

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

Issue#	Rules Due Date	Date of Issue		
			27 June 20, 2011	July 1, 2011
1	December 20, 2010	January 3, 2011	28 June 27, 2011	July 8, 2011
2	December 27, 2010	January 7, 2011	29 July 5, 2011	July 15, 2011
3	January 3, 2011	January 14, 2011	30 July 11, 2011	July 22, 2011
4	January 10, 2011	January 21, 2011	31 July 18, 2011	July 29, 2011
5	January 18, 2011	January 28, 2011	32 July 25, 2011	August 5, 2011
6	January 24, 2011	February 4, 2011	33 August 1, 2011	August 12, 2011
7	January 31, 2011	February 11, 2011	34 August 8, 2011	August 19, 2011
8	February 7, 2011	February 18, 2011	35 August 15, 2011	August 26, 2011
9	February 15, 2011	February 25, 2011	36 August 22, 2011	September 2, 2011
10	February 21, 2011	March 4, 2011	37 August 29, 2011	September 9, 2011
11	February 28, 2011	March 11, 2011	38 September 6, 2011	September 16, 2011
12	March 7, 2011	March 18, 2011	39 September 12, 2011	September 23, 2011
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20	May 2, 2011	May 13, 2011	47 November 7, 2011	November 18, 2011
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26	June 13, 2011	June 24, 2011	53 December 19, 2011	December 30, 2011

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Metropolitan Pier and Exposition Authority or Rosemont Incentive Fund Grant Program
- 2) Code Citation: 14 Ill. Adm. Code 511
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
511.10	New
511.20	New
511.30	New
511.40	New
511.50	New
511.60	New
511.70	New
511.80	New
511.90	New
511.100	New
511.110	New
511.120	New
511.130	New
- 4) Statutory Authority: Implementing and authorized by Section 605/-725 of the Civil Administrative Code of Illinois [20 ILCS 605/605-725] and the Metropolitan Pier and Exposition Authority Act [70 ILCS 210]
- 5) A Complete Description of the Subjects and Issues Involved: Approved by the Senate on January 1, 2010 providing an incentive reimbursement fund to attract convention business and/or tradeshow with attendance of 5,000 or more attendees. The funding is generated by the increase in State tax revenues generated by the attendee spending during the convention and/or tradeshow. This program is a joint initiative with the Department of Commerce and Economic Opportunity and the Metropolitan Pier and Exposition Authority (MPEA) in conjunction with the Chicago Convention and Tourism Bureau (CCTB) and the Village of Rosemont.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings containing incorporations by reference? No
- 11) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act (30 ILCS 805).
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
- Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity
500 East Monroe
Springfield, IL 62701
- 217/557-1820
217/782-0038
jolene.clarke@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses and small municipalities affected: Industries would receive increase revenues generated by attendees utilizing services at hotels, restaurants, retail and transportation such as cabs, airlines and bus services.
- B) Reporting, bookkeeping or other procedures required for compliance: Metropolitan Pier and Exposition Authority (MPEA) would provide all required compliance documentation.
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: the Department did not anticipate the need for rulemaking at the time agendas were published.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 511

METROPOLITAN PIER AND EXPOSITION AUTHORITY
OR ROSEMONT INCENTIVE FUND GRANT PROGRAM

Section

511.10	Purpose
511.20	Definitions
511.30	Eligible Applicant
511.40	Project Eligibility/Application
511.50	Application Process
511.60	Grant Agreement
511.70	Distribution of Grant Funds
511.80	Annual Certification
511.90	Annual Certification Supporting Documentation
511.100	Allocation of Appropriations
511.110	Funding Limitation
511.120	Department Recognition
511.130	Books, Records and Audits

AUTHORITY: Implementing and authorized by Section 605-725 of the Civil Administrative Code of Illinois [20 ILCS 605/605-725] and the Metropolitan Pier and Exposition Authority Act [70 ILCS 210].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

Section 511.10 Purpose

Section 605-725 of the Civil Administrative Code of Illinois and Section 5(l) of the Metropolitan Pier and Exposition Authority Act authorize the Department to make Grants to the Authority and the Village of Rosemont to attract large conventions, meetings and trade shows to be held at the Facilities [20 ILCS 605/605-725] [70 ILCS 210].

Section 511.20 Definitions

The following definitions are applicable to this Part:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

"Act" means Section 605-725 of the Civil Administrative Code of Illinois [20 ILCS 605/605-725].

"Agreement" or "Grant Agreement" means a written document executed between the Grantee and the Department setting forth the rights and obligations of the parties, describing the purpose of the Grant, identifying the manner in which Grant Funds will be paid and expended, specifying the Grant terms during which Grant Funds may be expended, requiring unspent Grant Funds to be returned to the State and other provisions set forth in Section 511.60.

"Applicant" means the Metropolitan Pier and Exposition Authority as defined in the Metropolitan Pier and Exposition Authority Act [70 ILCS 210/2] and the Village of Rosemont.

"Application" means the Applicant's request for Grant Funds, which shall be submitted on the form prescribed and provided by the Department, and shall include supporting documents or attachments as may be required or necessary.

"Authority" means the Metropolitan Pier and Exposition Authority as defined by the Metropolitan Pier and Exposition Authority Act. *MPEA was created as a political subdivision, unit of local government with only those powers authorized by law, body politic and municipal corporation by the name and style of Metropolitan Pier and Exposition Authority with its principal office in the City of Chicago [70 ILCS 210/3] and is responsible for promoting, operating and maintaining fairs, expositions, meetings and conventions in the Metropolitan Area [70 ILCS 210/4].*

"Chicago Convention and Tourism Bureau" means the not-for-profit organization responsible for promoting the City of Chicago and its facilities as an ideal tourism destination for all types of visitors and attracting conventions to Chicago's downtown area.

"Convention Centers" or "Facilities" means Navy Pier, McCormick Place (the Expansion Project), which are owned and operated by the MPEA or the Donald E. Stephens Convention Center, which is owned and operated by the Village of Rosemont.

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"Department" means the Department of Commerce and Economic Opportunity of the State of Illinois.

"Department Logo" means a form of recognition stipulated and supplied by the Department to identify the Project as being funded in part through Grant Funds from the Department.

"Director" means the Director of the Department of Commerce and Economic Opportunity.

"Donald E. Stephens Convention Center" means the facility used as exhibition space for meetings, conventions and exhibits, which is owned and operated by the Village of Rosemont.

"Economic Impact" means the direct financial outcome of visitor spending resulting from attendance at conventions, meetings, exhibitions, trade shows and events at the Convention Centers.

"Eligible Project" or "Event" means a large convention, meeting, tradeshow or similar event held or hosted at one of the Facilities in which registered attendance is in excess of 5,000 or 10,000 individuals, as appropriate to the amount of the Incentive Grant and, as of January 1, 2010, has not previously contracted with the Convention Centers to hold or host an Event at one of its Facilities.

