable to the business. The determination of gains or losses included in business income shall take into account the taxpayer's basis in property sold or otherwise disposed of, but in no event shall a loss included in business income reduce the numerator or denominator of the apportionment fraction below zero.
- b) Definitions. For purposes of this Section, the following definitions shall apply:
- 1) Customer. A "customer" is a person for whom the financial organization provides financial services directly or through an agent or other fiduciary of the financial organization. Illustrative examples of this definition include:
 - A) In the case of a bank participating in a syndicated loan, the borrower is a customer of the bank if the bank is a named party to the original transaction for whom the lead bank is acting as agent. However, if a bank purchases a participation in an existing loan, the borrower is not a customer of the bank because the bank is not providing a financial service to the borrower.
 - B) In the case of a financial organization financing the accounts receivable of a business, the obligor on the account is a customer of the financial organization only if the financial organization purchases the receivable, thus creating a direct relationship between itself and the obligor.

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- i) Example 1: If a financial organization makes a loan to a company secured by the company's customer receivables, the company is the customer of that financial organization but the company's customers are not customers of the financial organization because the loan is a financial service provided to the company rather than to the company's customers.
 - ii) Example 2: If a financial organization purchases a customer account receivable from a company, the company's customer thereby becomes a customer of the financial organization.
- C) A financial organization purchases a publicly-traded security of an issuer for whom the organization provides financial services. If the purchase is unrelated to any financial services provided by the financial organization to the issuer, the issuer is not a customer of the financial organization for purposes of sourcing the income derived from the security. If, however, the purchase of the security is made in connection with a financial service provided to the issuer as a customer of the financial organization, the issuer is a customer for sourcing the income derived from the security.
- 2) Dividend. "Dividend" means any item defined as a dividend under 26 USC 316 and any other item of income characterized or treated as a dividend under the Internal Revenue Code.
- 3) Fees, ~~Commissionse~~~~ommissions~~ or ~~Other Compensation~~~~other compensation~~ for ~~Financial Services~~~~financial services~~. "Fees, commissions or other compensation for financial services" means all items of income, other than interest, dividends and gross profit from trading in stocks, bonds or other securities, paid to a financial organization by its customers for the provision of those services characteristic of financial organizations, as defined in Section 100.9710 of this Part. Such items include, to the extent received for services characteristic of a financial organization:
- A) Late payment fees or penalties to the extent not properly characterized as interest;

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- B) Penalties for early withdrawal of deposits or early repayment of debt; and
- C) Loan origination fees, charges for credit investigations, filing fees, etc., to the extent not properly characterized as interest.
- 4) Gross ~~Profits~~profits from ~~Trading~~trading in ~~Stocks~~stocks, ~~Bonds~~bonds or ~~Other Securities~~other securities. "Gross profits from trading in stocks, bonds or other securities" of a financial organization means the net gain or net loss realized on the sale, exchange or other disposition of a security other than a security representing an interest in or obligation of that financial organization. Gross profits from trading in stocks, bonds or other securities do not include any amount that is properly characterized as a fee or commission of the financial organization for the transaction or as interest or dividends. Gross profits from trading in securities do include any net gain or loss realized on the sale, exchange or other disposition of some or all of a financial organization's interest in a loan or other indebtedness of a customer of the financial organization payable to the financial organization.
- 5) Illinois ~~Customer~~customer. "Illinois customer" means:
- A) A customer who is an Illinois resident individual, trust or estate; or
- B) A customer other than an individual, trust or estate whose commercial domicile is in Illinois.
- Unless a financial organization has actual knowledge that the residence or commercial domicile of a customer during a taxable year is in a state other than the state in which the customer's billing address is located, the customer shall be deemed to be an Illinois customer if the billing address of the customer, as shown in the records of the financial organization relating to the interest income being sourced, is located in Illinois and shall be deemed not to be an Illinois customer if that billing address is located outside Illinois.
- 6) Interest. "Interest" means "compensation for the use or forbearance of

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money". See *Deputy v. du Pont*, 308 U.S. 488, 498 (1940).

- A) Interest does not include late payment penalties that are in addition to interest expressly charged on any past-due balance or that are computed without regard to the amount of the past-due balance or the length of time a payment is late.
 - B) Interest includes the amortization of any discount at which an obligation is purchased and is net of the amortization of any premium at which an obligation is purchased. Any amount in excess of the purchase price received in payment of an obligation purchased at an arm's-length discount shall be rebuttably presumed to be interest.
 - C) Interest includes any amount received upon the sale, exchange or other disposition of an obligation to the extent that such amount represents the accrual of interest on the unpaid balance of the obligation since the most recent payment made on that obligation.
- | 7) Margin ~~Account~~~~account~~. "Margin account" means any extension of credit made by a financial organization for the purchase or carrying of securities by the borrower, within the meaning of 15 USC 78g.
- | 8) Stocks, ~~Bonds~~~~bonds~~ or ~~Other Securities~~~~other securities~~. "Stocks, bonds or other securities" means any share of stock in any corporation, certificate of stock, or interest in any corporation, note, bond, debenture, or other evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing, within the meaning of 26 USC 1236(c).
- | c) Sourcing ~~Rules~~~~rules~~. For the purposes of this Section, business income (other than the adjusted income of an international banking facility) of a financial organization from sources within this State is the sum of the following amounts:
- 1) *Fees, commissions or other compensation for financial services rendered within this State.* (IITA Section 304(c)(1)(A))
 - A) Scope. This subsection (c)(1) applies to all payments received by a financial organization from its customers for services characteristic

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of a financial organization, except to the extent the payment is sourced according to subsection (c)(2), (c)(3) or (c)(4) of this Section.

- B) Application. Financial services are "rendered within this State" if:
- i) The income-producing activity is performed in this State; or
 - ii) The income-producing activity is performed both within and without this State and a greater proportion of the income-producing activity is performed within this State than without this State, based on performance costs.

If the performance costs of two or more income producing activities cannot readily be allocated among those activities, the gross income resulting from those activities shall be combined and sourced to Illinois using the combined performance costs for all those activities.

2) *Gross profits from trading in stocks, bonds or other securities managed within this State.* (IITA Section 304(c)(1)(B))

- A) Scope. This subsection (c)(2) applies only to net gains or losses realized on the sale or exchange of securities. Dividends received on stocks and interest received on securities are sourced pursuant to subsection (c)(3) of this Section.
- B) Application. The trading of a stock, bond or other security is "managed within this State" if:
- i) The income producing activity is performed in this State; or
 - ii) The income producing activity is performed both within and without this State and a greater proportion of the income producing activity is performed within this State than without this State, based on performance costs.

If the performance costs of two or more income producing

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activities cannot readily be allocated among those activities, the gross income resulting from those activities shall be combined and sourced to Illinois using the combined performance costs for all those activities.

- 3) *Dividends and interest from Illinois customers, which are received within this State.* (IITA Section 304(c)(1)(C))
- A) **Scope.** This subsection (c)(3) applies to all dividends included in business income of the financial organization and to all interest (other than interest on margin accounts, which is sourced under the provisions in subsection (b)(4) of this Section) received by the financial organization.
- B) **Application.** Interest is never sourced to Illinois under this subsection (c)(3) unless it is received from an Illinois customer. Interest from an Illinois customer or dividends are "received in this State" if the payment comes within the control of the financial organization or of an agent or other fiduciary of the financial organization at a location within the State of Illinois. If payment of an item of interest income that has been accrued and included in base income for a tax year is not received prior to the date the return for that tax year is filed, the financial organization shall treat the payment as received at the location to which the borrower is directed to send the payment or, if no single location is specified, at the location at which the financial organization reasonably expects to receive the interest. The following examples illustrate the principles for determining when a payment comes within the control of a financial organization:
- i) **Example 3:** A financial organization directs its customers in the Midwest to mail all payments to a lock box located in Detroit. Interest and dividend payments mailed to the Detroit lock box are received in Detroit. Such payments are received in Detroit even if the checks are first deposited by or on behalf of the financial organization in a bank located outside Detroit because the checks come within the control of the financial organization's agent when received at the lock box. Whether the lock box is serviced by the

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financial organization's own employees or by a company acting as agent for the financial organization is irrelevant, because receipt by either an employee or an agent of the financial organization will give it control.

- ii) Example 4: An electronic transfer of funds is received by a financial organization at the location of the bank carrying the account of the financial organization into which the funds are deposited. In the case of a bank with branches in both Illinois and Missouri, whose Federal Reserve Bank account is maintained at the Federal Reserve Bank of St. Louis, an electronic transfer via the Federal Reserve is received by the bank in St. Louis, the location of its account. In the case of a financial organization receiving an electronic transfer via the Federal Reserve through that bank, the payment is received at the branch of the bank in which the financial organization's account is maintained because the payment is not within the financial organization's control until deposited into its account by its bank. The deposit of funds into the account of the bank at the Federal Reserve Bank does not place the funds within the control of the financial organization because the bank, merely by participating in the electronic transfer, is not acting as collection agent for the financial organization.
- iii) Example 5: A credit card bank purchases its cardholders' balances from a retailer pursuant to an agreement under which the retailer services the accounts. Payments are received by the credit card bank at the location where the retailer receives the payments on its behalf, not at the location to which the retailer forwards the payments.
- iv) Example 6: A bank makes a loan to an Illinois customer secured by the customer's accounts receivable. Pursuant to the loan agreement, the bank's customer directs its customers to send their payments to the bank, which deposits the payments in an account at its Chicago branch in the name of the customer, from which the bank may withdraw loan payments to itself. The funds in the

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customer's account are not within the control of the bank. Payments withdrawn by the bank from the account at the Chicago branch pursuant to the agreement are received in Illinois regardless of where the payments from the customers are received by the bank. However, if the customer pays the bank by check drawn on the account at the Chicago branch, payment is received by the bank in the state in which it receives the check.

- 4) *Interest charged to customers at places of business maintained within this State for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts. (IITA Section 304(c)(1)(D))*
- A) Scope. This subsection (c)(4) applies to all interest on margin accounts.
- B) Application. Interest on a margin account is sourced to this State if the financial organization's place of business through which the borrower ordinarily conducts business with the financial organization is located within Illinois.
- 5) *Any other gross income resulting from the operation as a financial organization within this State. (IITA Section 304(c)(1))*
- A) Scope. This subsection (c)(5) applies to every item of business income of a financial organization that is not governed by subsections (c)(1) through (c)(4) of this Section.
- B) Application. Gross income that results from the operation of a taxpayer as a financial organization "within this State" is allocable to this State if:
- i) The income producing activity is performed in this State; or
- ii) The income producing activity is performed both within and without this State and a greater proportion of the income producing activity is performed within this State than without this State, based on performance costs.

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- c) If the performance costs of two or more income producing activities cannot readily be allocated among those activities, the gross income resulting from those activities shall be combined and sourced to Illinois using the combined performance costs for all those activities.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))

- a) In General. For taxable years ending on or after December 31, 2008, *the business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its gross receipts from sources in this State or otherwise attributable to this State's marketplace and the denominator of which is its gross receipts everywhere during the taxable year.* (IITA Section 304(c)(3)) Any gross receipt that is excluded from base income or subtracted in the computation of base income of the financial organization must be excluded from the numerator and denominator of this formula. See Continental Illinois National Bank and Trust Company of Chicago v. Lenckos, 102 Ill.2d 210 (1984). For example, dividends deducted from federal taxable income under 26 USC 243 or subtracted in the computation of base income under IITA Section 203(b)(2)(O) are excluded from the apportionment formula.
- b) Definitions. For purposes of this Section, the following definitions shall apply:
- 1) Fixed Place of Business. *The term "fixed place of business" has the same meaning as that term is given in Section 864 of the Internal Revenue Code and the related Treasury regulations.* (IITA Section 1501(a)(9.5))
- A) As a general rule, a "fixed place of business" is a fixed facility, that is, a place, site, structure or other similar facility, through which the taxpayer engages in a trade or business. (See 26 CFR 1.864-7(b)(1).)
- B) A taxpayer is not considered to have a fixed place of business merely because the taxpayer uses another person's fixed place of business, whether or not the other person and the taxpayer are related persons, through which to transact a trade or business, if the trade or business activities of the taxpayer in that fixed place of

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- business are relatively sporadic or infrequent, taking into account the overall needs and conduct of that trade or business. (See 26 CFR 1.864-7(b)(2).)
- C) A fixed place of business of an agent of the taxpayer who is not an independent agent is not a fixed place of business of the taxpayer unless the agent has the authority to negotiate and conclude contracts in the name of the taxpayer, and regularly exercises that authority. (See 26 CFR 1.864-7(d)(1)(i).)
- D) A fixed place of business of an independent agent of the taxpayer shall not be treated as the office or other fixed place of business of the taxpayer, irrespective of whether the agent has authority to negotiate and conclude contracts in the name of the principal and regularly exercises that authority, (See 26 CFR 1.864-7(d)(2).)
- E) For purposes of this subsection (b)(1), "independent agent" means a general commission agent, broker or other agent of an independent status acting in the ordinary course of his or her business in that capacity. (See 26 CFR 1.864-7(d)(3).)
- 2) Gross Receipts. "Gross receipts" means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the financial organization's trade or business. (IITA Section 304(c)(3))
- 3) State of Residence or Commercial Domicile. Unless a financial organization has actual knowledge that the residence or commercial domicile of a person is in a state other than the state in which the person's billing address is located, the person shall be deemed to be a resident or have its commercial domicile in the state in which the billing address is located.
- 4) Substantive Contacts. "Substantive contacts" with an investment asset or trading activity means the research, approval and administration activities conducted by employees of the taxpayer in connection with its investments or trading, and are conducted at the fixed place of business at

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which the employees involved in these activities perform services for the taxpayer.

- A) Research. "Research" means the procedures and activities whereby employees of the taxpayer evaluate potential investments or trades.
 - B) Approval. "Approval" means the procedures whereby employees of the taxpayer make the final determination to invest in or dispose of assets or to engage in a specific trading activity.
 - C) Administration. "Administration" means the management of investments or trading activities, and includes bookkeeping, collection or making of payments, communications with brokers, customers and other persons with regard to investment or trading activities, and reporting to management on investment or trading activities.
- c) Sourcing Rules. For the purposes of this Section, gross receipts from sources in this State or otherwise attributable to this State's marketplace is the sum of the following amounts:
- 1) Lease and Rental Receipts.
 - A) Receipts from the lease or rental of real or tangible personal property are in this State if the property is located in this State during the rental period.
 - B) Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment, are from sources in this State to the extent that the property is used in this State. (IITA Section 304(c)(3)(i)) If the property is within and without this State during the rental, lease or licensing period, gross receipts attributable to this State shall be measured by the ratio comparing the time the property was physically present or was used in this State with the total time or use of the property everywhere during that period.

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- 2) *Interest income, commissions, fees, gains on disposition, and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property are from sources in this State if the security is located in this State. (IITA Section 304(c)(3)(ii))*
 - A) *For tangible personal property, the property is located in this State if the debtor is a resident of this State (in the case of an individual, trust or estate) or has its commercial domicile in this State as of the date the loan is made.*
 - B) *In the case of a loan secured by property located within and without this State, the gross receipts from the loan that are from sources within this State equal the total gross receipts times a fraction equal to the value of the real estate and tangible property securing the loan that is located within this State at the time the loan is made, divided by the total value of the real estate and tangible property securing the loan at the time the loan is made.*
- 3) *Interest income, commissions, fees, gains on disposition, and other receipts from consumer loans that are not secured by real or tangible personal property are from sources in this State if the debtor is a resident of this State. (IITA Section 304(c)(3)(iii))*
- 4) *Interest income, commissions, fees, gains on disposition, and other receipts from commercial loans and installment obligations that are not secured by real or tangible personal property are from sources in this State if the proceeds of the loan are to be applied in this State. If it cannot be determined where the funds are to be applied, the income and receipts are from sources in this State if the office of the borrower from which the loan was negotiated in the regular course of business is located in this State. If the location of this office cannot be determined, the income and receipts shall be excluded from the numerator and denominator of the sales factor. (IITA Section 304(c)(3)(iv))*
- 5) *Interest income, fees, gains on disposition, service charges, merchant discount income, and other receipts from credit card receivables are from sources in this State if the card charges are regularly billed to a customer in this State. (IITA Section 304(c)(3)(v))*

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- 6) Receipts from the performance of services, including, but not limited to, fiduciary, advisory, and brokerage services, are in this State if the services are received in this State within the meaning of IITA Section 304(a)(3)(C-5)(iv). (IITA Section 304(c)(3)(vi)) See Section 100.3370(c)(6)(D) for more guidance.
- 7) Receipts from the issuance of travelers checks and money orders are from sources in this State if the checks and money orders are issued from a location within this State. (IITA Section 304(c)(3)(vii))
- 8) Receipts from investment assets and activities and trading assets and activities are included in the receipts factor as follows:
- A) Interest, dividends, net gains (but not less than zero) and other income from investment assets and activities from trading assets and activities shall be included in the receipts factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. (IITA Section 304(c)(3)(viii)(1))
- i) The receipts factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements. (IITA Section 304(c)(3)(viii)(1)(A))
- ii) The receipts factor shall include the amount by which interest, dividends, gains and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities. (IITA Section 304(c)(3)(viii)(1)(B))

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- B) The numerator of the receipts factor includes interest, dividends, net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities that are attributable to this State, as follows:
- i) The amount of interest, dividends, net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to this State and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State, and the denominator of which is the gross income from all such assets and activities. (IITA Section 304(c)(3)(viii)(2)(A))
- ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this State and included in the numerator is determined by multiplying the total of those items by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such funds and such securities. (IITA Section 304(c)(3)(viii)(2)(B))
- iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subsection (c)(8)(B)(i) or (ii), attributable to this State and included in the numerator is determined by multiplying the total of those items by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly

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assigned to a fixed place of business of the taxpayer within this State, and the denominator of which is the gross income from all such assets and activities. (IITA Section 304(c)(3)(viii)(2)(C))

- iv) An investment or trading asset or activity is assigned to the fixed place of business with which it has a preponderance of substantive contacts. An investment or trading asset or activity assigned by the taxpayer to a fixed place of business without the State shall be presumed to have been properly assigned if:
- the taxpayer has assigned, in the regular course of its business, such asset or activity on its records to a fixed place of business consistent with federal or state regulatory requirements; (IITA Section 304(c)(3)(viii)(2)(D)(1))
 - such assignment on its records is based upon substantive contacts of the asset or activity to such fixed place of business; and (IITA Section 304(c)(3)(viii)(2)(D)(2))
 - the taxpayer uses such records reflecting assignment of such assets or activities for the filing of all state and local tax returns for which an assignment of such assets or activities to a fixed place of business is required. (IITA Section 304(c)(3)(viii)(2)(D)(3))
- v) The presumption of proper assignment of an investment or trading asset or activity provided in subsection (c)(8)(B)(iv) may be rebutted upon a showing by the Department, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such asset or activity did not occur at the fixed place of business to which it was assigned on the taxpayer's records. If the fixed place of business that has a preponderance of substantive contacts cannot be

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determined for an investment or trading asset or activity to which the presumption of proper assignment does not apply or with respect to which that presumption has been rebutted, that asset or activity is properly assigned to the state in which the taxpayer's commercial domicile is located. For purposes of this subsection (c)(8)(B)(v), it is presumed, subject to rebuttal, that taxpayer's commercial domicile is in the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected with the management of the investment or trading income or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the taxable year. (IITA Section 304(c)(3)(viii)(2)(E))

- 9) Any receipts that are includable in the denominator of the fraction in subsection (a) and that are not governed by subsection (c)(1) through (8) are from sources within this State to the extent the receipts would be characterized as "sales in this State" under IITA Section 304(a)(3) and Sections 100.3370 and 100.3380 of this Part, except that the provisions in IITA Section 304(a)(3)(B-2) (excluding gross receipts from the licensing, sale or other disposition of patents, copyrights, trademarks and similar items from the numerator and denominator of the apportionment factor, unless those items comprise more than 50% of the taxpayer's gross receipts) do not apply.