"Grant" or "Incentive Grant" means reimbursement to the Authority or the Village for incentives awarded by the Authority or the Village to attract an Event at one of its Facilities as authorized by the Act. The incentives may take the form of discounts from regular fees charged by the Convention Centers, subsidies for or assumption of, the costs incurred with respect to the Event or other inducements.

"Grant Amount" or "Grant Funds" means the monetary amount that the Department approved and will award to the Grantee for reimbursement of incentives related to the Project or activities contained in the scope of work.

"Grantee" means the Metropolitan Pier and Exposition Authority or the Village of Rosemont.

"Illinois Office of Tourism" means the division of the Department that has the delegated authority to perform all administrative functions relating to the Act.

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"Metropolitan Area" means *all that territory in the State of Illinois lying within the corporate boundaries of the County of Cook* [70 ILCS 210/2].

"Program" means the Metropolitan Pier and Exposition Authority and the Rosemont Incentive Fund Grant Program described in this Part.

"Project" means large conventions, meetings and trade shows that will be held at one or more of the Facilities as described by the Applicant in its Application and approved by the Department in the scope of work of the Grant Agreement.

"Project Budget" means an itemized list of incentives associated with the Project described in the Grant Agreement.

"Registered Attendance" means the actual documentable number of individuals that paid to attend and/or attended a large convention, meeting or trade show that was held at one or more of the Facilities for which an Incentive Grant was awarded.

"Village" means the Village of Rosemont, Illinois.

Section 511.30 Eligible Applicant

The Authority and the Village are the entities authorized to apply for and receive Grant Funds for a Project.

Section 511.40 Project Eligibility/Application

In order for a Project to be eligible for funding under this Program, the Applicant, through its Application, must satisfy/document all of the following criteria.

- a) The Event must be scheduled to be held or hosted at one of the Facilities.
- b) The projected Registered Attendance for an Event held at an MPEA Facility must be either in excess of 5,000 or in excess of 10,000 registered individuals. The projected Registered Attendance for an Event held at the Donald E. Stephens Convention Center must be in excess of 5,000 individuals.

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- c) The Applicant must establish a competitive need for the Incentive Grant by filing a written statement or other documentation evidencing that the receipt of the Grant is essential to the decision to hold or host the Event at one or more of the Facilities. The documentation must show that:
- 1) The Applicant is competing with multi-state or international location options and the Event could reasonably be located outside the State of Illinois; or
 - 2) The Applicant's receipt of the Grant is a major factor for the Event to be held at one or more of the Facilities.
- d) For Events held or to be held at MPEA Facilities, the Authority's Chief Executive Officer and the Authority's Chairman must approve the Project. For Events held or to be held at the Donald E. Stephens Convention Center, the Village must approve the Project. The approval/decision shall include a statement documenting:
- 1) The projected Economic Impact of the Eligible Project, including appropriate supporting data and previous history;
 - 2) For Events at a MPEA Facility, the projected Economic Impact for the Eligible Project must exceed the amount of the Incentive Grant, the amount of which has a direct correlation to the required Registered Attendance whether it is in excess of 5,000 individuals or is in excess of 10,000 individuals. For Events at the Donald E. Stephens Convention Center, the projected Economic Impact for the Eligible Project must exceed the amount of the Incentive Grant, the amount of which has a direct correlation to the required Registered Attendance of more than 5,000 individuals; and
 - 3) Other relevant business decisions the Applicant considered in making its decision to book the Event.
- e) For Events at the MPEA Facilities, the Chicago Convention and Tourism Bureau must have been consulted about the Project.

Section 511.50 Application Process

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- a) Applications under this Program will be accepted on an ongoing basis beginning January 1, with funding awarded through December 31, of each calendar year, or until all appropriated funds have been awarded. The Applicant is required to submit its Application at least 60 days prior to the Event date in order to be considered for funding. However, depending on the purpose of the Grant, the need for the Grant, the Economic Impact to the State, and the timeliness of the Event, it is within the Department's discretion to waive this 60 day period.
- b) The Application will be considered delivered and submitted on the date it is emailed to the Program Manager, which will be considered the official Application. An original and 2 hard copies must be mailed or hand delivered to the Illinois Office of Tourism at the Department's Chicago or Springfield addresses within 2 days after submitting the electronic Application.
- c) Within 30 days after the Department receives the Application, the program manager shall notify the Applicant whether, after a brief review, the Application and attachments are complete. This notice is not in any way an acknowledgment by the Department as to the adequacy of the substance of the Application. If the Application and attachments are incomplete, the Applicant shall be notified of the deficiencies. The Applicant will then have 20 days to cure any deficiencies. In the event the Applicant fails to cure all deficiencies within the 20 days, the Application may be considered null and void and returned to the Applicant.
- d) Within 45 days from the date an Application is determined to be complete, the Program Manager shall notify the Applicant whether the Application has been preliminarily approved. If preliminarily approved, the Department will issue the Applicant a pre-event certification/preliminary approval letter. Similarly, if the Application has been rejected, the notification shall state the reasons for that determination. The preliminary approval will only become final, and Grant Funds will only be distributed after the Event has taken place or has been concluded, and the annual certification processed as outlined in Section 511.80 of this Part is fulfilled.
- e) Applicant can request by letter a withdrawal of application before Event dates.

Section 511.60 Grant Agreement

- a) When an Application has received preliminary approval for funding, the Department and the Applicant/Grantee shall prepare a Grant Agreement anytime

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after the Event has taken place and before the date on which the annual certification including the Event is required to be filed. After the certification process outlined in Section 511.80 has been satisfied, the Grantee and the Department may execute the Grant Agreement. The Grant Agreement may include one or more Events provided each Event has a pre-event certification/preliminary approval letter. The Grant Agreement shall be executed by the Grantee's authorized representative and the Director of the Department or the Director's designee on behalf of the Department.

- b) The Grant Agreement shall contain substantive provisions, and at a minimum, include the following:
- 1) A recitation of legal authority under which the Grant Agreement is made, the time period for which the Grant is valid and the time period during which the Grant Funds may be expended;
 - 2) An identification of the Project/scope of work to be performed or conducted by the Grantee;
 - 3) An identification of the amount of the Grant Award. Any Grant greater than \$25,000 will require the Grantee to file *quarterly reports describing the progress of the program, project, or use and the expenditure of the grant funds* [30 ILCS 705/4(b)(2)];
 - 4) *A provision that all funds remaining at the end of the grant agreement or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee shall be returned to the State within 45 days* [30 ILCS 705/4(b)(5)];
 - 5) The conditions by, and manner in which, the Department shall distribute the Grant Funds to the Grantee, which, at all times, are subject to annual appropriation by the General Assembly;
 - 6) A promise by the Grantee not to assign or transfer any of the rights, duties or obligations of the Grantee without the Department's written consent;
 - 7) A provision that any amendments to the Grant Agreement must be made in writing;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- 8) A covenant that the Grantee has provided space and services valued at the amount of the Grant Award and will expend the Grant Funds and any accrued interest only for the purposes of the Project as stated in the Grant Agreement and as approved by the Department;
- 9) A covenant that the Grantee will not enter into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under this Program;
- 10) A covenant that the Grantee is *required to permit the Department, the Auditor General or the Attorney General to inspect and audit any books, records, or papers related to the program, project, or use for which the grant funds were provided* [30 ILCS 705/4(b)(4)];
- 11) *Contain a provision in which the grantee certifies under oath that all information in the grant agreement is true and correct to the best of the grantee's knowledge, information, and belief; that the funds shall be used only for the purposes described in the grant agreement; and that the award of grant funds is conditioned upon such certification* [30 ILCS 705/4(b)(6)]; and
- 12) Other provisions that the Department deems necessary and appropriate.

Section 511.70 Distribution of Grant Funds

All Grant Funds shall be disbursed on a reimbursement basis only and are subject to appropriation. Before any Grant Funds may be disbursed to the Grantee, the Grantee must make the certification outlined in Section 511.80 and execute a Grant Agreement with the Department. Grant Funds shall be disbursed within 30 days after the later of July 15 or the date the Comptroller orders transferred and the Treasurer transfers into the Metropolitan Pier and Exposition Authority Incentive Fund from the General Revenue Fund the amount of the certified funds or \$15,000,000, whichever is less.

Section 511.80 Annual Certification

For any Grant Funds awarded and for each Event held in any given calendar year, on or before February 15 of the subsequent year, the Authority and the Village shall submit a certified

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

statement and supporting documentation to the Department, the State Comptroller and the State Treasurer documenting the following:

- a) Authority:
 - 1) The Grant Award was approved by the Authority's Chief Executive Officer, the Authority's Chairman and the Department;
 - 2) Registered Attendance at the Event was either in excess of 5,000 individuals or in excess of 10,000 individuals, as required to meet the Economic Impact requirement; and
 - 3) But for the Incentive Grant, the Event would not have taken place at one or more of the MPEA Facilities.
- b) Village:
 - 1) The Grant Award was approved by the Village;
 - 2) Registered Attendance at the Event was in excess of 5,000 individuals; and
 - 3) But for the Incentive Grant, the Event would not have taken place at the Donald E. Stephens Convention Center.

Section 511.90 Annual Certification Supporting Documentation

When the Grantee submits its annual certification, it shall also include the supporting documentation, which includes the following:

- a) A copy of the pre-event certification/preliminary approval letter;
- b) Sufficient documentation evidencing that the required Registered Attendance for the Event was met. In the event the Registered Attendance requirement is not met or cannot be substantially documented, the Grantee will not be entitled to any Grant Funds;

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- c) A statement, with supporting documentation, comparing the projected/estimated Economic Impact with the actual Economic Impact as set forth in Section 511.40(d); and
- d) A letter from the Grantee certifying that the statements of comparison and the Registered Attendance required, as appropriate, were reviewed and audited by the Grantee's appropriate staff or an independent monitor or accountant and that he/she concurs with the findings and certifies the same.

Section 511.100 Allocation of Appropriations

Disbursement of Grant Funds by the Department under this Program shall be made from the Metropolitan Pier and Exposition Authority Incentive Fund.

Section 511.110 Funding Limitation

On an annual and ongoing basis, the Applicant may apply for one or more Grants, the total of which shall not exceed the following limits for the respective Applicants.

- a) Authority:
 - 1) *In no case shall more than \$5,000,000 be awarded in any one year to reimburse incentives granted conventions, meetings, or trade shows with a registered attendance of more than 5,000 and less than 10,000 [70 ILCS 210/5/1(1)].*
 - 2) In any one year, the amount of \$10,000,000 shall be awarded to reimburse incentives granted to conventions, meetings or trade shows with Registered Attendance in excess of 10,000.
- b) Village: In any one year, the amount of \$5,000,000 shall be awarded to reimburse incentives granted to *conventions, meetings or trade shows with Registered Attendance in excess of 5,000 [20 ILCS 605/605-725]*.

Section 511.120 Department Recognition

All Projects funded through this Program shall incorporate the current Department Logo and/or a statement that identifies the Project as being funded in part by the Department and/or the Illinois Office of Tourism.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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Section 511.130 Books, Records and Audit

The Grantee must, at all times, keep proper books, records and accounts in accordance with generally accepted accounting principles. The Grantee is *required to permit the Department, the Auditor General, or the Attorney General to inspect and audit any books and records, or papers related to the program, project, or use for which grant funds were provided* [30 ILCS 705/4(b)(4)].

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedures To Be Followed In The Performance Of Inspections Of Motor Vehicle Emissions
- 2) Code Citation: 35 Ill. Adm. Code 276
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
276.101	Amendment
276.102	Amendment
276.103	Amendment
276.104	Amendment
276.201	Amendment
276.203	Amendment
276.204	Amendment
276.205	Amendment
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276.502	Amendment
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276.507	Amendment
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ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

276.602	Amendment
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276.903	Repeal
276.1001	Amendment
276.1002	Amendment
276.1101	New
276.TABLE A	Repeal
276.TABLE B	Repeal

- 4) Statutory Authority: Section 13C-10 and 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-10 and 13C-20]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency's (Illinois EPA) proposal would amend Part 276 to reflect the adoption of the Vehicle Emissions Inspection Law of 2005 ("VEIL of 2005") (P.A. 94-526) (625 ILCS 5/13C), an amendment to the VEIL of 2005 (P.A. 94-848), and to make necessary improvements to the program. The VEIL of 2005 was a replacement for, and continuation of, the program established under the Vehicle Emissions Inspection Law of 1995 ("VEIL of 1995") (625 ILCS 5/13B). The VEIL of 2005 was modeled off of the VEIL of 1995, but added definitions relating to the on-board diagnostic ("OBD") inspection test; exempted model year 1995 and older vehicles from inspection; replaced the transient loaded mode ("IM240") emissions test with the OBD test as the primary vehicle inspection test; maintained the steady-state idle exhaust gas analysis and evaporative system integrity tests as secondary tests; revised the OBD test; revised waiver provisions; added a provision for vehicles located outside of the affected counties; removed the prohibition against contractor repairs; and made other additions. An amendment to the VEIL of 2005 provided that the owner of a subject vehicle must obtain an emission compliance certificate to demonstrate compliance and established a system of registration denial for vehicles in noncompliance with the inspection requirement.