(Source: Added at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.310	Amendment
130.ILLUSTRATION C	New Section
- 4) Statutory Authority: 35 ILCS 130/12; 20 ILCS 2505/2505-795
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends provisions in Section 130.310 that govern the taxation of food. The regulation has been revamped and examples included to provide greater guidance regarding the tests used to determine whether food items are taxed at the high or low rate. In addition, the proposed language clarifies several issues related to the definition of "food prepared for immediate consumption." Grocers have frequently sought guidance regarding the taxation of items that they prepare on-site and sell in single size servings, such as doughnuts, bagels, breads, sandwiches and pies. The regulation addresses the taxation of these items. In addition, the grocery industry has changed radically since this rule was originally promulgated. Although grocers still primarily market food for consumption off the premises (low rate food), they now sell many food products that directly compete with food sold by restaurants, in particular fast food establishments and delis – establishments that are taxed at the high rate. Given these developments, the need to reexamine the meaning of "food prepared for immediate consumption" has become apparent, so that items are taxed consistently across all types of establishments. In addition to the regulation, a flow chart has also been developed for use in ascertaining either the high or low rate of tax.
- 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

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<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.502	Amendment	33 Ill. Reg. 9252, July 6, 2009
130.510	Amendment	33 Ill. Reg. 9252, July 6, 2009

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:
- Jerilynn T. Gorden
Deputy General Counsel, Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
- 217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This regulation will affect grocery stores, cafeterias and restaurants.
- B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping
- C) Types of professional skills necessary for compliance: Accounting/Bookkeeping
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

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	Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period

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130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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SUBPART I: PENALTIES AND INTEREST

Section

- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

- 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

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- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

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- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
130.2525 Application Review
130.2530 Recordkeeping Requirements
130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

[130.ILLUSTRATION C Food Flow Chart](#)

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138,

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effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795,

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effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.310 Food, Drugs, Medicines and Medical Appliances

- a) General. *With respect to food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption), and prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. Food for human consumption that is to be consumed off the premises where it is sold includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.* (Section 2-10 of the Act)
- b) The manner in which food is taxed depends upon 2 distinct factors that must both be considered in determining if food is taxed at the high rate as "food prepared for immediate consumption" or the low rate as "food prepared for consumption off the premises where sold".

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- 1) The first factor is whether the retailer selling the food provides premises for consumption of food. If so, a rebuttable presumption is created that all sales of food by that retailer are considered to be prepared for immediate consumption and subject to tax at the high rate. As a result of this presumption, even bulk food could potentially be taxable at the high rate. However, this presumption is rebutted if a retailer demonstrates that:
 - A) the area for on-premises consumption is physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold; and
 - B) the retailer has a separate means of recording and accounting for collection of receipts from sales of both high and low rate foods. For purposes of this subsection (b)(1)(B), the phrase "separate means of recording and accounting for collection of receipts" includes cash registers that separately identify high rate and low rate sales, separate cash registers, and any other methods by which the tax on high and low rate sales are recorded at the time of collection.
- 2) The second factor is the nature of the food item being sold. As provided in subsection (c), some foods, such as hot foods, are always considered to be "food prepared for immediate consumption", and thus subject to the high rate of tax.
- 3) Numerous examples applying these factors to different types of food and food retailers are provided in subsection (d)(4)(A)-(I) of this Section.

cb) Definitions Food

- 1) "Food". ~~Food~~A food is any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice.
- 2) "Food Prepared for Immediate Consumption". Food prepared for immediate consumption means food that is prepared or made ready by a retailer to be eaten without substantial delay after the final stage of preparation by the retailer.

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- A) Food prepared for immediate consumption includes, but is not limited to, the following:
- i) all hot foods, whether sold in a restaurant, delicatessen, grocery store, discount store, concession stand, bowling alley, vending machine or any other location. At a grocery store, hot foods subject to the high rate of tax include, but are not limited to, pizza, soup, rotisserie or fried chicken and coffee; other examples of food prepared for immediate consumption include popcorn or nachos sold at a movie concession stand; hot dogs sold by a street vendor; and hot precooked meals sold to customers, such as a Thanksgiving dinner. For purposes of this Section, "hot" means any temperature that is greater than room temperature;
 - ii) sandwiches, either hot or cold, prepared by a retailer to the individual order of a customer;
 - iii) salad, olive or sushi bars offered by a retailer at which individuals prepare their own salads (hot or cold);
 - iv) all coffee, tea, cappuccino and other drinks prepared by a retailer for individual consumption, whether hot or cold, are subject to the high rate of tax;
 - v) all food sold for consumption on the premises where sold.
- B) "Food prepared for immediate consumption" does not include:
- i) doughnuts, cookies, bagels or other bakery items prepared by a retailer and sold either individually or in another quantity selected by the customer, provided they are for consumption off the premises where sold;
 - ii) whole breads, pies and cakes prepared by a retailer, even when prepared to the individual order of a customer;

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- iii) sandwiches that are prepared by a retailer and placed in a deli case or other storage unit;
 - iv) cold salads, jellos, stuffed vegetables or fruits sold by weight or by quart, pint, or other quantity by a retailer;
 - v) cheese, fruit, vegetable or meat trays prepared by a retailer, either to the individual order of a customer or premade and set out for sale;
 - vi) food items sold by a retailer that are not prepared or otherwise manufactured by that retailer, such as pre-packaged candy bars, snacks or chips, unless these items will be consumed on the premises where sold (e.g., in a sandwich shop). For grocers, such items include, but are not limited to, fruits, vegetables, meats, milk, canned goods and yogurt.
- C) The provisions of subsection (c)(2)(B) are subject to the rebuttable presumption described in subsection (d). That is, the items listed in subsection (c)(2)(B) are taxable at the low rate only if the retailer had a separate means of recording and accounting for high and low rate sales, and the retailer provides no on-premises facilities for consumption of the food or, if the retailer does provide such facilities, they are physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold.
- 3) "Premises". Premises is that area over which the retailer exercises control, whether by lease, contract, license or otherwise, and, in addition, the area in which facilities for eating are provided, including areas designated for, or devoted to, use in conjunction with the business engaged in by the vendor. Vendor premises include eating areas provided by employers for employees and common or shared eating areas in shopping centers or public buildings if customers of food vendors adjacent to those areas are permitted to use them for consumption of food products.
- d) Test to Determine Applicable Rate. The rate at which food is taxable is determined as follows:

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- 1) If retailers provide seating or facilities for on-premises consumption of food, all food sales are presumed to be taxable at the high rate as "food prepared for immediate consumption". However, this presumption can be rebutted by evidence that:
 - A) the area for on-premises consumption is physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold; and
 - B) the retailer utilizes a means of recording and accounting for collection of receipts from the sales of food prepared for immediate consumption (high rate) and the sales of food that are not prepared for immediate consumption (low rate).
- 2) If a retailer does not provide seating or facilities for on-premises consumption of food, then the low rate of tax will be applied to all food items except for "food prepared for immediate consumption by the retailer" as provided in subsection (b) of this Section. However, in order for the low rate of tax to apply, retailers that sell both food prepared for immediate consumption and food for consumption off the premises where sold must utilize means of recording and accounting for collection of receipts from the sales of food prepared for immediate consumption (high rate) and the sales of food that are not prepared for immediate consumption (low rate). If these receipts are not maintained, all sales will be presumed to be at the high rate of tax.
- 3) Illustration C is a decision tree to assist in making high rate/low rate determinations.
- 4) Examples:
 - A) Grocery Store – On-premises Facilities for Consumption of Food. Provided that the requirements of subsection (d)(1) are met, examples of high rate items include, but are not limited to, hot foods (soup, pizza, rotisserie or fried chicken, stuffed potatoes, hot dogs); all sandwiches, either hot or cold, that are prepared to the individual order of a customer; salads prepared by customers at a salad/olive/sushi bar; and all food sold for consumption on the

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premises. Also included are hot precooked meals sold to customers, such as a Thanksgiving dinner; however, if precooked meals are sold in an unheated state of preparation, they are considered to be low rate. Meal packages sold by a grocer (e.g., 2 or more pieces of fried chicken with choice of two sides and dinner rolls sold at one price) that include at least 1 hot food item are taxable at the high rate, even if some foods in the package, sold alone, would be taxable at the low rate. Low rate items would include, but are not limited to, doughnuts (regardless of quantity), bagels, rolls and whole breads or bakery items prepared by the retailer; sandwiches that are premade by the retailer and set out for sale to customers; cold pizzas prepared by the retailer and set out for sale to customers; stuffed olives or peppers prepared by the retailer and set out for sale in individual sized containers; and deli items sold by the retailer to customers by size or weight (prepared salads, e.g., potato, pasta, bean or fruit salads; jello; pudding; stuffed olives).

- B) Grocery Store – No On-premises Facilities for Consumption of Food. Provided that the requirements of subsection (d)(2) are met, examples of high rate items would include, but are not limited to, hot foods (soup, pizza, rotisserie or fried chicken, hot dogs); all sandwiches, either hot or cold, that are prepared to the individual order of a customer; and salads that are made by customers at a salad/olive/sushi bar. Also included are hot precooked meals sold to customers, such as a Thanksgiving dinner. If precooked meals are sold in an unheated state of preparation, however, they are considered to be low rate. Low rate items would include, but are not limited to, doughnuts (regardless of quantity), bagels, rolls and whole breads or bakery items prepared by the retailer; sandwiches that are premade by the retailer and set out for sale to customers; cold pizzas prepared by the retailer and set out for sale to customers; stuffed olives or peppers prepared by the retailer and set out for sale in individual sized containers; and deli items sold by the retailer to customers by size or weight.
- C) Restaurants and Cafeterias. All foods sold by a restaurant or a cafeteria are considered food prepared for immediate consumption. Such food can either be prepared to the individual order of a

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customer or premade and set out for selection by the customer. However, if a restaurant or cafeteria also sells whole pies, cakes or individual pastries for sale, these items are taxable at the low rate, as long as the requirements of subsection (d)(1) are met.

- D) Bakery. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, the following items are taxable at the low rate: doughnuts, cookies or individual pastries, regardless of quantity, sold for consumption off the premises where sold, and whole cakes or pies, such as wedding or special occasion cakes. Food sold for consumption on the premises, such as doughnuts and coffee, are subject to the high rate of tax.
- E) Delicatessen. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, meat, cheese and prepared salads sold by weight or volume are taxable at the low rate. Individual sandwiches prepared to the individual order of a customer are high rate, as well as other food sold for consumption on the premises.
- F) Ice Cream Store. Ice cream items in individual sizes, either prepared to the individual order of a customer or premade and offered for sale by a retailer, constitute "food prepared for immediate consumption" and are subject to the high rate of tax. These items include ice cream cones, cups of ice cream, sundaes, shakes and premade ice cream sandwiches, bars or cookies. However, provided that the requirements of either subsection (d)(1) or (d)(2) are met, ice cream cakes or rolls or ice cream packaged in premeasured containers, such as a pint, quart or gallon, are subject to tax at the low rate.
- G) Food Sold at Mall Food Courts. All hot food and food prepared to the individual order of a customer by a retailer at a mall food court is subject to the high rate of tax. In addition, all other food sold for consumption on the premises of a food court at a mall is subject to the high rate of tax.
- H) Convenience Stores. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, prepackaged food items not prepared by a convenience store retailer are subject to the low rate

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of tax. These items include, but are not limited to, chips, snacks, bread products, candy and cookies. The sale of hot food items, such as hot dogs, nachos or pretzels, are subject to the high rate of tax, as well as other food sold for consumption on the premises.

I) Coffee Shops. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, coffee, latte, cappuccino and tea (prepared either hot or cold) and food sold for consumption on the premises (e.g., pastries, cookies, snacks) are subject to the high rate of tax. Bulk coffees (beans or grounds, for instance) and teas, or pastries that are not consumed on the premises, are subject to the low rate of tax.

~~2) Gross receipts from sales of food for which facilities are provided so that it can be consumed on the premises where it is sold and gross receipts from sales of food that has been prepared for immediate consumption do not qualify for the reduced rate. For example:~~

~~A) gross receipts from sales of food and drinks by restaurants, coffee shops, cafeterias and other establishments selling food that has been prepared for immediate consumption or that provide facilities for on-premises consumption are subject to the full rate of tax.~~

~~B) concession stands, snack shops and other establishments that sell food items primarily (more than 50%) in individual-sized servings (such as ice cream cones, bags of popcorn, and individually served sandwiches) make sales of food for immediate consumption.~~

~~C) sales of all hot food and hot food products are sales of food for immediate consumption.~~

~~3) Delicatessens, markets, dairies and bakeries and other establishments that sell food items primarily (more than 50%) in quantities greater than individual-sized servings incur the reduced rate on gross receipts from retail sales of food items. However, the full rate will apply to all sales made by such establishments that provide facilities for the consumption of food on premises unless those facilities utilize a separate means of recording and accounting for collection of receipts from sales for consumption on the premises and are physically partitioned from areas in~~

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~~which food not for immediate consumption is sold. The phrase "separate means of recording and accounting for collection of receipts" includes cash registers that separately identify high rate and low rate sales, separate cash registers, and other methods by which the tax on high rate and low rate sales are recorded at the time of collection.~~

- 54) The reduced rate does not extend to alcoholic beverages. An alcoholic beverage is any beverage subject to the tax imposed under Article VIII of the Liquor Control Act of 1934 [235 ILCS 5/Art. VIII].
- 65) The reduced rate does not extend to soft drinks. Soft drinks will be taxed at the State sales tax rate of 6.25%. *The term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container regardless of size. "Soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in Section 3(a)(2) and (4) of the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635], or drinks containing 50% or more natural fruit or vegetable juice.* (Section 2-10 of the Act) Frozen concentrated fruit juice, dry powdered drink mixes, and fruit juices that are reconstituted to natural strength are not soft drinks.
- 6) ~~Food prepared for immediate consumption means food made ready by the retailer to be eaten without substantial delay after the final stage of preparation by the retailer. Retailers who sell food they do not prepare in any way, are not selling food for immediate consumption, i.e., pre-packaged candy bars, snacks, chips, ice cream, unless that food is to be consumed on the retailer's premises. It is presumed that retailers who sell food prepared for immediate consumption in individual single-sized servings will sell all such items for consumption without substantive delay. Thus, for example, a retailer of individual sandwiches, doughnuts or cookies prepared in the morning will be subject to the high rate of tax regardless of when during a business day those items are sold and actually consumed. "Premises" are that area over which the vendor exercises control, whether by lease, contract, license or otherwise, and, in addition, the area in which facilities for eating are provided, including areas designated for, or devoted to, use in conjunction with the business~~

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~~engaged in by the vendor. Thus, all food sold by a restaurant for consumption on premises, whether prepared for immediate consumption or not, is subject to the high rate. Vendor premises would include eating areas provided by employers for employees, common or shared eating areas in shopping centers or public buildings if customers of food vendors adjacent to such areas are permitted to use them for consumption of food products. It will be presumed that food sold by vendors with on-premises consumption facilities will, in fact, be consumed on premises unless the vendor presents evidence to the contrary from its books and records.~~

- 7) ~~For purposes of this Section, effective June 1, 1996, food for human consumption that is to be consumed off the premises where it is sold (Section 2-10 of the Act) includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. For example, a candy bar sold through a vending machine is subject to the low rate of tax regardless of whether on-premises facilities for consumption are provided at that location.~~

ee) Medicines and Medical Appliances

- 1) A medicine or drug is any pill, powder, potion, salve, or other preparation for human use that purports on the label to have medicinal qualities. Medicines prescribed by veterinarians for animals are subject to the high rate of tax. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of ~~asuch~~ disease, illness, injury or pain, constitutes a medicinal claim.