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The proposed amendments to Part 276 have been developed to reflect the VEIL of 2005, including an amendment to that Act. Also, the proposed amendments have been developed to reflect improvements to the program. The proposed amendments remove definitions relating to the proposed removal of the IM240 emissions test, add new definitions and clarify other definitions. The amendments propose the removal of the IM240 emissions test procedures, related provisions, and all references thereto to reflect full implementation of OBD testing. The amendments require a subject vehicle owner to obtain, but not display or possess, an emissions compliance certificate in order to obtain or renew the subject vehicle's registration. The amendments specify the design of an emissions compliance certificate. The amendments remove all different types of inspection certificates or stickers and propose the use of a universal "emission compliance certificate." The amendments clarify the recordkeeping requirements relating to maintenance and calibrations performed. The amendments revise provisions relating to waivers, economic hardship, fleet self-testing, grievances, test notices, and reciprocity. The amendments propose a new Section relating to the collection and reporting of repair facility data. The amendments propose a new Section providing requirements for obtaining an emissions compliance certificate where the vehicle is located and being primarily operated outside the affected counties. The proposed amendments eliminate Table A and B relating to the IM240 test. Finally, the proposed amendments update and clarify other provisions in the Part.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Illinois EPA relied on various sources to compose this rulemaking. Copies of these sources are available for review with the Illinois EPA at 1021 N. Grand Avenue East, Springfield, Illinois 62794 and are listed below:
1. Vehicle Emissions Inspection Law of 2005 (625 ILCS 5/13C)
 2. 40 CFR 51, subpart S (2010)
 3. 40 CFR 85, subpart W (2010)
 4. 66 Fed. Reg. 18156-18179 (April 5, 2001)
- 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? Yes

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois EPA will accept written public comments on this proposal for a period 45 days after the date of publication in the *Illinois Register*. Comments should reference the Vehicle Emissions Inspection and Maintenance Program and be addressed to:
- Kent E. Mohr Jr.
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
- 217/782-5544
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses, small municipalities and not for profit corporations may be required to have their vehicles inspected in accordance with the Vehicle Emissions Inspection Law of 2005 and this Part.
- B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking requires vehicle emissions inspectors to perform vehicle emissions inspections in accordance with the procedures and other requirements established by the rule. Also, the rulemaking requires vehicle emissions inspectors to report maintenance and calibrations records to the Illinois EPA. Further, the rulemaking requires certain repair facilities to report repair facility performance data to the Illinois EPA.

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- C) Types of professional skills necessary for compliance: For motorists, none. Vehicle emissions inspectors must be trained in performing vehicle emissions inspections and maintenance of vehicle emissions inspection equipment.

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 276

PROCEDURES TO BE FOLLOWED IN THE PERFORMANCE
OF INSPECTIONS OF MOTOR VEHICLE EMISSIONS

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276.305	Exempt Emissions Inspection Stickers or Certificates <u>(Repealed)</u>

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276.306	Renewal Emissions Inspection Stickers or Certificates (Repealed)
276.307	Temporary Emissions Inspection Stickers or Certificates (Repealed)
276.308	Corrected or Interim Emissions Inspection Stickers or Certificates (Repealed)
276.309	Waiver Emissions Inspection Stickers or Certificates (Repealed)
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276.401	Waiver Requirements
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276.503	Steady-State Idle Exhaust Test Analysis Systems Performance Criteria
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276.505	Transient Loaded Mode Test Systems Functional Requirements (Repealed)
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276.601	Steady-State Idle Test Equipment Maintenance
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- 276.604 Record Keeping
| 276.605 Transient Loaded Mode Test Equipment Maintenance and Calibration (~~Repealed~~)
276.606 On-Road Remote Sensing Test Systems Maintenance and Calibration
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- 276.1001 Requirements for Vehicles Registered in Affected Counties and Located in Other Jurisdictions Requiring Vehicle Emissions Inspection
276.1002 Requirements for Vehicles Registered in Other Jurisdictions Requiring Vehicle Emissions Inspection and Located in an Affected County

SUBPART K: REPAIR FACILITY PERFORMANCE REPORTING

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276.1101 Requirements for Collecting and Reporting Data Pertaining to the Repair of Vehicles that Failed or Were Rejected from an Emissions Inspection.276.TABLE A Transient Driving Cycle (~~Repealed~~)276.TABLE B Fast-Pass Speed Variation Limits Using Positive Kinetic Energy (PKE) Measurements (~~Repealed~~)

AUTHORITY: Implementing the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C] and authorized by Sections 13C-10 and 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-10 and 13C-20].

SOURCE: Adopted at 10 Ill. Reg. 13954, effective August 13, 1986; amended at 16 Ill. Reg. 10230, effective June 15, 1992; amended at 20 Ill. Reg. 8456, effective June 14, 1996; amended at 22 Ill. Reg. 18867, effective September 28, 1998; amended at 26 Ill. Reg. 8113, effective May 17, 2002; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 276.101 Purpose and Applicability

- a) Purpose
This Part establishes specific requirements and procedures to be followed in complying with the motor vehicle emissions inspection requirement and specific requirements and ~~specific~~ procedures to be followed in the performance of inspections of motor vehicle emissions.
- b) Applicability
The provisions of this Part ~~apply to~~ apply to necessary for the implementation of the ~~Enhanced I/M testing program mandated by the~~ Vehicle Emissions Inspection Law of ~~2005~~ 1995 ~~shall be implemented upon initiation of the Enhanced I/M testing program, scheduled to begin December 1, 1998.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.102 Definitions

- a) Except as hereinafter stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5] and the Vehicle

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Emissions Inspection Law of ~~2005~~1995 [625 ILCS 5/~~Ch.~~ 13CB].

b) The following definitions apply to this Part:

"Accuracy" means the combination of bias and precision errors, technically defined as uncertainty, that quantifies the differences between a measured and true value.

~~"Adjusted loaded vehicle weight (ALVW)" means the vehicle curb weight plus the gross vehicle weight rating divided by two.~~

"Affected county" means any county or portion thereof, as defined in Section 13CB-5 of the Vehicle Emissions Inspection Law of ~~2005~~1995.

"Agency" means the Illinois Environmental Protection Agency or its designee.

~~"Assigned test month" means the month and year allocated by the Agency for testing a vehicle. The first day of the Assigned Test Month shall be 4 months prior to the sticker or certificate Expiration Date.~~

"Calibration gas" means a gas of known concentration used to establish the response curve of the exhaust gas analyzer.

~~"Corrected or interim emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.308 of this Part that contains a reassigned vehicle test month issued to the owner(s) of a vehicle subject to emissions inspection who has petitioned the Agency for a change in Assigned Test Month, and whose vehicle has previously been issued an Initial Emissions Inspection Sticker or Certificate with an Assigned Test Month.~~

"Diagnostic trouble code (DTC)" means an alphanumeric code that is set in a vehicle's onboard computer when a monitor detects a condition likely to indicate the existence of an emission related malfunction of the vehicle.

"Drift" means the amount of change in analyzer reading over a period of time. Zero drift refers to the change of zero reading. Span drift refers to a change in the reading at a specified span gas calibration point.

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"Economic hardship extension" means a ~~time extension of~~ one year ~~extension to the test-by date~~ that may be granted to the ~~owner~~owner(s) of a vehicle in order for the ~~owner~~owner(s) to comply with the requirements of the Vehicle Emissions Inspection Law of ~~2005~~1995.

~~"Emissions compliance certificate" means a certificate issued to an owner of a vehicle registered in an affected county who successfully complies with the Vehicle Emissions Inspection Law of 2005 and the requirements of this Part. As required by the context, this means either an emissions compliance certificate, annual exemption certificate or emissions inspection certificate.~~

"Emission control devices" means those components of a vehicle which were designed and are used to control vehicle exhaust and evaporative system emissions. For the purpose of this Part, this term refers to components with which the vehicle was originally equipped or direct replacements.

~~"Equivalent test weight" means the loaded vehicle weight for light duty vehicles and light duty trucks 1, and the adjusted loaded vehicle weight for light duty trucks 2 and heavy duty trucks.~~

"Evaporative system integrity test" means a test of the fuel cap portion of a vehicle's evaporative system, which consists of either a fuel cap leak flow test, a fuel cap pressure decay test, or a fuel cap visual functional test, as applicable.

~~"Exempt emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.305 of this Part to the owner(s) of a vehicle registered in an Affected County which is exempt from emissions inspection pursuant to Section 13B-15(f) or 13B-15(g) of the Vehicle Emissions Inspection Law of 1995, and the requirements of this Part.~~

"Exhaust gas analyzer" means a device that has the capability to identify unknown concentrations of particular constituents in motor vehicle exhaust gases by comparison with known concentrations of analytical gases.

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~~"Expiration date" means the deadline for having a vehicle inspected and obtaining the appropriate sticker or certificate.~~

"Fleet inspection permit" means a permit issued to fleet self-testers in accordance with Subpart G.

"Fleet inventory" means those vehicles ~~that which~~ have been registered with the Agency for the purpose of fleet self-testing and ~~that which~~ have been assigned a test ~~eligibility date~~month.

"Fleet vehicle" means any non-exempt vehicle registered with the Agency for the purpose of fleet self-testing.

"Fuel cap" means a device used to seal a vehicle's fuel inlet.

"Fuel cap leak flow test" means a test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap leak flow tester to determine whether the vehicle complies with the evaporative system emission standards of 35 Ill. Adm. Code 240.

"Fuel cap leak flow tester (fuel cap tester)" means a device used to determine the leak flow integrity of a vehicle's fuel cap by comparing the measured leak flow of the fuel cap with an established fuel cap leak flow standard.

"Fuel cap pressure decay test" means the test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap pressure decay tester to determine whether the vehicle complies with the evaporative system emission standards of 35 Ill. Adm. Code 240.

"Fuel cap pressure decay tester" means a device used to determine the pressure decay integrity of a vehicle's fuel cap by monitoring the pressure behind the fuel cap for a 10 second period and comparing the measured pressure decay of the fuel cap to an established fuel cap pressure decay standard.

"Fuel cap visual functional test" means the test performed in accordance with this Part on a vehicle's fuel cap using visual analysis to determine

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whether the vehicle complies with the evaporative system emission standards of 35 Ill. Adm. Code 240.

"Full-service official inspection station" means an inspection station that offers the full range of emissions inspection services and customer service functions, including waiver inspections.

~~"Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.~~

"HC hangup" means hydrocarbons which cling to the surface of the analyzer gas sampling stream causing errors in hydrocarbon readings.

~~"Heavy duty vehicle (HDV)" means a motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.~~

"High idle" means a vehicle operating condition with engine disconnected from an external load (placed in either neutral or park) and operating at a speed of 2500 ± 300 RPM.

"Household income" means the gross income of all household members, except wage or salary income earned by dependent minors under 18 years of age. A head of household and his or her spouse are not considered as minors. Gross income includes wages, interest, annuities, pensions, social security, retirement, disability, public aid, alimony, child support, unemployment benefits, workers' compensation, and any other indirect income such as utility allowances.

"Idle mode" means that portion of a vehicle emission test procedure conducted with the engine disconnected from an external load and operating at minimum throttle.

~~"Initial emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.304 of this Part to the owner(s) of a vehicle that has not been tested because such vehicle was not previously subject to inspection, but has become subject to inspection in accordance with the Vehicle Emissions Inspection Law of 1995.~~

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"Initial idle mode" means the first of up to two idle mode sampling periods during a steady-state idle mode test, during which exhaust emission measurements are made with the vehicle in "as-received" condition.

~~"Interference" means those exhaust gas analyzer read-out errors caused by instrument response to non-interest gases typically occurring in vehicle exhaust.~~

~~"Light duty truck 1 (LDT1)" means a motor vehicle rated at 6,000 pounds maximum GVWR or less and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.~~

~~"Light duty truck 2 (LDT2)" means a motor vehicle rated between 6,001 and 8,500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.~~

~~"Light duty vehicle (LDV)" means a passenger car or passenger car derivative capable of seating 12 passengers or fewer.~~

~~"Loaded vehicle weight" means the vehicle curb weight plus 300 pounds.~~

"Low income" means the household income during the preceding 12 month period was not more than 150 percent of the latest available poverty guidelines established by the U.S. Department of Health and Human Services for the contiguous United States and the District of Columbia.

"Malfunction indicator light (MIL)" means the light found on the dashboard of OBD-equipped vehicles that is required to be illuminated when the OBD system detects malfunctions likely to result in emissions exceeding applicable emission standards. The MIL must display the

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phrase "Check Engine" or "Service Engine Soon". The word "Powertrain" may be substituted for "Engine". Alternatively, the ISO engine symbol may be substituted.

"National Institute of Standards and Technology (NIST) gas" means a standard gas maintained or made available by the National Institute of Standards and Technology for the purpose of determining the accuracy of calibration gases.

"Non-exempt vehicle" means any vehicle subject to emission inspections, regardless of whether the vehicle is in a certified configuration, under the Vehicle Emissions Inspection Law of ~~2005~~1995.

"Non-fleet vehicle" means any non-exempt vehicle except for vehicles registered with the Agency for the purpose of fleet self-testing.

"Official inspection station" means a vehicle emission inspection facility operated by the Agency or the Agency's Contractor for the purpose of conducting emission inspections on non-fleet vehicles.

~~"On-board diagnostic data link connector (DLC)" means the interface between a vehicle's OBD system and the OBD scan equipment.~~

"On-board diagnostic readiness code" means a status flag stored by a vehicle's onboard computer that indicates whether a given monitor has been run (i.e., whether the component or system in question has been checked to determine if it is functioning properly).