A) Examples of medicinal claims that will qualify the product for the low rate of tax include, but are not limited to:

- i) "medicated";
- ii) "heals (a medical condition)";
- iii) "cures (a medical condition)";
- iv) "for relief (of a medical condition)";

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- v) "fights infection";
- vi) "stops pain";
- vii) "relief from poison ivy or poison oak";
- viii) "relieves itching, cracking, burning";
- ix) "a soaking aid for sprains and bruises";
- x) "relieves muscular aches and pains";
- xi) "cures athlete's foot";
- xii) "relieves skin irritation, chafing, heat rash and diaper rash";
- xiii) "relief from the pain of sunburn";
- xiv) "soothes pain".

- B) The use of the terms "antiseptic," "antibacterial" or "kills germs" may or may not constitute a medicinal claim.
 - i) The use of these terms in conjunction with a claim that the product kills germs in general does not constitute a medicinal claim.
 - ii) However, a claim that a product is for use as an antiseptic to kill germs to prevent infection in cuts, scrapes, abrasions and burns does constitute a medicinal claim.
- C) Examples of claims that do not constitute medicinal claims include, but are not limited to:
 - i) "cools";
 - ii) "absorbs wetness that can breed fungus";
 - iii) "deodorant, or destroys odors";

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- iv) "moisturizes";
 - v) "freshens breath";
 - vi) "antiperspirant";
 - vii) "sunscreen";
 - viii) "prevents";
 - ix) "protects".
- D) All lip balms qualify for the reduced rate of tax because the word "balm" is defined as a healing ointment or a preparation that relieves pain.
- 2) A medical appliance is an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the human body. These items may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. Purchases of medical appliances by lessors that will be leased to others for human use also qualify for the exemption. Included in the exemption as medical appliances are such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines (including the dialyzer). Corrective medical appliances such as hearing aids, eyeglasses and contact lenses qualify for exemption. Diagnostic equipment shall not be deemed to be a medical appliance, except as provided in Section 130.310(d). Other medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as exempt medical appliances. Sometimes a kit of items is sold so the purchaser can use the kit items to perform treatment upon himself or herself. The kit will contain paraphernalia and sometimes medicines. An example is a kit sold for the removal of ear wax. Because the paraphernalia hardware is for treatment, it generally does not qualify as a medical appliance. However, the Department will

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consider the selling price of the entire kit to be taxable at the reduced rate when the value of the medicines in the kit is more than half of the total selling price of the kit.

- 3) Supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues, towelettes, and cosmetics such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. Sterile dressings, bandages and gauze do qualify for the reduced rate. Diapers for incontinent adults, as well as undergarments for incontinent adults, qualify for the low rate of tax.
- d) *Insulin, urine testing materials, syringes, and needles used in treating diabetes in human beings qualify for the reduced rate of tax.* (Section 2-10 of the Act)
- e) Modifications Made to a Motor Vehicle for the Purpose of Rendering it Usable by a Disabled Person
 - 1) Effective August 17, 1995, *modifications made to a motor vehicle*, as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146], *for the purpose of rendering it usable by a disabled person*, qualify for the reduced rate of tax (Section 2-10 of the Act). The low rate applies to modifications that enable a disabled person to drive a vehicle, or that assist in the transportation of disabled persons. Examples of such modifications include, but are not limited to, special steering, braking, shifting, or acceleration equipment, or equipment that modifies the vehicle for accessibility, such as a chair lift.
 - 2) For purposes of this regulation, the term "disabled person" has the same meaning as a "person with disabilities" in Section 1-159.1 of the Illinois Vehicle Code [625 ILCS 5/1-159.1].
- f) Reporting
 - 1) The retailer must keep an actual record of all sales and must report tax at the applicable rates, based on sales as reflected in the retailer's records. Books and records must be maintained in sufficient detail so that all receipts reported with respect to food, drugs, medicines and medical appliances can be supported. The determination of the percentage of sales of food items sold in individual-sized servings referred to in subsections

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(b)(2)(B) and (b)(3), will be made by comparing the dollar amounts of the gross receipts of the two categories of foods. The determination shall be based upon a period that will generally reflect the true character of overall sales rather than isolated or seasonal variations.

- 2) A retailer who finds it difficult to maintain detailed records of receipts from sales of food, drugs, medicines and medical appliances at the reduced rate, as well as detailed records of receipts from all other sales of tangible personal property at the full rate, may request the use of a formula. The request must be made to the Department in writing, must state the reasons that a formula method is necessary, and must outline the proposed formula in detail. Included in the request must be a description of how the method can be audited by the Department. Upon findings that the formula can be audited and will produce results that will reasonably approximate the actual taxable receipts in each category, the Department may issue its approval for use of the formula. If approval is granted, the Department reserves the right to withdraw approval or require a change in procedure at any time.

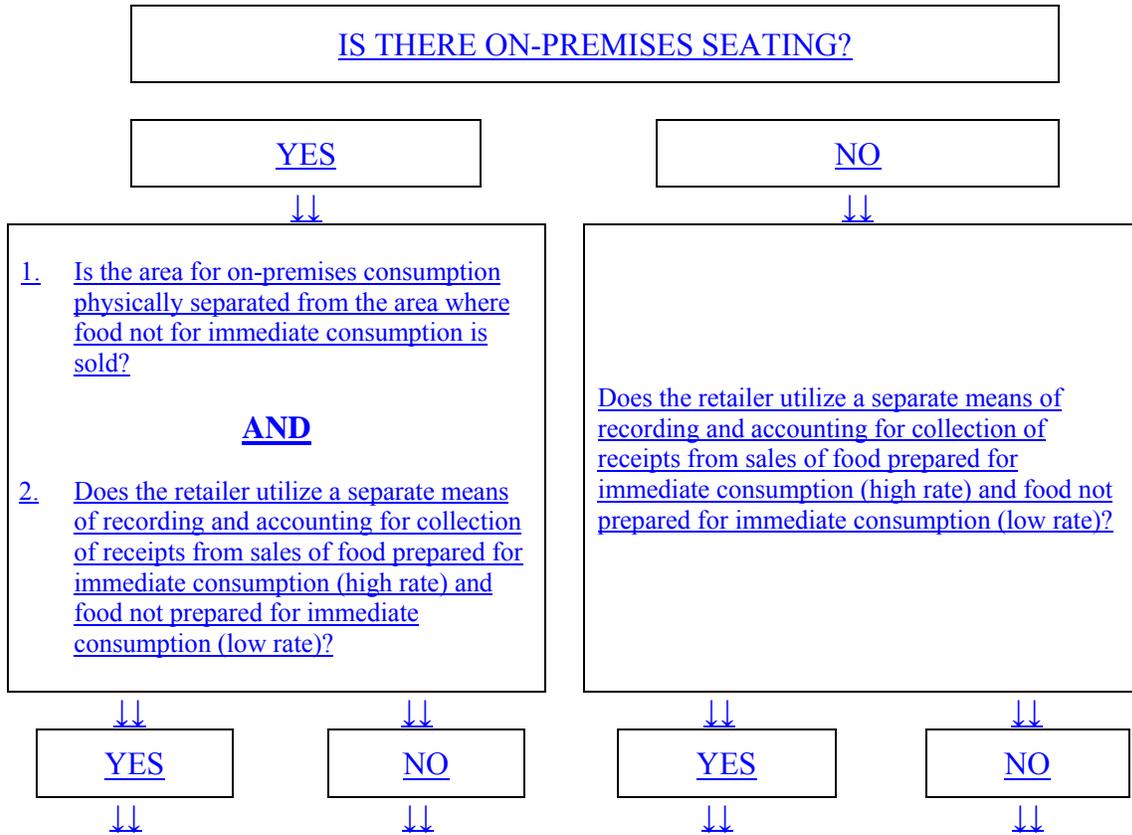
(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 130.ILLUSTRATION C Food Flow Chart

**TEST TO DETERMINE TAX RATE FOR FOOD ITEMS SOLD BY A RETAILER
(EXCLUDING RESTAURANTS AND CAFETERIAS)**



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Only hot foods, soft drinks, alcoholic beverages and food prepared by the retailer for immediate consumption are subject to HIGH RATE.

Grocery type food subject to LOW RATE

All items sold in the store are subject to tax at the HIGH RATE, even food not prepared for immediate consumption (grocery type food)

ALL items sold in the store are LOW RATE. HOWEVER, THE HIGH RATE APPLIES TO:
- hot food
- alcohol
- soft drinks and
- other food prepared by the retailer for immediate consumption

If the retailer sells both food prepared for immediate consumption and grocery type food, ALL food is HIGH RATE (rebuttable presumption).

If the retailer sells only grocery type foods, all food is LOW RATE other than soft drinks and alcoholic beverages

(Source: Added at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: School Bus Driver Permit
- 2) Code Citation: 92 Ill. Adm. Code 1035
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1035.10	Amendment
1035.15	Amendment
1035.20	Amendment
1035.25	Amendment
1035.30	Amendment
1035.32	New Section
1035.35	Amendment
1035.40	Amendment
1035.45	Amendment
1035.50	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-106.1; 625 ILCS 5/2-104; 625 ILCS 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: Part 1035 sets forth Secretary of State regulations regarding the issuance, renewal, cancellation, and suspension of school bus permits. To ensure that rule is consistent with changes made to the School Bus Permit statute, 625 ILCS 5/6-106.1, the Secretary of State undertook a review of this entire Part. These amendments make changes consistent with the statute, clarify existing rules and make technical and grammatical changes.
- 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? No
- 11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a State mandate.

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Arlene J. Pulley
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: School bus companies and school districts
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1035
SCHOOL BUS DRIVER PERMIT

Section

1035.10	Definitions
1035.15	Requirements of Applicants for a School Bus Driver Permit
1035.20	Annual Medical Examination and Certificate
1035.25	Permit Application Process
1035.30	Training
1035.32	Random Drug Testing for Alcohol and Controlled Substances
1035.35	Denial, Cancellation, or Suspension of a School Bus Driver Permit
1035.40	Notice
1035.45	Employer Responsibility
1035.50	Hearings

AUTHORITY: Implementing Section 6-106.1 and authorized by Section 6-521 of the Illinois Vehicle Code [625 ILCS 5/6-521].

SOURCE: Adopted at 19 Ill. Reg. 10716, effective July 11, 1995; amended at 24 Ill. Reg. 1269, effective January 10, 2000; amended at 24 Ill. Reg. 12092, effective July 31, 2000; amended at 26 Ill. Reg. 12045, effective July 22, 2002; amended at 33 Ill. Reg. _____, effective _____.

Section 1035.10 Definitions

For purposes of this Part, the following definitions shall apply:

"Adulterated Specimen" – a urine specimen that contains a substance not expected to be present in human urine, or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine, pursuant to Federal Motor Carrier Safety Regulation 49 CFR 40.3.

"Cancellation" – the cancellation of a school bus driver permit – the annulment or termination by formal action of the Secretary of State of a person's school bus driver permit because of some error or defect in the permit, because the permit holder is no longer entitled to thesueh permit, refusal or neglect of the person to

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submit to an alcohol and drug evaluation or submit to or ~~fail~~failure to successfully complete the examination, in accordance with IVC Sections 1-110, 6-106.1 and 6-207 ~~of the Illinois Vehicle Code [625 ILCS 5/1-110, 6-106.1 and 6-207]~~.

"Chain of Custody" – a procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form pursuant to 49 CFR 40.

"Chain of Custody Form" or "CCF" – an employer copy of the Federal Drug Testing Custody and Control Form used to notify the employer that the applicant has taken a split specimen test and the results of that test.

"Collector" – a person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees and who initiates and completes the CCF.

"Conviction" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, by a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost, regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated pursuant to IVC Section 6-500(8). ~~a final adjudication of guilty by a court of competent jurisdiction after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default.~~

"Denial" – to prohibit or disallow the privilege to obtain a school bus driver permit and/or the privilege to operate a school bus in accordance with IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~.

"Dilute Specimen" – a urine specimen with creatinine and specific gravity values that are lower than expected for human urine pursuant to 49 CFR 40.3.

"Disqualification" – a withdrawal of the privilege to drive a commercial motor vehicle [625 ILCS 5/1-115.3].

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"Driver" – every person who drives or is in actual physical control of a vehicle [625 ILCS 5/1-116].

"Employer" – any public or private school district, individual, corporation, partnership or association who employs school bus drivers licensed pursuant to IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1].~~

"Employer Certification/Notification" – a form ~~as~~ prescribed by the Secretary of State and submitted by the employer ~~that~~which certifies ~~that~~ an applicant has met all pre-employment conditions and all conditions for reapplication, or that a driver who is no longer eligible for a school bus driver permit has been removed from service.

"Fingerprint Process" – a method by which a person's fingerprints are taken for the purpose of certification of a criminal background investigation for a school bus driver permit and submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI).

"Hearing" – a hearing conducted by the Secretary of State, pursuant to IVC Sections 2-118 and 6-106.1, upon written request of the driver or applicant.

"Home State" – the States of Indiana, Michigan, Wisconsin, Iowa, Missouri and Kentucky, when they~~which~~ have issued a valid and properly classified driver's license.

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Initial Training" – an initial training class, including first aid procedures, in school bus safety administered by the Illinois State Board of Education through the Regional Office of Education and approved by the Secretary of State pursuant to IVC Section 6-106.1. Initial training will provide sufficient practical behind-the-wheel instruction.

"Lapse" – a period of time following the expiration of a driver's license or school bus driver permit in which the driver can renew or reapply without penalty.

"Medical Examination" – a physical examination by a medical examiner that includes tests for drug and alcohol use and the medical qualifications needed to drive a school bus.

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"Medical Examiner" – a person who is a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician.

"Medical Examiner's Certificate" ~~Physical Examination and Certificate for Illinois School Bus Driver~~ – a form, developed by the Secretary of State, upon which a ~~licensed~~ medical examiner records the results of a physical examination and certifies whether a person is qualified to apply for a school bus driver permit.

"Medical Review Officer" or "MRO" – a person who is a licensed physician and is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results pursuant to 49 CFR 40.3.

"Miscellaneous Suspension" – a safety and family financial responsibility suspension, unsatisfied judgment suspension, auto emissions suspensions, ~~penalty for parking~~ ticket suspension ~~violation~~, failure to appear suspension, failure to pay toll suspension, nighttime driving restriction suspension (~~Type Action 07, Reason Code 03~~), and all suspensions that are rescinded and are no longer in effect.

"Pre-Employment Conditions" – an applicant must have been interviewed by the prospective employer; ~~completed~~ complete a school bus driver permit application and prescribed medical report form; successfully ~~passed~~ pass a physical examination; successfully ~~completed~~ complete a fingerprint-based ~~fingerprint-based~~ Illinois specific background check with fingerprints forwarded to the FBI for a national background check; and ~~received~~ receive the required initial ~~specialized~~ training.

"Provisional Status" – the temporary privilege to operate a school bus pending ~~the~~ completion of the Federal Bureau of Investigation (FBI) criminal background check.

"Random Testing" – a drug and/or alcohol test having no specific time pattern.

"Refresher Course" – a classroom course in school bus safety approved by the Secretary of State. Refresher training courses shall be a minimum of 2 hours in

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length, part of which must be first aid training, taught by an instructor certified by the Illinois State Board of Education under 23 Ill. Adm. Code 1.515.

"Repeatedly ~~Convicted~~convicted of ~~Offenses~~offenses against ~~Laws~~laws and ~~Ordinances Regulating~~ordinances regulating the ~~Movement~~movement of ~~Traffic~~traffic" – a driver for ~~whom~~which an order has been entered to suspend or revoke ~~the~~ license or permit under ~~IVC~~the discretionary authority of Section 6-206(a)(3) ~~of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(3)].~~

"Repeatedly ~~Involved~~involved as a ~~Driver~~driver in ~~Motor Vehicle Collisions~~motor vehicle collisions" – a driver for ~~whom~~which an order has been entered to suspend or revoke ~~the~~ license or permit under ~~IVC~~the discretionary authority of Section 6-206(a)(~~3~~4) ~~of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(3)].~~

"Rescind Order" – a removal by formal action of an order canceling, suspending or denying issuance of a school bus permit ~~to a person.~~

"Review of Driving ~~Records~~Habits" – a review of the applicant's driving record maintained by ~~the Office of~~ the Secretary of State or documentation from another licensing jurisdiction, which has been certified within 30 days prior to the date of application, to insure that the requirements ~~of IVC Sections pursuant to Section~~ 6-106(1), (2), (3), (9), (10), (11), (12), ~~and~~ (13) ~~and (14) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-106(1), (2), (3), (9), (10), (11), (12) and (13)]~~ have been met.