~~"On-board diagnostic (OBD) system" means equipment designed to monitor the performance of emission control equipment, fuel metering systems, ignition systems and other equipment and operating parameters for the purpose of detecting malfunctions or deterioration in performance that would be expected to cause the vehicle to exceed federal emission standards.~~

"On-board diagnostic test" means the electronic retrieval of stored readiness status, diagnostic trouble codes, and MIL illumination status from a vehicle's OBD system to determine if any emission related trouble codes are present and if the MIL is commanded to be on, which would

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indicate the existence of an emission related malfunction with the vehicle.

"On-road remote sensing test" means the observation, measurement, and recording of vehicle exhaust emission concentrations of hydrocarbons (HC), carbon monoxide (CO), and carbon dioxide (CO₂) present in each in-use vehicle while traveling on roadways or in specified areas by equipment that is not connected to the vehicle.

"Preconditioning mode" means a period of steady-state loaded mode or high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failure caused by improper or insufficient warm-up.

"Private official inspection station" means a vehicle emission inspection facility operated by a registered owner or lessee of 15 or more non-exempt fleet vehicles.

"Recognized repair technician" means a person professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission related diagnosis and repair.

~~"Renewal emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.306 of this Part to an owner of a vehicle which successfully passes a vehicle emissions test in accordance with the provisions of this Part.~~

"Second-chance idle mode" means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

"Span gas" means a gas of known concentrations which is used to check or adjust the analyzer response characteristics to those determined by the calibration gases.

"Steady-state idle test" means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if

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necessary, by a ~~loaded or~~ high idle preconditioning mode and a second-chance idle mode.

~~"Temporary emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.307 of this Part to an owner of a vehicle subject to inspection which currently has a valid initial or renewal emission inspection sticker or certificate, and which has met the requirements of this Part.~~

~~"Test-by date (TBD)" means the date by which the vehicle is due to have an emissions inspection and corresponds to the date the vehicle's registration will expire. For non-expiring vehicle registrations, the TBD is the date of the vehicle's purchase anniversary month or, if not available, the month the vehicle was added to the Illinois Secretary of State's registration database.~~

~~"Test cycle" means the two-year period between a vehicle's test eligibility datesAssigned Test Months.~~

~~"Test eligibility date (TED)" means the first day of the third month prior to the vehicle's TBD.~~

~~"Vehicle curb weight" means the actual vehicle weight plus standard equipment and a full fuel tank.~~

~~"Vehicle emissions test notice" means a notice sent by the Agency to the owners of a vehicle informing the owners of the need to comply with the requirements of the Vehicle Emissions Inspection Law of 2005.~~

"Vehicle inspection report" means a report issued to the motorist indicating the results of an emission inspection or waiver determination.

"Visual functional test" means a visual examination of a vehicle's fuel cap for any readily apparent wear, tampering, or defects which would prevent the fuel cap from operating properly.

"Waiver" means a suspension of the requirement that a non-exempt vehicle comply with ~~test~~exhaust emission standards after two or more attempts to do so, as provided for in this Part.

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~~"Waiver emissions inspection sticker or certificate" means a sticker or certificate issued in accordance with Section 276.309 of this Part to the owner(s) of a vehicle which has failed a vehicle emissions test and at least one retest, but successfully complies with the applicable waiver requirements of this Part.~~

"Waiver inspection" means an inspection conducted by a waiver inspector to determine waiver eligibility.

"Waiver inspector" means a person authorized by the Agency to conduct waiver inspections and to approve or disapprove applications for a waiver.

~~"Waiver inspection report" means a form containing waiver eligibility requirements which is completed by a waiver inspector to determine whether a vehicle is eligible for a waiver.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.103 Abbreviations

Abbreviations used in this Part include the following:

ALVW	adjusted loaded vehicle weight
cc/min	cubic centimeters per minute
CO	carbon monoxide
CO ₂	carbon dioxide
CFV	critical flow venturi
CVS	constant volume sampler
DLC	data link connector
DTC	diagnostic trouble code
gpm	grams per mile
GVWR	gross vehicle weight rating
HC	hydrocarbons, as hexane
HDV	heavy duty vehicle
hr	hour
I/M	inspection and maintenance
kW	kilowatt
LDT1	light duty truck 1

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LDT2	light duty truck 2
LDV	light duty vehicle
LVW	loaded vehicle weight
mi	mile, miles
MIL	malfunction indicator light
NDIR	non-dispersive infrared
NIST	National Institute for Standards and Technology
NO	nitrogen oxide
NO _x	oxides of nitrogen
NO₂	nitrogen dioxide
OBD	on-board diagnostics
ppm	parts per million by volume
ppmC	parts per million, carbon
psi	pounds per square inch
RPM	revolutions per minute
SDM	source detector module
TBD	test-by date
TED	test eligibility date
VIN	vehicle identification number
SE	standard error of estimate
SSV	subsonic venturi

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.104 Incorporations by Reference

The following materials are incorporated by reference and include no later editions or amendments:

- a) ~~40 CFR 85.2225 (July 1, 1994) United States Environmental Protection Agency (USEPA), "IM240 and Evaporative Test Guidance: 1998 Revised Technical Guidance," Report EPA-AA-RSPD-IM-98-1 (Draft), 2565 Plymouth Road, Ann Arbor MI 48105 (March 1998):~~

~~NOTE: Sections of this Guidance are referenced as though they are sections of 40 CFR 85.~~

- b) ~~United States Environmental Protection Agency (USEPA), "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment~~

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~~Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance," Report EPA-AA-RSPD-IM-96-1 (Draft), 2565 Plymouth Road, Ann Arbor MI 48105 (June 1996).~~

~~NOTE: Sections of this Guidance are referenced as though they are sections of 40 CFR 85.~~

~~be)~~ 40 CFR 85.2222, 85.2223, and 85.2231 (July 1, 2001).

~~d)~~ ~~40 CFR 51.353(e), 51.358(b) and Appendix D to Subpart S (July 1, 2001).~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART B: VEHICLE EMISSIONS INSPECTION PROCEDURES

Section 276.201 General Description of Vehicle Emissions Inspection Procedures

Compliance with ~~steady-state idle vehicle exhaust~~, evaporative ~~system integrity emissions~~, ~~OBD on-board diagnostics~~, and on-road sensing ~~test~~ standards ~~contained in 35 Ill. Adm. Code 240~~ shall be determined by use of test procedures and other requirements as applicable, as set forth in this Part, and shall be performed to the extent practicable. ~~The test procedure applicable to each non-exempt vehicle shall be based on the model year and vehicle type as supplied by the manufacturer. If this information is not available from the manufacturer, the model year and vehicle type shall be based on registration information as supplied by the Illinois Secretary of State.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.203 Dilution - Steady-State Idle Exhaust Test ~~and Transient Loaded Mode Exhaust Test~~

~~a) Steady-State Idle Exhaust Test~~ To prevent excess dilution in a steady-state idle exhaust emissions test described in Section 276.204, the sample probe shall be inserted a minimum of 10 inches into the vehicle's tailpipe. Extension boots shall be utilized if it is impossible to insert the sample probe at least 10 inches into the tailpipe. A vehicle emission test shall be invalid if the applicable emission standards contained in 35 Ill. Adm. Code 240 are met but the sum of the CO and CO₂ concentrations in the exhaust gas does not exceed 6 percent during the sample averaging period(s).

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b) ~~Transient Loaded Mode Exhaust Test~~

~~To prevent excess dilution in a transient loaded mode exhaust emissions test described in Section 276.207, the exhaust collection system shall be positioned to insure complete capture of the entire exhaust stream from the tailpipe during the transient driving cycle. The test system shall verify that the entire exhaust stream is being collected through continuous monitoring of exhaust CO₂ generated during the transient driving cycle and comparison with theoretical levels of exhaust CO₂ produced by the vehicle being tested. A vehicle emission test shall be invalid if the measured values fall below expected values during the transient driving cycle. At a minimum, the emission test shall be invalid if five consecutive one-second average CO₂ values fall below 0.085 percent during seconds 5 through 220 of the transient driving cycle.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.204 Steady-State Idle Exhaust Emissions Test Procedures

a) Steady-State Idle Test

~~1) Test Description~~ The steady-state idle test ~~with loaded preconditioning~~ may be substituted for the ~~OBD test~~ ~~transient loaded mode exhaust gas analysis~~ for those vehicles identified in Section 13 ~~CB-25(e) and~~ (d) of the Vehicle Emissions Inspection Law of ~~2005~~ 1995. The steady-state idle test ~~with loaded preconditioning~~ consists of a first-chance idle mode test followed, if necessary, by a second-chance test. The second-chance test consists of a ~~loaded preconditioned mode using a dynamometer, or a~~ high idle preconditioned mode while in neutral or park, followed immediately by an idle mode.

2) ~~Engine Re-Start~~

~~In addition to the test procedures of this Section, the engines of 1981-1987 model year Ford Motor Company vehicles and 1984-1985 model year Honda Preludes must be shut off for not more than 10 seconds and restarted prior to initiating the idle mode of the second-chance test. The probe shall be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.~~

b) General Requirements

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- 1) Initial tests (i.e., those occurring for the first time in a vehicle's scheduled test cycle) shall be performed without repair or adjustment at the inspection facility prior to the test.
- 2) Tests shall be performed with Agency-approved equipment that has been calibrated according to the quality procedures contained in Section 276.602 of this Part.
- 3) Vehicles with apparent leaks of fuel, oil, coolant, or exhaust shall not be tested.
- 4) Vehicles with missing tail pipe sections which would prohibit full insertion of an analyzer probe shall not be tested.
- 5) Vehicles shall be tested with their engines and emissions control systems at normal operating temperatures and not overheating (as indicated by gauge, temperature lamp, touch test on the radiator hose, and/or boiling radiator).
- 6) Vehicles shall be tested without any accessories in operation.
- 7) Vehicles must be operated during each mode of the test with the gear selector in ~~the position described as follows:~~
 - A) ~~in drive for automatic transmissions and in second (or third if more appropriate) for manual transmissions for the loaded preconditioning mode; and~~
 - B) ~~in~~ neutral or park for the idle mode test and the high idle preconditioning mode.
- 8) For vehicles with multiple tailpipes, separate test results from each tailpipe shall be numerically averaged for each pollutant sampled unless equipment capable of simultaneously sampling multiple tailpipes is utilized.
- 9) ~~Vehicles subject to loaded mode preconditioning under subsection (e)(2)(B)(i) of this Section shall be rejected from testing if drive axle tires:~~

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- ~~A) exhibit visible cords, belts, bubbles, cuts, or other damage, or~~
- ~~B) are space-saver spare tires, or~~
- ~~C) are not reasonably sized.~~
- ~~10) Vehicles subject to loaded mode preconditioning under subsection (e)(2)(B)(i) of this Section shall have their drive axle tires inspected for proper inflation. If the air pressure of one or more of these tires appears low, it shall be inflated to approximately 30 psi, or to tire sidewall pressure, or manufacturer's recommendations.~~
- c) Procedures
- 1) The analysis of exhaust gas concentrations must begin 10 seconds after the applicable test mode begins.
- 2) Exhaust gas concentrations must be analyzed at a minimum rate of once every 0.75 second.
- 3) The measured value for the pass/fail determination shall be a simple running average of the measurements taken over 5 seconds.
- ~~4) When used for loaded mode preconditioning, the dynamometer must be warmed up, in stabilized operating condition, adjusted, and calibrated in accordance with the procedures contained in Section 276.603 of this Part. Prior to each test, variable-curve dynamometers must be checked for proper setting of the road-load indicator or road-load controller.~~
- ~~45) With the exception of those vehicles specified in subsections (c)(56) and (e)(7) of this Section, the tachometer must be attached to the vehicle in accordance with the analyzer manufacturer's instructions.~~
- 56) Vehicles that cannot continuously meet the engine speed requirements of subsection (e)(1)(B) of this Section within 30 seconds after initiation of the first-chance test shall be rejected upon verification of the proper operation and placement of the tachometer. If it is determined that the operation or placement of the tachometer is faulty, immediate corrective action shall be taken and the vehicle shall be retested in accordance with

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subsection (e) of this Section.

~~7) For 1996 and newer model year LDVs, LDT1s, and LDT2s, the OBD data link connector shall be used to monitor RPM. In the event that an OBD data link connector is not available or that an RPM signal is not available over the data link connector, a tachometer shall be used instead.~~

~~68)~~ If the engine ~~or vehicle speed, as applicable,~~ falls outside the limits specified in subsections (e)(1)(B), ~~(e)(2)(B)(i), (e)(2)(B)(ii)~~ or (e)(2)(C) of this Section, as applicable, for more than 5 seconds in any one excursion, or 15 seconds over all excursions within a test mode, the mode timer shall be reset to zero and the mode restarted.

~~79)~~ For vehicles whose design prevents the monitoring of the engine rpm rate with a tachometer, the engine speed requirements of subsections (e)(1)(B), (e)(2)(B), and (e)(2)(C) of this Section shall not apply. The preconditioning mode of a second-chance idle test shall consist of accelerating the vehicle's engine to an estimated rate of 2500 rpm for a period of 30 seconds prior to initiating a second-chance idle mode test.

~~810)~~ The sample probe must be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension must be used.

~~911)~~ The measured concentration of CO plus CO₂ must be greater than or equal to 6 percent or the vehicle will be rejected.

~~1012)~~ If a vehicle's engine stalls at any time during the test sequence, the test shall be aborted and restarted. If after 3 attempts the test cannot be completed, the vehicle shall be rejected.

d) Pass/Fail Determination

A pass or fail determination is made for each applicable test mode based on a comparison of the test standards contained in 35 Ill. Adm. Code 240.152 with the measured value for HC and CO as described in subsection (c) of this Section. A vehicle passes the test mode if any pair of simultaneous measured values for HC and CO are below or equal to the applicable test standards. A vehicle fails the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above applicable standards.