"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

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A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other education facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not fewer than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [615 ILCS 5/1-182]

~~"School Bus"—every motor vehicle, except as provided in this definition, owned or operated by or for a school operated by a religious institution or a public or private child care facility, pre-school, primary or secondary school for the transportation of persons regularly enrolled in any such entity as students in Grade 12 or below in connection with any activity or entity. This definition does not include the following:~~

~~A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is on a regularly scheduled route for the transportation of other fare paying passengers or furnishing charter service for the transportation of groups on field trips or other special trips or in connection with special events or for shuttle service between attendance centers or other educational facilities and not over a regular or customary school bus route.~~

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~~A religious organization bus as defined in Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182].~~

~~A motor vehicle designed for carrying not more than nine passengers which is not registered as a school bus under Section 3-808 of the Illinois Vehicle Code [625 ILCS 5/3-808].~~

"School Bus Driver Permit" – permit issued for a period of one year to school bus drivers by the Office of the Secretary of State pursuant to IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1].~~

"School Bus Driver Permit Application" – the form or document prescribed by the Secretary of State upon which a request for a school bus driver permit is made.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

"Serious Traffic Violation" – notwithstanding convictions that in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, shall be considered a serious traffic violation:

A conviction, when operating a motor vehicle, for a violation of or relating to:

IVC Section 11-402(a) – a motor vehicle accident involving damage to a vehicle;

IVC Section 11-403 – failure to stop and exchange information after a motor vehicle collision, property damage only;

IVC Section 11-502(a) – illegal transportation, possession or carrying of alcoholic liquor within the passenger area of any vehicle;

IVC Section 6-101 – operating a motor vehicle without a valid license or permit;

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IVC Section 11-403 – failure to stop and exchange information or give aid after a motor vehicle collision involving personal injury or death;

Excessive speeding – a single speeding charge of 15 miles per hour or more above the legal speed limit;

Reckless driving;

IVC Section 11-707(d) – passing in a no-passing zone; or IVC Section 11-1414 – passing a stopped school bus;

IVC Section 11-1402(b) – limitations on backing upon a controlled access highway;

IVC Section 11-707(b) – driving on the left side of a roadway in a no-passing zone;

IVC Section 11-1002(e) – failure to yield the right-of-way to a pedestrian at an intersection;

IVC Section 11-1008 – failure to yield to a pedestrian on a sidewalk;

IVC Sections 11-1201 and 11-1202 – failure to stop for an approaching railroad train or signal;

Any State law or local ordinance relating to motor vehicle traffic control, other than parking violations, arising in connection with a fatal traffic accident;

IVC Section 6-501 – having multiple driver's licenses;

IVC Section 6-507(a) – the requirement to have a valid CDL;

Improper or erratic traffic lane changes;

Following another vehicle too closely;

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IVC Section 6-104(d) – possession of a valid school bus permit;

IVC Section 11-605 – school speed zones;

Any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than parking violations, that the Secretary of State determines by administrative rule to be serious.

~~"Serious Traffic Violation"—notwithstanding convictions, which in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control shall be considered a serious traffic violation: a violation relating to excessive speeding, involving a single speeding charge of 15 miles per hour or more above the legal speed limit; or a violation of any State Law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; or a violation of Section 6-104(d) of the Illinois Vehicle Code [625 ILCS 5/6-104(d)] relating to the possession of a valid school bus driver permit; or a violation of the speed limit in a school zone as defined in Section 11-605 of the Illinois Vehicle Code [625 ILCS 5/11-605]; or a violation of passing a stopped school bus as defined in Section 11-1414 of the Illinois Vehicle Code [625 ILCS 5/11-1414]; or failure to stop at railroad crossing as defined in Section 11-1202 of the Illinois Vehicle Code [625 ILCS 5/11-1202]; or a violation relating to improper or erratic lane changes; or a violation relating to following another vehicle too closely; or any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines pursuant to 92 Ill. Adm. Code 1040.20.~~

"Specimen Bottle" – the bottle that, after being sealed and labeled according to the procedures in this Part, is used to hold the urine specimen during transportation to the laboratory, pursuant to 49 CFR 40.3.

"Split Specimen" – in drug testing, a part of the urine specimen sent to a first laboratory and retained unopened, and that is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result, pursuant to 49 CFR 40.3.

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"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Substituted Specimen" – a specimen with creatinine and specific gravity values so diminished that they are not consistent with human urine.

"Suspension of ~~Driver's~~ Driver License" – the temporary withdrawal by formal action of the Secretary of State of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary of State ~~as defined in Section 1-204 of the Illinois Vehicle Code~~ [625 ILCS 5/1-204].

"Suspension of School Bus Driver Permit" – the temporary withdrawal, by formal action by the Secretary of State, of a person's permit that grants and specifies limited privileges to operate a school bus on the public highways, for a period specifically designated by the Secretary of State.

"Waiver" – an exemption allowed under certain conditions rendering an ineligible applicant eligible.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.15 Requirements of Applicants for a School Bus Driver Permit

In order for the Secretary of State to issue a school bus driver permit, all applicants must:

- a) ~~be~~ Be 21 years of age or older;
- b) ~~possess~~ Possess a valid and properly classified driver's license issued by the Secretary of State or a valid license issued in the applicant's home state;
- c) ~~possess~~ Possess a valid driver's license ~~that, for 3 years immediately prior to the date of application, which~~ has not been revoked, suspended, canceled or disqualified for 3 years immediately prior to the date of application, and shall not have had his or her commercial motor vehicle driving privileges disqualified within the 3 years immediately prior to the date of application, except for miscellaneous suspensions, as defined in (see IVC Section 1-115.3) ~~625 ILCS 5/1-115.3, during this period for any action except those defined as miscellaneous~~

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- ~~suspension by rule~~. A lapse in the renewal of the driver's license of 30 days or less shall not render the applicant ineligible. The Secretary of State may, in his or her discretion, grant a waiver for a lapse in the renewal of the driver's license in excess of 30 days;
- d) ~~pass written examinations administered by the Secretary of State~~Pass a written test on school bus operation, school bus safety, and special traffic laws relating to school buses and submit to a review of the applicant's driving habits by the Secretary of State at the time the written ~~examination~~test is given;
- e) ~~demonstrate~~Demonstrate the ability to exercise reasonable care in the operation of ~~the~~ school ~~bus~~buses in accordance with the requirements of 92 Ill. Adm. Code 1030.85;
- f) ~~be~~Be physically able to safely operate a school bus. An applicant for a school bus driver permit must demonstrate physical fitness to operate ~~a~~ school ~~bus~~buses by undergoing a medical examination in accordance with ~~the provisions of~~ Section 1035.20 ~~of this Part~~;
- g) ~~affirm~~Affirm under penalty of perjury that he or /she has not made a false statement or knowingly concealed a material fact in any application for a permit;
- h) ~~complete initial training~~Have completed an initial classroom course, including first-aid procedures, in school bus driver safety in a program approved by the Secretary of State. After satisfactory completion of ~~said~~ initial ~~training~~course, an annual refresher course will be required. ~~Refresher~~Such courses and the agency or organization conducting ~~those~~such courses shall be approved by the Secretary of State. Failure to complete the annual refresher course shall result in cancellation of the permit until ~~the~~such course is completed, ~~in accordance with provisions of Section 1035.30 of this Part~~;
- i) ~~At the time of application,~~ not have been convicted of 2 or more serious traffic offenses, ~~as defined by Section 1035.10,~~ within one year prior to the date of application~~the previous 12-month period,~~ ~~nor be convicted of 2 or more serious traffic offenses during any 12-month period while holding a school bus driver permit~~ that may endanger the life and safety of any of the driver's passengers within the duration of the permit period;
- j) ~~not~~Not have been convicted, within 3 years prior to the date of application, of

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reckless driving, ~~pursuant to (see IVC Section 11-503) of the Illinois Vehicle Code [625 ILCS 5/11-503]~~, driving under the influence of alcohol and/or other drugs, ~~pursuant to (see IVC Section 11-501) or of the Illinois Vehicle Code [625 ILCS 5/11-501]~~; reckless homicide, ~~pursuant to (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3])~~ resulting from the operation of a motor vehicle ~~within 3 years of the date of the application~~;

- k) ~~not~~ have been convicted of committing or attempting to commit any one or more of the following offenses:
- 1) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1 and 33A-2, and in Section 12-4(a) and (b)(1) of the Criminal Code of 1961 [720 ILCS 5/12-4(a) and (b)(1)];
 - 2) those offenses defined in the Cannabis Control Act, except those ~~offenses~~ offense defined in Section 4(a) and (b) and Section 5(a) of the Cannabis Control Act [720 ILCS 550/4(a) and (b) and 5(a)];
 - 3) those offenses defined in the Illinois Controlled Substances Act [720 ILCS 570];
 - 4) those offenses defined in Section 10 of the Methamphetamine Control and Community Protection Act [720 ILCS 646/10];
 - 54) any offense committed or attempted in any other state or against the laws of the United States that, which if committed or attempted in this State, could be punishable as one or more of the ~~foregoing~~ offenses listed in this subsection (k);
 - 65) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act [720 ILCS 150/4.1 and 5.1]; and
 - 76) those offenses defined in Section 6-16 of the Liquor Control Act of 1934

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[234 ILCS 5/6-16];

- l) ~~not~~ have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree ~~that~~^{which} indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway in accordance with 92 Ill. Adm. Code 1040.40;
- m) ~~not~~ have, through the unlawful operation of a motor vehicle, caused an accident resulting in the death of any person;
- n) ~~not~~ have, within the last 5 years, been adjudged to be afflicted with or suffering from any mental disability or disease.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.20 Annual Medical Examination and Certificate

- a) All applicants for a school bus driver permit must demonstrate physical fitness to operate ~~a school bus~~^{school buses} by undergoing a medical examination, including tests for drug and alcohol use, conducted by a ~~medical examiner~~^{licensed physician} within 90 days prior to the date of application for ~~the~~^{such} permit.
- b) An applicant who, within 90 days prior to the date of application, has undergone a medical examination complying with ~~subpart~~^{Subpart} E of ~~49 CFR 391.41 (2008)~~^{49 CFR 391 (1989)}~~(no later amendments are incorporated herein)~~ and/or ~~drug tests complying with 49 CFR 40 (54 Fed. Reg. 49854, effective January 2, 1990)~~^(no later amendments are incorporated herein) shall be exempt from the corresponding requirements of this Section, provided that the applicant submits to the Secretary of State a copy of the federal "medical examiner's certificate" (49 CFR 391.43) and/or a copy of the ~~CCF~~^{"drug testing custody and control} form" ~~(49 CFR 40.23(a))~~ signed by the ~~medical examiner~~^{responsible physician}.
- c) Except as provided in subsection (b) ~~of this Section~~, the medical examination for all applicants shall be performed in accordance with the provisions of this Section and 49 CFR 391.43(f). A form conforming to these requirements, as well as the medical examiner's certificate described in subsection (k) ~~of this Section~~, can be obtained from the Secretary of State for the use of the ~~medical~~

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examiner~~examining physician~~.

- d) Each applicant to be tested for drugs shall consent in writing to provide a split urine specimen for this purpose as part of the applicant's annual medical examination and shall authorize the release of the results of ~~thesuch~~ tests to the medical examiner~~examining physician~~. Those persons responsible for collection of the specimen shall ensure that the split specimen is not substituted, adulterated, or diluted by the applicant during the collection procedure. The split specimen ~~bottlecontainer~~ shall be labeled to identify its source and shall be delivered to the testing laboratory by U.S. mail, personal delivery by the medical examiner~~physician's~~ staff, a professional messenger service, or ~~by~~ other means ~~thatwhich~~ preclude tampering with the split specimen. Those persons responsible for collecting, processing, and testing the specimen shall maintain and be able to document a chain of custody for the split specimen ~~thatwhich~~ ensures its integrity.

e) Drug Test Results

- 1) A person shall be deemed to have failed to obtain a negative result on a drug test if he/she:
- A) Fails to appear for any test within 24 hours after being directed to do so by the employer;
 - B) Fails to remain at the testing site until the testing process is complete, as determined by the collector;
 - C) Fails to provide a urine specimen;
 - D) If applicable, fails to permit the observation or monitoring of his/her provision of a specimen;
 - E) Fails to provide sufficient amount of urine when directed and it has been determined, through a required medical evaluation, as set forth in 49 CFR 40.193, that there was no adequate medical explanation for the failure;
 - F) Fails or declines to take a second test as directed by the employer or collector;

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- G) is reported by the MRO as having a verified adulterated or substituted test result;
- H) Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector or behaves in a confrontational way that disrupts the collection process);
- I) Is reported by the MRO as having a positive drug test result.
- 2) These standards apply only to drug tests that are not required by 49 CFR 382, but are required as part of the school bus driver permit program (see IVC Section 106.1) or the school bus driver endorsement program (see IVC Section 6-508).
- fe) The split specimen shall be tested for marijuana metabolites, cocaine metabolites (Benzoyllecgonin), opiates metabolites, amphetamines and phencyclidine (PCP) using the tests and standards for positive test results specified in 49 CFR 40.8549 CFR 40.29(e) and (f). Testing shall be conducted by a laboratory certified by either the Illinois Department of State PolicePublic Health pursuant to 20 Ill. Adm. Code 128677 Ill. Adm. Code 510 or the U.S. Department of Transportation pursuant to 49 CFR 40.
- gf) The laboratory shall report the test results only to the medical examinerexamining physician. The medical examinerphysician shall review confirmed positive test results in order to determine whether there is a legitimate medical explanation of legal drug use for each positive test result. The medical examinerphysician may, at his or her discretion, consult with any other medical examinerphysician whose expertise in the area of substance abuse may, in the examining physician's judgment, be helpful in reviewing test results. The medical examinerphysician shall record his or her findings on the applicant's medical examiner's certificatehealth certificate form. If the medical examinerphysician determines that there is no legitimate medical explanation for a positive test result for one or more of the tested drugs, the applicant shall be ineligible to receive a school bus driver permit.
- hg) Each applicant, as part of the annual medical examination, shall also be tested to assist the medical examinerphysician in determining whether the applicant has a current clinical diagnosis of alcoholism. The medical examinerphysician shall record on the examination form those tests thatwhich were administered, as well

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as the ~~medical examiner's~~ ~~physician's~~ findings as to whether the applicant has a current clinical diagnosis of alcoholism. An applicant with a current clinical diagnosis of alcoholism shall be ineligible for a school bus driver permit.

- ~~ih)~~ Each initial applicant, as a part of the medical examination for a school bus driver permit, shall be tested for tuberculosis as outlined in subsection ~~(ji)(13) of this Section~~. Reapplicants will not be required to be retested for tuberculosis as part of the annual medical examination unless, in the judgement of the ~~medical examiner~~ ~~examining physician~~, the test should be performed in order to determine if the applicant is physically qualified to operate a school bus. Any applicant who allows his ~~or~~ her school bus permit to expire for more than 30 days is, pursuant to Section 1035.25(j) ~~of this Part~~, considered a new applicant and, as such, shall be required to be retested for tuberculosis.
- ~~ji)~~ An applicant shall be considered physically qualified to operate a school bus only if he or she:
- 1) has no loss or impairment of a hand, finger, arm, foot, or leg ~~that which~~ would interfere with the safe operation of a school bus or has had such loss or impairment compensated for in a manner satisfactory to the examining physician;
 - 2) has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control ~~that which~~ is likely to interfere with the ability to ~~safely~~ control and drive a school bus ~~safely~~;
 - 3) has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;
 - 4) has no established history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to ~~safely~~ control and drive a school bus ~~safely~~;
 - 5) has no current clinical diagnosis of high blood pressure likely to interfere with the ability to ~~safely~~ control and drive a school bus ~~safely~~;
 - 6) has no established medical history or clinical diagnosis of rheumatic,

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arthritic, orthopedic, muscular, neuromuscular, or vascular disease likely to interfere with the ability to safely control and drive a school bus ~~safely~~;

- 7) has no established medical history or clinical diagnosis of epilepsy or any other condition ~~that which~~ is likely to cause loss of consciousness or any loss of ability to safely control and drive a school bus ~~safely~~;
- 8) has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with the ability to safely control and drive a school bus ~~safely~~;
- 9) has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses, or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, amber and green (i.e., no monocular individual may be considered qualified);
- 10) first perceives a forced whispered voice in the better ear at not less than 5 feet with or without a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500Hz, 1,000Hz and 2,000Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951;
- 11) does not use amphetamines, cocaine, marijuana, opiates, phencyclidine, or any other mind altering drug or substance, or any prescribed drug that may interfere with the ability to safely operate a school bus ~~safely~~;
- 12) has no current clinical diagnosis of alcoholism; and
- 13) has a negative reading/test result on a tuberculosis test or has a positive result on a tuberculosis skin test and either:
 - A) is receiving prophylactic treatment~~;~~ or
 - B) has inactive tuberculosis as diagnosed by X-ray.

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kj) The medical examiner~~sexamining physician's~~ conclusion as to whether the person he or /she examined is qualified to drive a school bus shall be recorded on a medical examiner's certificate with the following form:

School Bus Driver Permit
Medical Examiner's Certificate

Medical Examiner's Preliminary Certification:

NOTE: Medical examiner shall provide one completed and signed copy of this certificate to the applicant. The original copy of the completed certificate is to be forwarded by the medical examiner to the employing agency or organization of the applicant; one copy is to be retained by the medical examiner.

I certify that I have completed Part A of the school bus examination of _____ on _____ in accordance with the provisions of 92 Ill. Adm. Code 1035.20 and based upon the examination, find he/she is:

- Qualified under the regulations
- Qualified only when wearing corrective lenses
- Qualified only when wearing a hearing aid
- Not qualified under the regulations

Name of Medical Examiner

Professional License Number
of Medical Examiner

Phone Number of
Medical Examiner

Signature of Medical Examiner

Fax Number of
Medical Examiner

Date of Certification (Part A)

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NOTE: COMPLETION OF PART A ONLY DOES NOT QUALIFY APPLICANT. TEST RESULTS MUST BE CERTIFIED ON THE FOLLOWING FORM BEFORE APPLICANT CAN BE CONSIDERED QUALIFIED.

Final Medical Examiner's Certification:

Date of TB Results: _____

Date of Drug Test Results: _____

I certify that I have completed my examination, including my readings of the drug and TB test results, for _____ on _____ in accordance with the provisions of 92 Ill. Adm. Code 1035.20. Based upon the results of drug and TB testing required in Section 1035.20(h) and (i)(13) and having no positive test results for infectious disease, or having determined that he/she is not contagious when performing the normal duties of a school bus driver, I find that he/she is:

- Qualified under the regulations
- Not qualified due to positive drug test
- Not qualified due to positive tuberculosis test

Name of Medical Examiner

Professional License Number
of Medical Examiner

Phone Number of
Medical Examiner

Signature of Medical Examiner

Fax Number of
Medical Examiner

Date of Certification
(Date the medical examiner
has received all test results)

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~~PHYSICAL EXAMINATION AND CERTIFICATE FOR ILLINOIS SCHOOL BUS DRIVER~~

~~I certify that I have examined (driver's name (print)) in accordance with the provisions of 92, Illinois Administrative Code 1035.20 (Pupil Transportation) and based upon the results of this examination, including the results of tests for alcohol and drug use required in Section 1035.20, I find that he/she is:~~

- ~~_____ Qualified under the regulations~~
- ~~_____ Qualified only when wearing corrective lenses~~
- ~~_____ Qualified only when wearing a hearing aid~~
- ~~_____ Not qualified under the regulations~~
- ~~_____ Not qualified due to positive drug test~~

~~A completed examination form for this person is on file in my office at _____ (address)~~

~~_____ Date of Examination _____ Federal Expiration Date~~

~~_____ Name of Examining Doctor _____ Tel. No. of Examining Doctor~~

~~_____ Signature of Examining Doctor~~

~~_____ Registration No. of Examining Doctor~~

~~_____ Signature of Driver~~

~~_____ Address of Driver~~

lk) One copy of the completed physical examination and medical certificate is to be forwarded by the medical examiner~~examining physician~~ to the employing agency

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or organization of the applicant; one copy is to be retained by the applicant; and one copy is to be retained by the ~~medical examiner~~examining physician.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.25 Permit Application Process

- a) Each applicant for a school bus driver permit must first successfully complete a pre-employment interview with the prospective employer to determine the acceptability of the applicant in terms of the requirements of this Part and those outlined in IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~.
- b) The applicant ~~seeking employment as a school bus driver must complete an Application for Illinois School Bus Driver Permit obtained from the prospective employer and then complete the following~~desiring employment as a school bus driver must then obtain from the prospective employer and complete the following:
 - ~~1) Application for Illinois School Bus Driver Permit;~~
 - 12) Physical examination, obtaining the medical examiner's certificate~~Examination and Certificate for Illinois School Bus Driver~~, in accordance with Section 1035.20 ~~of this Part~~;
 - 23) Fingerprint process;-
 - 3) initial training.
- c) The employer shall certify in writing to the Secretary of State on a form prepared or approved by the Secretary of State that all the required pre-employment conditions have been successfully completed.
- d) The applicant shall then submit the employer certification, the school bus driver permit application, and a fee of \$4.00 to the Secretary of State.
- e) The Secretary of State shall review the applicant's driving history to determine if it is acceptable under the provisions of this Part and IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~.

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- 1) The applicant must:
 - A1) ~~must~~ pass ~~a~~ written ~~examination~~~~examination~~ administered by the Secretary of State's Office in accordance with 92 Ill. Adm. Code 1030.80~~;~~
 - B2) ~~must~~ successfully complete a road test administered by the Secretary of State's Office or a licensed third-party tester in the class of vehicle to be used~~,~~ in accordance with 92 Ill. Adm. Code 1030.85.
- 2) Written examinations must be successfully completed prior to the road test. Each examination must be completed in no more than 3 attempts and within 90 days prior to the date of certification by the employer under subsection (c) in order for the current physical examination date to be used. Examinations taken 90 days after the certification date will require a new physical examination. The written examinations are valid for one year upon completion. After 3 failed attempts on any examination, the applicant must wait 30 days to again test. These tests must be successfully completed in 3 attempts and within 90 days from the date of certification by the employer.
- f) Upon successful completion of all pre-employment conditions and examination requirements for the school bus driver permit, the Secretary of State shall issue a school bus driver permit with a provisional status. Upon successfully passing the ~~FBI~~~~Federal Bureau of Investigation's~~ criminal background investigation~~,~~ the Secretary of State shall remove the school bus driver permit from provisional status. The permit shall expire one year from the issuance date.
- g) Current Permit Holders:
 - 1) ~~All valid school bus driver permits issued under Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1] prior to July 1, 1995 shall remain valid until their expiration date unless otherwise invalidated.~~
 - 12) Individuals who~~,~~ as of July 1, 1995, ~~possessed~~~~possess~~ a valid school bus driver permit that was previously issued by the appropriate regional superintendent are not subject to the fingerprinting provisions as long as

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the permit remains valid and does not lapse. If an applicant re-applies for a school bus driver permit 30 days or less after the date of expiration of the current permit, it shall not constitute a lapse.

~~23)~~ Current school bus drivers ~~also~~ need not be retested by the Secretary of State at the Secretary of State's Driver Services Facility except when a change in license classification is required.

~~4)~~ A re-applicant who has held a valid Illinois school bus driver permit issued prior to July 1, 1995, shall be required to submit an employer certification, verifying the completion of a yearly physical and refresher training, along with a fee of \$4.00.

h) A re-applicant for a school bus driver permit shall be required to submit an employer certification verifying completion of a yearly physical and refresher training, as well as a \$4.00 re-application fee. Re-applications will not be accepted more than 60 days prior to the expiration date of the current permit. ~~Re-Applicants~~

~~1)~~ All re-applicants for a school bus driver permit shall be required to submit an employer certification, verifying the completion of a yearly physical and refresher training.

~~2)~~ All re-applicants for a school bus driver permit shall be required to submit the appropriate fee along with their renewal certification. Re-applications will not be accepted more than 60 days prior to the expiration date of the current permit.

i) The fee for a school bus driver permit shall be as follows:

1) Original school bus driver permit.....\$4.00

2) Re-application for school bus driver permit.....\$4.00

3) Duplicate or corrected school bus driver permit.....\$4.00

j) Any individual who allows his/her school bus driver permit to expire for more than 30 days shall be required to submit to all the requirements set forth for a new applicant.

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- k) Substitute Drivers: Any individual who drives when a regular school bus driver is not available must have a permit. Athletic coaches, teachers, and other school employees who occasionally drive school buses that transport students to and from school or school-related activities must be qualified and have a school bus ~~driver~~ driver's permit.
- l) Out-of-State Applicants: ~~Any person~~ Persons residing in a state other than Illinois who ~~seeks~~ desire employment as a school bus ~~driver~~ drivers must possess a properly classified license from ~~his or her~~ their home state. ~~The~~ In addition, the applicant must follow the procedure outlined ~~in this Part~~ for new ~~resident~~ applicants.
- m) New Resident Applicants: ~~Any person who has~~ Persons who have relocated to the State of Illinois who ~~seeks~~ desire employment as a school bus ~~driver~~ drivers must provide documentation from ~~his or her~~ the former state of residence, prior to application, that the requirements of ~~IVC Sections~~ Section 6-106.1(a)(3), (9) and (10) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)(3), (9) and (10)]~~ have been met. This documentation must be attached to the school bus driver application form prior to ~~appearing at a proceeding in the~~ Secretary of State's Driver Services Facility. ~~The~~ Such documentation must have been issued within 90 days prior to the date of application. The applicant must follow the procedure outlined for new applicants as set forth in this ~~Part~~ Section.
- n) An applicant for a school bus driver permit must have a 3 year continuous driving history. This requirement may be met by a combination of in-state and out-of-state driving records. An exception may be allowed under the following criteria:
- 1) a written request for an exemption must be submitted, with the reason for the break in the 3 year driving history;
 - 2) a break of 30 days or less in the 3 year driving history may be waived by the Secretary of State;
 - 3) a break of more than 30 days, but less than 6 months, in the driving history may be approved by the Secretary of State if the record is clear or if listed convictions do not affect driving.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 1035.30 Training

~~a) Initial training as well as annual refresher training for school bus drivers is required by Section 6-106.1(a)(8) of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)(8)]. b) Each new applicant shall complete an initial classroom course in school bus driver safety, including the first aid portion, offered by the State Board of Education in a program approved by the Secretary of State. This course must be completed prior to the issuance of a school bus driver permit. c) Prior to obtaining a school bus driver permit, the employer shall certify to the Secretary of State that the applicant has successfully completed the initial classroom course in school bus driver safety, including first aid procedures, and that the applicant has been provided sufficient practical behind-the-wheel instruction to ensure that the applicant has exhibited proficiency in the safe and proper operation of a school bus. d) The initial course and annual refresher training courses are required for each school bus driver permit holder and shall consist of the following minimum requirements:~~

- ~~a1) The Secretary of State shall be responsible for approving the refreshers such courses and the agency or organization conducting the course;~~
- ~~b2) Initial and refresher training must be taught by an instructor certified by the Illinois State Board of Education; Refresher training courses shall be a minimum of two hours in length, part of which must include first aid training;~~
- ~~c3) Refresher training courses shall be a minimum of 2 hours in length, part of which must include first aid training. Refresher training must be taught by an instructor certified by the Illinois State Board of Education.~~

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.32 Random Drug Testing for Alcohol and Controlled Substances

School bus driver permit holders who also hold a CDL are subject to random testing for alcohol and controlled substances. This testing must conform to 49 CFR 32.305.

(Source: Added at 33 Ill. Reg. _____, effective _____)

Section 1035.35 Denial, Cancellation, or Suspension of a School Bus Driver Permit

- a) The Secretary of State shall deny or cancel a school bus driver permit of an

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applicant:

- 1) ~~whose~~Whose criminal background investigation discloses that he ~~or~~ she is not in compliance with any of the provisions of IVC Section 6-106.1(a) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)]~~;
 - 2) ~~upon~~Upon receiving notice that the permit holder fails to comply with any provision of this Part;
 - 3) ~~upon~~Upon receiving notice that the permit holder's restricted commercial driving permit or commercial driving privileges are withdrawn or otherwise invalidated~~;~~;
 - 4) upon receiving notice that the permit holder has been convicted of 2 serious violations during the duration of the permit.
- b) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice that the holder has failed to obtain a negative result on a drug test as required ~~by~~pursuant to IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~ or under federal law.
 - c) The Secretary of State shall deny an applicant for a school bus driver permit for a period of 3 years who fails to obtain a negative result on a drug test as required by IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~ or under federal law.
 - d) The Secretary of State shall deny an applicant or re-applicant for a school bus driver permit upon an indication on a driving record that he ~~or~~ she has failed to pay any fines, costs or fees ~~that~~which deny the renewal or reissuance of a driver's license or any other indication on a driving record ~~that~~which denies the renewal or reissuance of a driver's license.
 - e) A cancellation of a school bus driver permit shall remain in effect pending the outcome of a hearing pursuant to IVC Section 2-118 ~~of the Illinois Vehicle Code [625 ILCS 5/2-118]~~.
 - f) An order may be rescinded provided the cause is removed and the ~~applicant~~driver continues to meet the requirements ~~as~~ outlined in IVC Section 6-106.1(a) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)]~~.

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(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.40 Notice

- a) The Secretary of State shall immediately notify in writing the State Superintendent of Education and the permit holder's prospective or current employer that the applicant:
- 1a) has failed ~~ana~~ FBI criminal background investigation; or
- 2b) is no longer eligible for a school bus driver permit;~~;-or~~
- b) ~~The Secretary shall also notify the State Superintendent~~ of any related cancellations, suspensions~~;~~ or denials of the applicant's school bus driver permit.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.45 Employer Responsibility

It shall be the responsibility of a prospective or current employer of an applicant or holder of a school bus driver permit to:

- a) ~~conduct~~Conduct a pre-employment interview with the prospective school bus driver ~~applicant;~~ candidates.
- b) ~~distribute~~Distribute school bus driver permit applications and medical forms;~~;-~~
- c) ~~insure~~Insure that applicants submit to a fingerprint~~-~~based criminal background investigation;~~;-~~
- d) ~~certify~~Certify in writing to the Secretary of State that an applicant has successfully completed all pre-employment conditions;~~;-~~
- e) ~~notify~~Notify in writing the Secretary of State ~~in writing~~ that the employer has certified the removal ~~from service~~ of a school bus driver ~~from service~~ whose permit has been canceled or suspended by the Secretary of State, prior to the start of that school bus driver's next work shift;~~;-~~

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- f) ~~upon receipt of notification from an MRO that an employee has had a positive drug test or refused to be tested, immediately notify the Secretary of State of that result. Notification to the Secretary of State shall include a copy of the CCF form, medical examiner's certificate, positive drug results or notation of failure to complete testing. This information shall be privileged and maintained for use by the Secretary of State;~~ upon receipt of notification from an MRO that an employee has had a positive drug test or refused to be tested, immediately notify the Secretary of State of that result. Notification to the Secretary of State shall include a copy of the CCF form, medical examiner's certificate, positive drug results or notation of failure to complete testing. This information shall be privileged and maintained for use by the Secretary of State; ~~Immediately, upon receipt of a positive drug test, notify in writing the Secretary of State of such result. This information shall be privileged and maintained for the use of the Office of the Secretary of State.~~
- g) ~~notify~~ Notify in writing the Secretary of State in writing, within 10 working days, of the employment or termination of a ~~permitted~~ school bus driver permit holder;
- h) ~~notify~~ Notify the Secretary of State as soon as possible, but not later than within one ~~(1)~~ business day, whenever a school bus is involved in an accident and the driver is required to submit to the post-accident testing requirements ~~as~~ set forth in 349 CFR 382.303; 49 C.F.R. 391.113.
- i) ~~maintain~~ Maintain records of certifications for a period of ~~two (2)~~ years; ~~these records, which~~ shall be available for inspection by the Secretary of State.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1035.50 Hearings

- a) The Secretary of State shall conduct a hearing pursuant to IVC Section 2-118 ~~of the Illinois Vehicle Code [625 ILCS 5/2-118]~~ upon the request of an applicant or holder whose school bus driver ~~driving~~ permit has been denied, canceled or suspended.
- b) The petition requesting a hearing shall be in writing and shall contain the reason the individual believes ~~feels~~ he or ~~she~~ is entitled to a school bus driver permit.
- c) The scope of the hearing shall be limited to the issuance criteria contained in IVC Section 6-106.1(a) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)]~~.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.454 Amendment
140.455 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: July 14, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 18, 2008; 32 Ill. Reg. 10782
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
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

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NOTICE OF ADOPTED AMENDMENTS

140.3	Amendment	33 Ill. Reg. 1617; January 30, 2009
140.403	New Section	33 Ill. Reg. 1617; January 30, 2009
140.400	Amendment	33 Ill. Reg. 4468; March 27, 2009
140.425	Amendment	33 Ill. Reg. 5178; April 10, 2009
140.2	Amendment	33 Ill. Reg. 10204; July 17, 2009

- 15) Summary and Purpose of Amendments: These amendments will allow the Department to pay Community Mental Health providers for long-term care (LTC) targeted case management and perinatal depression screenings under the mental health coverage. Further deletes language, with sunset dates of August 30, 2005 and June 30, 2006 that were needed for the implementation of Screening, Assessment and Support Services (SASS).

- 16) Information and questions regarding these adopted amendments 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 Amendments begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination or Revocation on Persons Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Sanctioned Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)

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NOTICE OF ADOPTED AMENDMENTS

- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

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NOTICE OF ADOPTED AMENDMENTS

140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Imaging Centers
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
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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; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; 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; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.454 Types of Mental Health Services

The specific types of mental health services for which payment will be made are:

- a) Mental health services meeting the standards in 59 Ill. Adm. Code 132;
- b) The screening and assessment authorized under 59 Ill. Adm. Code 131.40 for clients under 21 years of age; and

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- c) The crisis intervention and stabilization services authorized under 59 Ill. Adm. Code 131.50(a) for a period not to exceed 90 days for clients under 21 years of age.
- d) Subject to prior approval pursuant to Section 140.40, case management services for individuals, identified through the screening process specified in Section 140.642, transitioning from a nursing facility into residence in the community.
- e) Developmental testing for an infant and risk assessment screening for perinatal depression, for either the mother (prenatal or post-partum) or the infant, up to one year after delivery.

(Source: Amended at 33 Ill. Reg. 11287, effective July 14, 2009)

Section 140.455 Payment for Mental Health Services

- a) The amount approved for payment for mental health services described in Section 140.454 shall be based on the type and amount of service required by and actually delivered to a client.
- b) The payment amount for a service described in Section 140.454(a) through (c) is determined in accordance with the rate methodologies outlined in 59 Ill. Adm. Code 132.60.
- c) The payment amount for a service described in Section 140.454(e) shall be at the rate of reimbursement paid to a physician for the same service.
- e) Advance and Reconciliation of Payments
 - 1) Eligibility. Community mental health providers eligible for this payment are those that during the payment month:
 - A) have entered into an agreement with the Department, DCFS and DHS to provide SASS; and
 - B) have entered into an advance and reconciliation agreement with the Department.

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- 2) ~~Payment. Payments under this subsection (c)(2) shall be made in each month of the last eleven months of State fiscal year 2006. Each payment shall be one eleventh of the calculated annual amount, rounded to the nearest whole dollar. The annual amount for each eligible provider shall be one half of the payable amount of all claims for a service reimbursable under subsection (b) of this Section, provided to a SASS-enrolled child or adolescent during State fiscal year 2005 by the provider (including, in the instance of a partnership arrangement that is formally acknowledged through agreements with the Department, provided by partnering providers), as tabulated by the Department from claims adjudicated through the end of July 2005. Except:~~
- A) ~~In the instance that the geographic area assigned to the provider changes from that served during State fiscal year 2005, the Department may adjust the amount of the annual or monthly payments in a manner to reflect the change in service area; and~~
- B) ~~In the instance of a new provider, the Department may base the amount of the annual or monthly payments on the claim experience of the provider that served the area previously.~~
- 3) ~~Reconciliation. Reconciliation of the advanced payment shall be effected through recoupment against payable amounts due the provider by the Department, DCFS or DHS, as specified in the advance and reconciliation agreement.~~
- 4) ~~Effective Date. This payment methodology will cease on June 30, 2006.~~
- d) ~~Service Accessibility Assurance Payment~~
- 1) ~~Eligibility. Community mental health providers that, on June 1, 2005, had entered into an agreement with the Department, DCFS and DHS to provide SASS are eligible for this payment.~~
- 2) ~~Payment. Payments under subsection (d)(1) shall be made during the months of June and August 2005. The amount of the payment to an eligible provider shall be determined as the sum of:~~
- A) ~~The product of:~~

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- ~~i) \$250,000, and~~
 - ~~ii) the quotient resulting from the number of children in families that have incomes under 200 percent of the federal poverty income guideline, as reported by the U.S. Department of Commerce from the 2000 census, within the geographic area assigned to the provider, divided by the number of children in families that have incomes under 200 percent of the federal poverty income guideline, as reported by the U.S. Department of Commerce from the 2000 census, within Illinois.~~
- ~~B) The product of:~~
 - ~~i) \$375,000, and~~
 - ~~ii) the quotient resulting from the number of square miles of land, rounded to the nearest whole square mile, within the geographic area assigned to the provider, as reported by the U.S. Department of Commerce from the 2000 census, divided by the number of square miles of land, rounded to the nearest whole square mile, within Illinois.~~
- ~~C) The product of:~~
 - ~~i) \$750,000, and~~
 - ~~ii) the quotient resulting from the number of Medicaid eligible SASS-enrolled children and adolescents who received a service, other than a pre-admission screening, reimbursable under subsection (b) of this Section from the provider (including, in the instance of a partnership arrangement that is formally acknowledged through agreements with the Department, provided by partnering providers), as tabulated by the Department from adjudicated claims, divided by the sum, across all eligible providers, of the number of Medicaid eligible SASS-enrolled children and adolescents who received a service, other than a pre-admission~~

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~~screening, reimbursable under subsection (b) of this Section, as tabulated by the Department from adjudicated claims. Calculation of the June payment will include claims adjudicated through the end of May; calculation of the August payment will include claims adjudicated through the end of July.~~

- 3) ~~Effective Date. This payment methodology is effective June 1, 2005, and will cease on August 30, 2005.~~

(Source: Amended at 33 Ill. Reg. 11287, effective July 14, 2009)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3) Section Number: 2520.640 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)]
- 5) Effective Date of Amendments: July 20, 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 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: May 1, 2009; 33 Ill. Reg. 6236
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Grammatical, punctuation or other non-substantive changes were made as agreed upon with JCAR. The Department also removed the last two sentences from subsection (a) concerning the Department deferring processing of a charge for 180 days.
- 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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Amendment: The proposed amendment clarifies the Department's procedures on investigating charges filed with local agencies who have a cooperative agreement with the Department.
- 16) Information and questions regarding this adopted amendment shall be directed to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-6257 or 217/785-5125 (TTY)

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

Section	
2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section	
2520.405	Verified Response to Charge
2520.410	Docketing and Service of Charge (Repealed)
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)
2520.460	Determination After Investigation (Repealed)

DEPARTMENT OF HUMAN RIGHTS

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- 2520.470 Conciliation (Repealed)
- 2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section

- 2520.510 Settlement
- 2520.520 Non-Disclosure (Repealed)
- 2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
- 2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

- 2520.550 Administrative Closure
- 2520.560 Dismissal
- 2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

- 2520.573 Filing with Chief Legal Counsel
- 2520.575 Contents of Request for Review
- 2520.577 Notice by the Chief Legal Counsel
- 2520.580 Extensions of Time
- 2520.583 Reply to Request for Review and Surreply
- 2520.585 Additional Investigation
- 2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

- 2520.610 Scope and Purpose (Repealed)
- 2520.620 Definitions (Repealed)
- 2520.630 Cooperative Agreements
- 2520.640 Nature of Cooperative Agreements
- 2520.650 Training and Technical Assistance
- 2520.660 Promotion of Communication and Goodwill

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section

2520.700	Definitions
2520.710	Scope and Purpose
2520.720	Affirmative Action Groups
2520.730	Consideration of Additional Groups
2520.740	Definitions (Renumbered)
2520.750	Nondiscrimination (Repealed)
2520.760	Plans
2520.770	Reporting and Record-Keeping
2520.780	Equal Employment Opportunity Officers
2520.790	Complaint Process
2520.795	EEO/AA Performance Reviews
2520.797	Sanctions for Noncompliance
2520.APPENDIX A	Contents of Affirmative Action Plans
2520.APPENDIX B	Value Weight Assignment Chart
2520.APPENDIX C	Contents of Layoff Reports
2520.APPENDIX D	Illinois Counties by Region

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804,

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effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. 13482, effective August 1, 2008; amended at 33 Ill. Reg. 11311, effective July 20, 2009.

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section 2520.640 Nature of Cooperative Agreements

A cooperative agreement executed by and between the Department and a local agency may provide for any of the following arrangements, separately or in combination:

- a) Dual-~~filing~~Filing of local charges – The local agency may transfer to the Department a charge that it has docketed and over which the Department has jurisdiction. The local agency may accept and transmit to the Department a charge over which it has jurisdiction. The Such charges shall be accepted by the Department and docketed as Department charges if received by the Department within 180 days following the alleged discrimination and if they meet the requirements of the Act and the Department's rules. Upon acceptance of ~~such~~ a charge, the Department will notify the local agency of the docket number it has assigned to the charge. ~~The agreement may provide that the Department shall defer processing such a charge for a period not to exceed 180 days from its receipt of the charge, during which period the local agency shall pursue investigation and resolution of the charge and notify the Department of the outcome of those efforts. This agreement shall not preclude the Department, in its discretion, from deferring action for a longer period if the local agency has nearly completed or resolved the matter.~~
- b) Referral of Department charges – The Department may refer to the local agency charges ~~that~~which the Department has received ~~that and docketed which~~ allege violations also within the jurisdiction of the local agency. The local agency shall promptly notify the Department whether it has accepted the referred charge, and, if so, the docket number it has assigned to the charge. If a local agency accepts a charge, the Department shall defer processing the charge until the local agency completes its investigation and issues findings as to the charge. A local agency's notarization ("perfection") of the charge for purposes of the local agency's investigation shall not equate to "perfection" for the Department. The agreement may provide that, upon the local agency's acceptance of such a charge, the

DEPARTMENT OF HUMAN RIGHTS

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~~Department shall defer processing it for a period not to exceed 180 days from the Department's receipt of the charge, during which period the local agency shall pursue investigation and resolution of the charge and notify the Department of the outcome of those efforts. Upon receiving the local agency's findings, the Department shall provide the complainant the opportunity to perfect the charge and to have the Department investigate the complainant's charge. If within 35 days after receiving notice that the complainant may perfect the charge with the Department, the complainant does not notify the Department of the complainant's election to perfect the charge with the Department, the Department may close the complainant's unperfected charge. If the complainant elects to perfect the charge with the Department, at its discretion the Department may adopt the findings of the local agency. This agreement shall not preclude the Department, in its discretion, from deferring action for a longer period if it appears that the local agency has nearly completed or resolved the matter.~~

- c) Transfer of non-jurisdictional charges – The Department and the local agency may agree to transfer, from one to the other, any charges either may receive ~~that~~which are not within the recipient's jurisdiction but may be within the other's jurisdiction. The agreement shall provide that the transferee will accept and docket ~~such~~ a charge if it meets its lawful requirements for a charge and if the transfer is received within its lawful time requirement for the filing of ~~such~~ a charge. The transferee will further agree to promptly notify the transferor whether it has accepted and docketed the charge and, if so, the assigned docket number.

(Source: Amended at 33 Ill. Reg. 11311, effective July 20, 2009)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Claiming Races
- 2) Code Citation: 11 Ill. Adm. Code 510
- 3) Section Number: 510.200 Adopted Action:
Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: July 21, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 6031; April 24, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and Purpose of rulemaking: This proposed rulemaking reduces from 60 days to 45 the time a claimed thoroughbred horse has to remain in Illinois and strikes language restricting claimed thoroughbreds from racing at any racetrack in Illinois within the 45 day period.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

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

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 510
CLAIMING RACES

Section	
510.10	Definition
510.20	Claiming Eligibility
510.30	Form and Deposit of Claim
510.40	Errors which Invalidate Claim
510.50	Refund of Voided Claim
510.60	Prohibited Action with Respect to Claim
510.70	Horses under Lien
510.80	Affidavit May be Required
510.90	Claimant's Responsibility
510.100	Claimed Horse's Certificate
510.110	Engagements of a Claimed Horse
510.120	Protests of a Claim
510.130	Title to a Claimed Horse
510.140	Distribution of the Purse
510.150	Delivery of a Claimed Horse
510.160	Trainer Responsibility for Post-Race Tests
510.170	Excusing Claimed Horse
510.180	Stable Eliminated by Fire or Other Hazard
510.190	Entering Claimed Horse (Repealed)
510.195	Determining Eligibility Dates
510.200	Claimed Horse Racing Elsewhere
510.210	Sale of a Claimed Horse
510.220	Illinois Rules Govern Claimed Horse
510.230	Extension of Regular Meeting (Repealed)
510.240	Claiming Authorization
510.250	Claiming Price

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted at 5 Ill. Reg. 1686, effective February 16, 1981; amended at 5 Ill. Reg. 8300, effective August 5, 1981; codified at 5 Ill. Reg. 10911; amended at 7 Ill. Reg. 2167, effective February 4, 1983; amended at 7 Ill. Reg. 3197, effective March 14, 1983; amended at 8 Ill. Reg. 14992, effective August 6, 1984; amended at 14 Ill. Reg. 17636, effective October 16, 1990; amended at 17 Ill. Reg. 12423, effective July 15, 1993; amended at 17 Ill. Reg. 13612, effective July 30, 1993; amended at 18 Ill. Reg. 2064, effective January 21, 1994; amended at 18 Ill. Reg. 11607, effective July 7, 1994; amended at 19 Ill. Reg. 13887, effective October 1, 1995; amended at 20 Ill. Reg. 12473, effective September 1, 1996; amended at 21 Ill. Reg. 951, effective January 7, 1997; amended at 24 Ill. Reg. 7386, effective May 1, 2000; amended at 24 Ill. Reg. 12722, effective August 1, 2000; amended at 24 Ill. Reg. 17480, effective November 8, 2000; amended at 25 Ill. Reg. 6393, effective May 1, 2001; amended at 25 Ill. Reg. 8814, effective July 1, 2001; amended at 27 Ill. Reg. 533, effective January 1, 2003; amended at 31 Ill. Reg. 15094, effective November 1, 2007; amended at 32 Ill. Reg. 10161, effective July 1, 2008; amended at 33 Ill. Reg. 11318, effective July 21, 2009.

Section 510.200 Claimed Horse Racing Elsewhere

- a) A standardbred horse claimed out of a claiming race is not eligible to race in any state other than Illinois for a period of 60 days from the date of the claim, or until a date following which there is no standardbred race meet scheduled in Illinois.~~Horses claimed at race tracks located in the Chicagoland area shall not race at any other race track for 60 days except at another race track located in the Chicagoland area. Race tracks located within 50 miles of the City of Chicago shall be considered in the Chicagoland area. However, a claimed horse may race at another race track when a race meeting concludes and no race meeting starts in the Chicagoland area for 30 days.~~
- b) A thoroughbred horse claimed out of a claiming race is not eligible to race in any state other than Illinois for a period of 45 days from the date of the claim, or until a date following which the racing season has concluded.~~Horses claimed at race tracks located outside the Chicagoland area shall not race at any other race track until the close of the race meeting, or for 60 days, whichever is shorter.~~
- c) This Section shall not apply when claimed horses are fulfilling a stakes engagement or have the express written consent, of the race track where they were claimed, to race at another location.

(Source: Amended at 33 Ill. Reg. 11318, effective July 21, 2009)

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NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.8 Emergency Action:
Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13]
- 5) Effective date of amendment: July 20, 2009
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they are to expire: This emergency amendment 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: July 17, 2009
- 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) Reason for Emergency: This emergency rulemaking is necessary to comply with the approval from USDA Food and Nutrition Services (FNS) regarding the expansion of the Express Stamps Demonstration Project to Cook County and the continuation of the project for 2 more years. The Department has determined that the expansion of the Express Stamps Demonstration Project to Cook County and the continuation of the project for 2 more years will serve the public interest. This amendment will benefit persons as described in the rulemaking and will aid in their well-being by having an immediate eligibility determination made for Food Stamp benefits and allowing eligible applicants to leave the pantry with an Electronic Benefits Transfer (EBT) card for accessing food stamp benefits.

Since any unnecessary delay would be harmful to those persons who would be eligible for these Food Stamps benefits, the Department believes that the changes in this rulemaking need to be in place sooner than the normal rulemaking process would allow. Any unnecessary delay will threaten the public interest by reducing the effectiveness of this demonstration project, therefore the use of emergency rulemaking is justified.

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NOTICE OF EMERGENCY AMENDMENT

- 10) A complete description of the subject and issues: The Express Stamps Application Project will test the feasibility of providing Food Stamp Program access to eligible low-income households not currently enrolled in the program when they seek emergency food assistance at local food pantries. Volunteers at the pantries will explain the benefits of food stamp participation and assist individuals in completing an abbreviated food stamp application. The Illinois Department of Human Services' computer system will make an immediate eligibility determination. Successful applicants will leave the pantry with emergency food to meet immediate needs and an Electronic Benefits Transfer (EBT) card for accessing food stamp benefits.
- 11) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
121.94	Amendment	33 Ill. Reg. 4062; March 13, 2009
121.96	Amendment	33 Ill. Reg. 4062; March 13, 2009
121.150	Amendment	33 Ill. Reg. 4062; March 13, 2009
121.10	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.63	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.120	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.125	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.63	Amendment	33 Ill. Reg. 4811; April 3, 2009
121.57	Amendment	33 Ill. Reg. 5248; April 10, 2009
121.58	Amendment	33 Ill. Reg. 5248; April 10, 2009
121.3	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.7	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.8	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.41	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.55	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.57	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.60	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.61	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.73	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.74	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.76	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.130	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.140	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.26	Amendment	33 Ill. Reg. 6009; April 24, 2009
121.136	New Section	33 Ill. Reg. 7283; June 5, 2009

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- 12) Statement of statewide policy objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this emergency amendment shall be directed to:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.8 Express Stamps Application Project

[EMERGENCY](#)

- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

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Section

121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section

121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section

121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

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SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section

- 121.80 Fraud Disqualification (Renumbered)
- 121.81 Initiation of Administrative Fraud Hearing (Repealed)
- 121.82 Definition of Fraud (Renumbered)
- 121.83 Notification To Applicant Households (Renumbered)
- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or Food Stamp Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses For Benefits
- 121.97 Supplemental Payments
- 121.98 Client Training Brochure for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.108 Transitional Food Stamp (TFS) Benefits
- 121.120 Redetermination of Eligibility
- 121.125 Redetermination of Earned Income Households
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

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SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160	Persons Required to Participate
121.162	Program Requirements
121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

121.220	Work Requirement Components (Repealed)
121.221	Meeting the Work Requirement with the Earnfare Component (Repealed)

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- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with

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no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991;

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emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; preemptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; preemptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective

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January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; preemptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; preemptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; preemptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum

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of 150 days; peremptory amendment at 33 Ill. Reg. 5537, effective April 1, 2009; emergency amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days.

SUBPART A: APPLICATION PROCEDURES

Section 121.8 Express Stamps Application Project
EMERGENCY

- a) The Express Stamps Application Project ~~is will operate for a 2-year period as~~ a USDA Food and Nutrition Service (FNS) Food Stamp approved demonstration project in designated food pantries in Will, Lake, DuPage, ~~and Kane~~ and Cook Counties. Pantry volunteers shall encourage visitors who are not currently receiving food stamp benefits to apply for Express Stamps. If interested, the visitor shall be directed to a computer terminal where he or she can use the electronic application process. The program will display an introduction to the on-line application that explains who can apply to participate in the project. The applicant then provides information needed to determine eligibility for food stamps, including name, address, household members, income, assets, and expenses. An abbreviated web-based food stamp application will be electronically transmitted to the Department if the person is eligible to apply pursuant to subsection (b).
- b) A household may not participate in the Express Stamps Application Project if:
- 1) the household has received food stamps or Express Stamp benefits in the past 12 months;
 - 2) the applicant does not have verification of identity;
 - 3) the household does not reside in one of the pilot site counties;
 - 4) a household member's income or assets are unknown;
 - 5) an adult household member's Social Security Number is unknown;
 - 6) a member is a non-citizen but not a legal immigrant;
 - 7) a member of the household voluntarily quit work, reduced his or her hours of work, or is on strike;

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- 8) an adult member of the household is a student of higher education;
 - 9) a member of the household is a fleeing felon, resident of a drug or alcohol treatment center or disqualified for an Intentional Program Violation; or
 - 10) a member has to meet the food stamp work requirement (see Section 121.18, Work Requirement).
- c) If the household is not eligible to participate in the Express Stamps Application Project for one of the reasons listed in subsection (b), an application will not be accepted at the food pantry. The applicant will be told he or she is not eligible to participate in the project and he or she will be given a food stamp application and referred to his or her local DHS office to apply for the regular food stamp program.
 - d) Separate household status will be granted to individuals 60 or older who live with others and who are unable to purchase and prepare meals because of a disability, without determining if the income of the other household members exceeds 65 percent of the poverty line.
 - e) The citizenship requirements defined in Section 121.20 will be satisfied by the applicant's attestation that each household member is a citizen or legal immigrant.
 - f) The household's gross monthly income as reported by the applicant will be used to determine eligibility for food stamps.
 - g) Non-categorically eligible households will meet the asset limit to qualify for benefits if the applicant reports that the household does not have assets in excess of the appropriate limit (see Section 121.59).
 - h) The applicant will sign the application utilizing an electronic signature method.
 - i) No face-to-face interview with DHS will be required.
 - j) The date of application is the next business day if the application is received after 5:00 p.m. or on a holiday or weekend.

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- k) If eligible for food stamps, one month of benefits will be issued if the application is filed on or before the 15th of the fiscal month and two months of benefits if the application is filed after the 15th of the fiscal month. (See 89 Ill. Adm. Code 101.20 for a definition of "fiscal month".) A successful applicant shall be issued an EBT card by pantry personnel. The DHS local office will mail a personal identification number (PIN) to the applicant so he or she can access benefits. The provisions of Sections 121.93, 121.94 and 121.98 apply. FNS audits EBT records on a regular basis.
- l) A notice of disposition (see 89 Ill. Adm. Code 10.270, Notice to Client) of the application accepted for the Express Stamps Application Project will be sent to all applicants. If approved for Express Stamps, the notice will contain information that, to continue to receive food stamp benefits, an application must be filed at the local DHS office within 17 calendar days from the date of the notice (see Section 121.120).
- m) Food pantry personnel involved in the EBT program shall be trained prior to participating in the demonstration. The training shall include, but not be limited to, an overview of the project and the electronic application form, computer security measures, the role of food pantry personnel in the process, the EBT card and how it works, civil rights, client responsibilities, confidentiality requirements and project evaluation requirements. Volunteers are required to complete a computer security form that allows the Department to monitor computer activities and prosecute if fraud is committed. The provisions in Sections 121.150 through 121.154 apply.
- n) The Department will maintain close contact with participating food pantries for the duration of the project and will conduct an evaluation of the project as required by FNS.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days)

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- 1) Heading of the Part: Collections and Recoveries
- 2) Code Citation: 89 Ill. Adm. Code 165
- 3)

<u>Section Numbers:</u>	<u>Peremptory Action:</u>
165.44	Amendment
165.82	Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: These changes are being made to conform with provisions of Title IV of P.L. 110-246, The Food, Conservation, and Energy Act of 2008 (FCEA).
- 5) Statutory Authority: Implementing and authorized by Sections 11-18, 12-4.4 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-18, 12-4.4 and 12-13].
- 6) Effective Date: July 15, 2009
- 7) A Complete Description of the Subjects and Issues involved: This rulemaking is the result of Title IV of P. L. 110-246, The Food, Conservation, and Energy Act of 2008 (FCEA). These regulations de-obligates food stamp coupons as legal tender as of June 17, 2009. As a result, this rulemaking establishes that Food Stamp coupons will no longer be an acceptable form of collecting a food stamp overpayment nor will they be an acceptable form of repaying an intentional program violation, an inadvertent household error, or an administrative error.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: July 15, 2009
- 10) A copy of the peremptory rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) This rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.
- 12) Are there any proposed rulemakings pending on this Part? No

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- 13) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, IL 62762

217/785-9772

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: COLLECTIONS

PART 165
COLLECTIONS AND RECOVERIES

SUBPART A: GENERAL OVERPAYMENT PROVISIONS

Section

- 165.1 Incorporation By Reference
- 165.10 Overpayments
- 165.20 Determination of Financial Assistance Overpayments
- 165.30 Types of Food Stamp Overpayment Claims
- 165.40 Determination of Food Stamp Overpayments
- 165.42 Establishment of Claims for Food Stamp Overpayments
- 165.44 Acceptable Forms of Food Stamp Payments
- 165.50 Suspension and Termination of Food Stamp Claims

SUBPART B: COLLECTION OF FINANCIAL ASSISTANCE
OVERPAYMENTS FROM CURRENT CASES

Section

- 165.70 Recoupment of Overpayments from Current Temporary Assistance to Needy Families (TANF), Aid to the Aged, Blind or Disabled (AABD) and General Assistance (GA) Cases

SUBPART C: COLLECTION OF FOOD STAMP OVERPAYMENTS FROM
CURRENTLY PARTICIPATING HOUSEHOLDS

Section

- 165.80 Initiating Collection from Currently Participating Households
- 165.82 Methods of Food Stamp Claim Repayment
- 165.84 Determination of Monthly Benefit Reduction Amount
- 165.86 Failure to Respond to Initial Demand Letter
- 165.88 Failure to Comply with Repayment Schedule (Repealed)

SUBPART D: COLLECTION OF OVERPAYMENTS FROM NON-RECIPIENTS

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Section

- 165.100 Collection of Overpayments from Persons Not Receiving Financial Assistance or Food Stamps
- 165.102 Demand for Repayment
- 165.104 Methods of Involuntary Repayment
- 165.106 Effect of Return to Active Assistance Status

AUTHORITY: Implementing and authorized by Sections 11-18, 12-4.4 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-18, 12-4.4 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 102.100 and 102.110 and 89 Ill. Adm. Code 121.200 through 121.208 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 10604, effective May 29, 1987; amended at 12 Ill. Reg. 18192, effective November 4, 1988; amended at 13 Ill. Reg. 3843, effective March 17, 1989; amended at 17 Ill. Reg. 8187, effective May 24, 1993; amended at 17 Ill. Reg. 18113, effective September 29, 1993; emergency amendment at 20 Ill. Reg. 13376, effective October 1, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3151, effective February 28, 1997; emergency amendments at 21 Ill. Reg. 8607, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15502, effective November 26, 1997; amended at 22 Ill. Reg. 18939, effective October 1, 1998; amended at 26 Ill. Reg. 400, effective January 1, 2002; amended at 26 Ill. Reg. 16495, effective October 28, 2002; amended at 32 Ill. Reg. 7916, effective May 7, 2008; amended by peremptory amendment at 33 Ill. Reg. 5549, effective April 1, 2009; amended by peremptory amendment at 33 Ill. Reg. 11336, effective July 15, 2009.

SUBPART A: GENERAL OVERPAYMENT PROVISIONS

Section 165.44 Acceptable Forms of Food Stamp Payments

The Department shall collect food stamp overpayments by one or more of the following forms of payment:

- a) Reduction of benefits prior to issuance. This includes allotment reduction and offsets to restored benefits.
- b) Reduction of benefits after issuance. These are benefits from electronic benefits transfer (EBT) accounts.
 - 1) Prior to collection from active accounts, written permission will be

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obtained from the household, or oral permission will be obtained for a one time only reduction. If oral permission is used, a receipt will be sent to the household within 10 days.

- 2) Prior to collection from stale accounts, a written notice will be sent telling the household that the benefits will be used to reduce existing overpayment claims if they do not respond within 10 days.
- c) Cash payment or any of its generally accepted equivalents.
- d) ~~Food stamp coupons.~~ e) Offsets and intercepts of various State payments, including, but not limited to, wage garnishments, income tax refunds and lottery winnings.
- e) Public Service in lieu of paying the claim, when ordered by a court.
- f) Collections through the US Department of the Treasury's collection programs. (See Section 165.104(e)).
- g) Offset of Unemployment Compensation Benefits if the household agrees or if ordered by a court.

See Section 165.82 for methods of food stamp claim repayment for currently participating households and Section 165.104 for methods of involuntary repayment for nonparticipating households.

(Source: Amended by peremptory rulemaking at 33 Ill. Reg. 11336, effective July 15, 2009)

SUBPART C: COLLECTION OF FOOD STAMP OVERPAYMENTS FROM
CURRENTLY PARTICIPATING HOUSEHOLDS

Section 165.82 Methods of Food Stamp Claim Repayment

- a) A household may repay a claim for intentional program violation, inadvertent household error, and administrative error in full (by cash payment, ~~food stamp coupons~~, or transfer of electronic benefits) or the monthly benefit amount will be reduced to repay the claim.

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- b) The Department may intercept any irregular and/or unexpected State payments.

(Source: Amended by preemptory rulemaking at 33 Ill. Reg. 11336, effective July 15, 2009)

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a) Part(s) (Heading and Code Citations): Illinois Offense Table, 92 Ill. Adm. Code 1040.20

1) Rulemaking:

- A) Description of Rule(s): This Part will address the requirements of 625 ILCS 5/6-206.2(c), which authorizes the Secretary of State to suspend for tampering with or circumventing an interlock device; add three new offenses of failure to yield the right of way approaching an emergency vehicle (with personal injury or death) (625 ILCS 5/11-907(c)); add new offense of obstructing the passage of a train or other equipment using the rails (625 ILCS 5/11-1425(b)); add new offense of unlawful use of plate covers (625 ILCS 5/12-610.5(b)); amended the authority sections to suspend in 6-206(a) 43, 44 and 45 to correctly reflect the proper paragraph; added new suspension authority for an individual certified by Illinois Department of Healthcare & Family Services who is delinquent of child support payments (625 ILCS 5/7-704); add new authority to cancellation for failure to install BAID device and de-installed BAID device without prior authorization from Administrative Hearings (625 ILCS 5/6-206.1(A)(4)) and (625 ILCS 5/6-206.1(c-1)); add new suspension authority to increase suspension period for a BAID violation (625 ILCS 5/6-206.1L) and added new ACD code M23 for failure to have space to drive through a railroad crossing as an immediate action offense.
- B) Statutory Authority: Implementing and authorized by Section 625 ILCS 5/6-206.2(c); Section 625 ILCS 5/11-907(c); Section 625 ILCS 5/11-1425(b); Section 625 ILCS 5/12-610.5(b); Section 625 ILCS 5/6-206(a) 43, 45, 45; Section 6-206.1(a)(4); Section 6-206.1(c-1); Section 6-206.1(L) and Section 625 ILCS 5/7-704.1.
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: January 1, 2009
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None
- F) Agency Contact Person for Information:

Illinois Secretary of State

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Arlene Pulley
Driver Services Department
c/o Director's Office
2701 South Dirksen Parkway
Springfield, Illinois 62723
217-557-4462 Fax 217-558-4942
apulley@ilsos.net

G) Related Rulemakings and Other Pertinent Information: None

b) Part(s) (Heading and Code Citations): Procedures and Standards (92 Ill. Adm. Code 1001.10)

1) Rulemaking:

A) Description of Rule(s): We will file a rulemaking to revise our non-resident offender/out-of-state program. This will involve revisions to Subparts A, C, and D of 92 IAC Part 1001. The out-of-state/mail-in hearing program was established several years ago to provide relief to out-of-state offenders whose driving privileges were revoked in Illinois. These include offenders who committed the offense in Illinois, then moved to other states without first applying for reinstatement of their Illinois driving privileges and who now are being denied a driver's license in their new state of residence, and offenders who resided in another state when they committed the offense in Illinois and who never before attempted to have their Illinois driving privileges reinstated. Their home state is now also refusing to renew their driving privileges/driver's license until their Illinois driving privileges are reinstated. These offenders are now coming into our system due to the enhanced and improved security required by the federal government related to driver's licenses and other forms of identification. As a result of these measures, the caseload of the Out-of-State Unit has increased dramatically in recent years. Our rulemaking will attempt to provide more efficient procedures for the processing of these petitions, and discourage the filing of petitions by petitioners who are unprepared to satisfy our requirements; We will also conduct an internal survey to determine whether our staff believes that revisions should be made to Part 1001 to improve the hearing process, based upon our day-to-day experience with the current rules. One possible revision/clarification is to §1001.460, which relates to petitions for the

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modification of suspensions and revocations of driving privileges. The recent case of *Webb v. White* (4th Dist. 2006), 364 Ill. App. 3d 650, 850 N.E. 2d 233, which criticized us for upholding a suspension based upon a Liquor Control Act violation, compels us to re-examine this rule. Further, the reorganization of §6-20 of the LCA in Public Act 95-166 (HB 3131, effective 1 January 2008), and Public Act 95-355 (HB 624, effective 1, January 2008), will enable us to more effectively respond to the court's concerns. We contemplate several other revisions to Subpart D in particular, which will clarify the requirements for obtaining driving relief and/or make the hearing process more efficient. Our rules on restricted driving permits, at 92 IAC §1001.420, must be amended to implement the new daycare and educational permits, authorized by Public Act 95-848.

- B) Statutory Authority: 625 ILCS 5/2-104
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: Spring or Summer 2009
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None
- F) Agency Contact Person for Information:

Illinois Secretary of State
Marc Christopher Loro,
Senior Legal Advisor
Department of Administrative Hearings
Room 200, Michael J. Howlett Building
Springfield, Illinois 62756
217-785-8245 Fax 217-782-2192
mloro@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: At this time, the Department is not aware of any further information which may serve the public interest. The public will have an opportunity to comment on any proposed rulemaking during the first notice period.

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- c) Part(s) (Heading and Code Citations): Illinois Business Brokers Act of 1995, 14 Ill. Admin. Code 140
- 1) Rulemaking:
- A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Business Brokers Act, 815 ILCS 307/10-1.
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: Unknown
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown
- F) Agency Contact Person for Information:
- Illinois Secretary of State
Tanya Solov, Director
Illinois Securities Department
69 W. Washington Street, Suite 1220
Chicago, IL 60602
312-793-3384 Fax 312-793-1202
tsolov@ilsos.net
- G) Related Rulemakings and Other Pertinent Information: None
- d) Part(s) (Heading and Code Citations): Illinois Securities Law of 1953, 14 Ill. Admin. Code 130
- 1) Rulemaking:
- A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to state and federal legislative enactments and rules of the US Securities and Exchange Commission.
- B) Statutory Authority: Illinois Securities Law of 1953, 815 ILCS 5/1.

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- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: Unknown
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown
- F) Agency Contact Person for Information:

Illinois Secretary of State
Tanya Solov, Director
Illinois Securities Department
69 W. Washington Street, Suite 1220
Chicago, IL 60602
312-793-3384 Fax 312-793-1202
tsolov@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: None

e) Part(s) (Heading and Code Citations): Illinois Business Opportunity Sales Law of 1995, 14 Ill. Admin. Code 135

- 1) Rulemaking:
 - A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to legislative enactments.
 - B) Statutory Authority: Illinois Business Opportunity Sales Law of 1995, 815 ILCS 602/5-1.
 - C) Scheduled Meeting/Hearing Dates: None
 - D) Date Agency Anticipates First Notice: Unknown
 - E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown
 - F) Agency Contact Person for Information:

SECRETARY OF STATE

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Tanya Solov, Director
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69 W. Washington Street, Suite 1220
Chicago, IL 60602
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tsolov@ilsos.net

G) Related Rulemakings and Other Pertinent Information: None

f) Part(s) (Heading and Code Citations): Illinois Loan Brokers Act of 1995, 14 Ill. Adm. Code 145

1) Rulemaking:

A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to legislative changes.

B) Statutory Authority: Illinois Loan Brokers Act of 1995, 815 ILCS 175/15-1.

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency Anticipates First Notice: Unknown

E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

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Tanya Solov, Director
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G) Related Rulemakings and Other Pertinent Information: None

g) Part(s) (Heading and Code Citations): Illinois State Library, Acquisition Division, Illinois Documents Section (23 Ill. Adm. Code 3020)

1) Rulemaking:

A) Description of Rule(s): Section 3020.160 will be clarified to indicate the frequency of publishing the list of state agency publications; and Document Depository responsibilities in Subpart B will be updated.

B) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act [15 ILCS 320/2 and 21].

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency Anticipates First Notice: August 2009

E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

Illinois Secretary of State
Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
217-558-4185 Fax 217-557-2619
jnatale@ilsos.net

G) Related Rulemakings and Other Pertinent Information: None

h) Part(s) (Heading and Code Citations): The Illinois State Library System Act (23 Ill. Adm. Code 3030)

1) Rulemaking:

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- A) Description of Rule(s): A major revision in the rules regarding the regional library systems will be submitted due the Illinois library community including updating the Service Standards in Section 3030.50.
- B) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10].
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: December 2009
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None
- F) Agency Contact Person for Information:

Illinois Secretary of State
Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
217-558-4185 Fax 217-557-2619
jnatale@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: The extent of the in the System rules may necessitate repealing Part 3030 and proposing a new Part 3030. The changes could necessitate amendments to the Illinois State Library Grant Programs (23 Ill. Adm. Code 3035) and Public Library Non-Resident Services (23 Ill. Adm. Code 3050).
- i) Part(s) (Heading and Code Citations): The Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)
 - 1) Rulemaking:
 - A) Description of Rule(s): Subpart E will be added to explain the federal Library Services and Construction Grant program administered by the

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Illinois State Library; clarify in grant application procedures in Subpart A; and amend definition of "Educational Agencies" in Subpart B.

- B) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10].
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: August 2009
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: The new standards detail assessment and reporting procedures for regional library systems.
- F) Agency Contact Person for Information:

Illinois Secretary of State
Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
217-558-4185 Fax 217-557-2619
jnatale@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: None

j) Part(s) (Heading and Code Citations): Part 150 Business Corporation Act (14 Ill. Adm. Code 150)

1) Rulemaking:

- A) Description of Rule(s)
Adds 150.241 - Search by Name of Registered Agent, President and Secretary; Adds 150.632 - Business Transacted and Property Located in Illinois; Adds 150.635 - Amounts Transferred to Paid-in Capital New Rule 150.241 - This rule satisfies a demand from the public for this information; New Rule 150.632 - This rule will put into the Administrative Code a policy in effect in the Secretary of State's office

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since March 11, 1935; New Rule 150.635 - The rule will put into the Administrative Code the decision of the Illinois Appellate Court in *E & E Hauling Inc. v Ryan*, 306 Ill. App. 3rd 131 (Ill. 1st Dist. 1999).

- B) Statutory Authority: Implemented an authorized by Section 1.05 of the Business Corporation Act (805 ILCS 5/1.05).
- C) Scheduled Meeting/Hearing Dates: None scheduled at this time.
- D) Date Agency Anticipates First Notice: Fall 2009
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None
- F) Agency Contact Person for Information:

Illinois Secretary of State
Tony Gordon, Assistant General Counsel
100 W. Randolph Street
Suite 5-400
Chicago, IL 60601
312-814-9509 Fax 312-814-5958
tgordon1@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: None

k) Part(s) (Heading and Code Citations): Part 180 Uniform Commercial Code (14 Ill. Adm. Code 180)

1) Rulemaking:

- A) Description of Rule(s): Amends 180.12 Forms; Amends 180.133 Filing Fees/Methods of Payment/Overpayment and Underpayment Policies; Amends 180.18 Search Requests and Reports; Section 180.12(a) is amended to allow for the use of capital letters with a font size of at least 10 point Arial type. This will allow UCC XML bulk data users to file electronically using a type size and font style that are currently accepted by other filing jurisdictions. Section 180.13(c) is amended to authorize the filing office to refuse to accept for filing any UCC document that does

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not have the statutorily required filing fee. Section 180.18 is amended to provide the filing office extended time to process any UCC search requests that are in excess of 100 pages in length. Section 180.18 is also amended to require that a UCC/Federal Tax Lien searcher designates on the UCC-11 Information Request form if the search is to be performed for either UCC records or Federal Tax Lien records.

- B) Statutory Authority: Implemented and authorized by 9-516, 9-523, and 9-526 of the Uniform Commercial Code Act (810 ILCS 9-516, 9-523, and 9-526) and 110 of The Illinois Federal Lien Registration Act (770 ILCS 110/4).
- C) Scheduled Meeting/Hearing Dates: Unknown
- D) Date Agency Anticipates First Notice: Unknown
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: None
- F) Agency Contact Person for Information:

Illinois Secretary of State
Dennis L. Hankins, Administrator
Department of Business Service
Uniform Commercial Code Division
501 South Second Street, Room 350 West
Springfield, IL 62756
Fax 217-557-4430
dhankins@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: None

- l) Part(s) (Heading and Code Citations): Title 92, Chapter II, Part 1010.220 Vehicles Subject to Registration - Exceptions

- 1) Rulemaking:

- A) Description of Rule(s): This is a proposal to amend and add more defining language to Title 92, Chapter II, Part 1010.220 paragraph c). There is a

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need for some vehicles to be excluded from the requirement to be registered to operate upon the roadways. Implements of Husbandry are such vehicles that are exempt from registration. The Secretary of State finds that there is a need to add more defining language used in the administrative code to further describe the specific types of wagons, trailers and vehicles that Section 5/1-130 of the Illinois Vehicle Code refers to.

B) Statutory Authority: Illinois Vehicle Code sections 5/1-130, 5/2-101 and 5/2-104.

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency Anticipates First Notice: Unknown

E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: Minimal to no impact upon the farm industry.

F) Agency Contact Person for Information:

Illinois Secretary of State
Brad Demuzio, Director
Secretary of State Police
110 E. Adams
Springfield, IL 62701
217-782-7126 Fax 217-524-8020
bdemuzio@ilsos.net

G) Related Rulemakings and Other Pertinent Information: None

m) Part(s) (Heading and Code Citations): Title 92, Chapter II, Part 1010.330, Operation of Vehicles Without Proper Registration

1) Rulemaking:

A) Description of Rule(s): This is a proposal to strike and amend in full Title 92, Chapter II, Part 1010.330 and replace the entire part with all new language. This rule permits the Secretary of State to collect registration fees from second division vehicle owners that operate on the roadways of

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Illinois without lawful authority after apprehension or investigation by one of his sworn investigators. This enables the Secretary of State to collect monies on behalf of the State that it would not be able to do otherwise. There is a need for the Secretary of State to strike and revise in entirety the current rule and replace it with new language to reflect the changes in procedures and policies that the Secretary of State wishes for his office to operate.

B) Statutory Authority: Illinois Vehicle Code Sections 5/3-401, 5/2-101 and 5/2-104.

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency Anticipates First Notice: Unknown

E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: This proposal strictly impacts only those businesses that choose to operate a second division vehicle on Illinois roadways without paying proper fees mandated by statute. This enables the Secretary of State to bring the owner into compliance with the statute.

F) Agency Contact Person for Information:

Illinois Secretary of State
Brad Demuzio, Director
Secretary of State Police
110 E. Adams
Springfield, IL 62701
217-782-7126 Fax 217-524-8020
bdemuzio@ilsos.net

G) Related Rulemakings and Other Pertinent Information: None

n) Part(s) (Heading and Code Citations): Title 92, Chapter II, Part 1020.10, Dealers Established Place of Business

1) Rulemaking:

SECRETARY OF STATE

JULY 2009 REGULATORY AGENDA

- A) Description of Rule(s): This is a proposal to add new language by creating a new paragraph f) to Title 92, Chapter II, Part 1020.10. There are times when a dealer licensed by the Secretary of State as a repairer (auto body shop) has sought approval to operate at the physical location where another separately owned dealer (usually a new vehicle dealer) licensed by the Secretary of State operates. Current rules do not permit this to be allowed. The Secretary of state seeks to add new language to the existing rules to permit such under restrictive guidelines and only when mutually agreed upon by both licensees.
- B) Statutory Authority: Illinois Vehicle Code Sections 5/2-101 and 5/2-104
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency Anticipates First Notice: Unknown
- E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: This proposal only impacts businesses that are licensed by the Secretary of State in a minimal way.
- F) Agency Contact Person for Information:

Illinois Secretary of State
Brad Demuzio, Director
Secretary of State Police
110 E. Adams
Springfield, IL 62701
217-782-7126 Fax 217-524-8020
bdemuzio@ilsos.net

- G) Related Rulemakings and Other Pertinent Information: None
- o) Part(s) (Heading and Code Citations) Title 92, Chapter II, Part 1020.80 Administrative Citation for Violations
- 1) Rulemaking:
- A) Description of Rule(s): This is a proposal for a new administrative rule. This rule would allow Secretary of State Police sworn Investigators to

SECRETARY OF STATE

JULY 2009 REGULATORY AGENDA

issue administrative citations for violations of the administrative rules that a licensed dealer is mandated to operate under. Violators would be given the right to request an administrative hearing held by; the Office of the secretary of State to contest the merits of the citation. A preponderance of evidence by the state or a plea of guilt or no contest b the violator would be required before a hearing officer could implement an administrative fine of \$50.00 per violation or \$100.00 per violation for cases involving repeated offenses. This enables the Secretary of State to collect monies and deposit them into the Secretary of State Police Services fund.

B) Statutory Authority: Illinois Vehicle Code Sections 5/2-101 and 5/2-104 and 5/5-100 et al.

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency Anticipates First Notice: Unknown

E) Effect on Small Businesses, Small Municipalities or Not for Profit Corporations: This proposal strictly impacts only dealer businesses that are licensed by statute by the Secretary of State and who choose not to follow the prescribed rules as mandated by the Administrative Code. Failure to pay fines in a timely manner would result in the revocation of the dealer license.

F) Agency Contact Person for Information:

Illinois Secretary of State
Brad Demuzio, Director
Secretary of State Police
110 E. Adams
Springfield, IL 62701
217-782-7126 Fax 217-524-8020
bdemuzio@ilsos.net

G) Related Rulemakings and Other Pertinent Information: None

ILLINOIS FINANCE AUTHORITY

NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Illinois Finance Authority
- 2) Code Citation: 74 Ill. Admin. Code 1100
- 3) Notice of Proposed Amendments being corrected appeared at: 33 Ill. Reg. 10187, dated July 17, 2009.
- 4) The information being corrected is as follows: These sections were not included on the Notice of Proposed Amendments notice page for item #10:

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1100.800	New	33 IL. Reg. 6130;May 1, 2009
1100.805	New	33 IL. Reg. 6130;May 1, 2009
1100.810	New	33 IL. Reg. 6130;May 1, 2009
1100.815	New	33 IL. Reg. 6130;May 1, 2009
1100.817	New	33 IL. Reg. 6130;May 1, 2009
1100.820	New	33 IL. Reg. 6130;May 1, 2009
1100.825	New	33 IL. Reg. 6130;May 1, 2009
1100.830	New	33 IL. Reg. 6130;May 1, 2009
1100.900	New	33 IL. Reg. 6130;May 1, 2009
1100.905	New	33 IL. Reg. 6130;May 1, 2009
1100.910	New	33 IL. Reg. 6130;May 1, 2009
1100.915	New	33 IL. Reg. 6130;May 1, 2009
1100.917	New	33 IL. Reg. 6130;May 1, 2009
1100.920	New	33 IL. Reg. 6130;May 1, 2009
1100.925	New	33 IL. Reg. 6130;May 1, 2009
1100.930	New	33 IL. Reg. 6130;May 1, 2009

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

Agency: Department of Healthcare and Family Services

Heading of the Part: Medical Payment

Code Citation: 89 Ill Adm Code 140

Section Numbers: 140.14
140.16
140.44

Date Originally Published in the Illinois Register: 8/29/08
32 Ill. Reg. 14003

Date Filing Prohibition Published in Illinois Register: 4/3/09
33 Ill. Reg. 5030

Date Filing Prohibition Became Effective: 3/17/09

Date Filing Prohibition Withdrawn: Effective upon HFS filing the modified rulemaking for adoption

The Joint Committee on Administrative Rules certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on July 14, 2009, has withdrawn the prohibition against the filing of the Department of Healthcare and Family Services' above-mentioned rulemaking contingent and effective upon HFS withdrawal of Section 140.14 from the rulemaking at adoption. The Committee originally issued this Filing Prohibition at its 3/17/09 meeting.

Please take notice that the agency is no longer prohibited from filing the rulemaking with the Secretary of State, as modified in accordance with agreements between the agency and the Joint Committee on Administrative Rules and the Modifications in Response to JCAR Objection, and from enforcing or invoking the rule.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO AND FILING PROHIBITION
OF PROPOSED RULEMAKING

DEPARTMENT OF NATURAL RESOURCES

Heading of the Part: Dam Safety Requirements

Code Citation: 17 Ill. Adm. Code 3703

Section Numbers: 3703.10 3703.40 3703.70
3703.20 3703.50 3703.80
3703.30 3703.60 3703.Appendix A

Date Originally Published in the Illinois Register: 9/5/08
32 Ill. Reg. 14445

At its meeting on July 14, 2009, the Joint Committee on Administrative Rules voted to object to the above-proposed rulemaking and prohibit its filing with the Secretary of State. The reason for the Objection and Prohibition is as follows:

The rulemaking poses a threat to the public interest by imposing significant costs on public landowners, imposing costs and property right restrictions on private landowners not specifically authorized by statute, greatly restricting recreational uses of some public waterways, and potentially exposing public and private landowners to increased legal liabilities.

The proposed rulemaking may not be filed with the Secretary of State or enforced by the Department of Natural Resources for any reason following receipt of this certification and statement by the Secretary of State for as long as the Filing Prohibition remains in effect.

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 July 14, 2009 through July 20, 2009 and have been scheduled for review by the Committee at its August 18, 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>
8/26/09	<u>Illinois Commerce Commission</u> , The Provision, Construction and Maintenance of Sanitation and Shelter Facilities for Rail Carrier Employees (92 Ill. Adm. Code 1545)	3/6/09 33 Ill. Reg. 3793	8/18/09
8/29/09	<u>Department of Human Services</u> , Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	4/10/09 33 Ill. Reg. 5201	8/18/09
8/29/09	<u>Department of Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)	4/17/09 33 Ill. Reg. 5699	8/18/09
8/29/09	<u>Department of Human Services</u> , General Assistance (89 Ill. Adm. Code 114)	4/10/09 33 Ill. Reg. 5228	8/18/09
8/29/09	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	4/10/09 33 Ill. Reg. 5248	8/18/09
8/29/09	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	4/17/09 33 Ill. Reg. 5710	8/18/09
8/30/09	<u>Department of Healthcare and Family Services</u> , Medical Assistance Programs (89 Ill. Adm.	4/17/09 33 Ill. Reg.	8/18/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Code 120)	5683	
8/30/09	<u>Department of Healthcare and Family Services,</u> Hospital Services (89 Ill. Adm. Code 148)	2/27/09 33 Ill. Reg. 3588	8/18/09
8/30/09	<u>Department of Healthcare and Family Services,</u> Hospital Services (89 Ill. Adm. Code 148)	4/17/09 33 Ill. Reg. 5685	8/18/09
9/2/09	<u>Department of Agriculture, Weights and</u> Measures Act (8 Ill. Adm. Code 600)	5/29/09 33 Ill. Reg. 7047	8/18/09
9/2/09	<u>Illinois Commerce Commission, Electric</u> Interconnection of Large Distributed Generation Facilities (83 Ill. Adm. Code 467)	3/6/09 33 Ill. Reg. 3718	8/18/09

Executive Order 2009-16**EXECUTIVE ORDER CREATING THE CEMETERY OVERSIGHT TASK FORCE
AND REQUIRING IMMEDIATE INVESTIGATION OF LICENSEES DOING
BUSINESS WITH BURR OAK CEMETERY**

WHEREAS, the recent tragic events at Burr Oak Cemetery have highlighted a deficiency in our current mechanisms for regulating and overseeing the operation and management of cemeteries; and

WHEREAS, the people of our State demand proper care and handling for the disposition of human remains; and

WHEREAS, establishment of a Task Force would contribute towards establishing an effective system to protect the people of our State.

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the authority vested in me by Article V of the Illinois Constitution, do hereby order as follows:

I. THE CEMETERY OVERSIGHT TASK FORCE

a. Creation

There is hereby created a Cemetery Oversight Task Force (hereinafter "Task Force") composed of nine (9) members having the duties and powers set forth herein, with respect to the Office of the Governor and agencies under the jurisdiction of the Office of the Governor.

b. Purpose

The purpose of the Cemetery Oversight Task Force is to, by September 15, 2009, conduct a comprehensive review of:

1. Illinois' present structural arrangement for regulating cemeteries, funeral directors, and embalmers compared to the manner in which other states arrange their regulatory framework;
2. The substance of Illinois' laws and regulations governing cemeteries, funeral directors and embalmers compared to other states, with a view to recommending for implementation in Illinois the best practices;

Executive Order 2009-16

3. The circumstances surrounding the recent tragic events at Burr Oak Cemetery;
4. The extent to which similar tragedies have occurred or could occur elsewhere.

By September 15, 2009, the Cemetery Oversight Task Force shall submit a report of its findings to the Governor and to the Secretary of the Department of Financial and Professional Regulation. The report should provide detailed recommendations on what policies, laws, rules, and regulations should be implemented to ensure that the manner in which care for the deceased is humane and respectful, including:

- a. How and by what governmental entity the finances of cemeteries and the conduct of cemetery personnel should be regulated;
- b. Whether regulations governing funeral directors, embalmers, and crematoria can or should be strengthened.

c. Membership

In addition to the Secretary of the Department of Financial and Professional Regulation, the Director of the Department of Public Health shall serve as a member of the Task Force. The Governor shall also appoint a chairperson and nine (9) members. The chairperson of the Task Force shall invite the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives and the Minority Leader of the Senate to designate a legislative ombudsperson to contribute to the proceedings of the Task Force on matters of policy and legislation. Legislative ombudspersons shall serve in an ex-officio, non-voting capacity.

d. Transparency

In addition to any other applicable laws, rules, or regulations, all aspects of the Cemetery Oversight Task Force shall be governed by the Freedom of Information Act, 5 ILCS 140/1 et. seq, and the Open Meetings Act, 5 ILCS 120/1 et seq.

II. EXECUTIVE ACTION TO INVESTIGATE POTENTIAL MALFEASANCE

I hereby direct the Secretary of the Department of Financial and Professional Regulation, (hereinafter "the Department") pursuant to the statutory and

Executive Order 2009-16

regulatory authority of that office to order all funeral directors and embalmers licensed by the Department to conduct an audit of all of their books and records and to submit to the Department copies of books and records that reflect or relate to business transactions or communications with Burr Oak Cemetery over the past five years.

III. DEPLOYMENT OF AVAILABLE STATE RESOURCES

Not later than seven (7) days after the effective date of this order, I hereby direct all agencies directly responsible to the Governor to report on the extent to which any resources or personnel under their agency's jurisdiction could assist authorities currently addressing the tragedy at Burr Oak Cemetery.

IV. EFFECTIVE DATE

This Order shall take effect immediately upon its execution.

Issued by Governor: July 16, 2009
Filed with Secretary of State: July 16, 2009

2009-227**GUBERNATORIAL PROCLAMATION**

Severe storms moved through Southern Illinois on the afternoon of May 8, 2009, producing heavy rain, extremely high wind and possibly tornadoes. The storms caused widespread damage to homes, businesses and other structures in towns as well as in rural areas. Downed trees and power lines resulted in the loss of electric power and communications. State highways, county roads and city streets were blocked by debris and the general disruption of essential services resulted in an emergency throughout the area.

In the interest of aiding the citizens of Illinois and the impacted local governments responsible for ensuring public health and safety, I hereby proclaim that a disaster exists in the State of Illinois and specifically declare Hamilton County and Union County as State Disaster Areas pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20ILCS 3305/7.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster response and recovery operations.

Date: July 15, 2009

Filed: July 15, 2009

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 33, Issue 31 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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