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e) Test Sequence

The steady-state idle test consists of a first-chance test and a second-chance test. The first-chance test consists only of an idle mode. The second-chance test consists of a preconditioning mode followed immediately by an idle mode, and is performed only if the vehicle fails the first-chance test.

1) First-Chance Test

- A) The test starts when the conditions specified in subsections (e)(1)(B) and (e)(1)(C) of this Section are met.
- B) The mode starts when the vehicle engine speed is between 350 and 1300 rpm. The minimum mode length is determined as described under subsection (e)(1)(C) of this Section.
- C) The pass/fail analysis begins after an elapsed time of 10 seconds. A pass or fail determination is made for the vehicle and the mode is terminated in accordance with subsections (e)(1)(C)(i) through (e)(1)(C)(iv) of this Section.
 - i) The vehicle passes the idle mode and the test terminates on or before an elapsed time of 30 seconds, if the measured values are less than or equal to the applicable test standards as described in subsection (d) of this Section.
 - ii) The pass/fail analysis shall continue beyond 30 seconds as long as emission readings are declining based upon comparison of the last 5 consecutive measured values. The vehicle passes the idle mode and the test is immediately terminated if, at any point between an elapsed time of 30 seconds and 90 seconds, the measured values are less than or equal to the applicable test standards described in subsection (d) of this Section.
 - iii) The vehicle fails the first-chance test if the provisions of subsection (e)(1)(A), (e)(1)(C)(i), or (e)(1)(C)(ii) of this Section are not met.

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- iv) The vehicle shall fail the first-chance test and the second-chance test shall be omitted if no measured values less than 1800 ppm HC are found by an elapsed time of 30 seconds.

2) Second-Chance Test

- A) If the vehicle fails the first-chance test, a second-chance test is performed except as described in subsection (e)(1)(C)(iv) of this Section.
- B) Preconditioning Mode

~~At all Official Inspection Stations, and those Private Official Inspection Stations equipped with dynamometers, all LDVs, LDT1s, and LDT2s that require a second chance test shall be preconditioned in accordance with the loaded mode procedures specified in subsection (e)(2)(B)(i) of this Section. All LDVs, LDT1s, LDT2s, and HDVs that, because of the vehicle design or configuration, cannot be preconditioned on the dynamometer, or are tested at Private Official Inspection Stations not equipped with dynamometers, shall be preconditioned using the high idle preconditioning procedures specified in subsection (e)(2)(B)(ii) of this Section.~~

i) ~~Loaded Preconditioning Mode~~

~~The mode starts when the dynamometer speed is within the limits specified for the vehicle engine size in accordance with the following schedule. The mode continues for an elapsed time of 30 seconds.~~

Dynamometer Test Schedule

<u>Number of Cylinders</u>	<u>Roll Speed Mph (km/hr)</u>	<u>Brake Horsepower (kW)</u>
4 or less	22-25 (35-40)	2.8-4.1 (2.1-3.1)

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5 to 6	29-32 (47-52)	6.8-8.4 (5.1-6.3)
7 or more	32-35 (52-56)	8.4-10.8 (6.3-8.1)

ii) ~~High Idle Preconditioning Mode~~

The high idle preconditioning mode starts when the engine speed is between 2200 and 2800 rpm, or between 1650 and 1950 rpm on specified vehicles equipped with ZF 4-speed Automatic Transmissions. The mode continues for an elapsed time of 30 seconds.

C) Idle Mode

The mode starts 5 seconds after ~~the dynamometer speed has reached zero if loaded preconditioning has been used, or when~~ the vehicle engine speed ~~return to is~~ between 350 and 1300 rpm ~~after if~~ high idle preconditioning ~~is used~~. The minimum idle mode length is determined as described in subsection (e)(2)(D) of this Section.

D) The pass/fail analysis begins after an elapsed time of 10 seconds. A pass or fail determination is made for the vehicle and the idle mode is terminated in accordance with the following:

- i) ~~The~~ vehicle passes the idle test and the test terminates on or before an elapsed time of 60 seconds if the measured values are less than or equal to the applicable test standards as determined by the procedure described in subsection (d) of this Section;
- ii) ~~The~~ vehicle fails the idle test and the test terminates if the provisions of subsection (e)(2)(D)(i) are not met within an elapsed time of 60 seconds.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.205 Evaporative System Integrity Test Procedures

- a) Applicability

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The evaporative system integrity test shall be performed in accordance with the fuel cap leak flow test procedures or fuel cap pressure decay test procedures, and fuel cap visual functional test procedures specified in subsections (b) and (c) of this Section.

b) Test Procedures

1) Fuel Cap Leak Flow Test

The fuel cap shall be removed from the vehicle's fuel inlet and installed on the fuel cap leak flow tester, using an adapter if necessary. All fuel caps that require a key for removal from the vehicle's fuel inlet shall be tested with the key removed from the lock. ~~The workstation~~ ~~At Official Inspection Stations, the lane computer~~ shall provide the ~~inspector~~ ~~lane operator~~ with information as to whether the fuel cap tester can be used to test the vehicle's fuel cap and which adapter, if any, is required, based on one or more of the following items: vehicle identification number (VIN), make, model, and model year. If the fuel cap can be tested, then the following task shall be performed:

- A) ~~The~~ the fuel cap leak flow tester shall be pressurized to 30 ± 1 inches of water. The inspector shall initiate the test. The fuel cap leak flow tester shall measure the fuel cap leak flow rate and simultaneously compare this flow rate with the flow rate through the calibrated orifice;
- B) ~~Within~~ ~~within~~ 15 seconds after the depression of the start-test button, the fuel cap leak flow tester shall make a pass/fail determination. Pass/fail analysis shall be determined according to the procedures in subsection (c) of this Section;
- C) ~~Fuel~~ ~~fuel~~ caps which have failed an initial integrity test under subsection (c)(4) of this Section shall immediately receive a second-chance fuel cap leak flow test after first ensuring that the fuel cap has been installed on the fuel cap leak flow tester correctly. The procedure contained in subsections (b)(1)(A) and (b)(1)(B) of this Section shall be repeated; and
- D) ~~At~~ ~~at~~ the conclusion of all fuel cap leak flow tests, the fuel cap shall be removed from the fuel cap leak flow tester and replaced on the

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filler neck, ensuring that it is properly tightened.

2) Fuel Cap Pressure Decay Test

The fuel cap shall be removed from the vehicle's fuel inlet and installed on the fuel cap pressure decay tester, using an adapter if necessary. All fuel caps that require a key for removal from the vehicle's fuel inlet shall be tested with the key removed from the lock. ~~The workstation~~ ~~At Official Inspection Stations, the lane computer~~ shall provide the ~~inspector~~ ~~lane operator~~ with information as to whether the pressure decay tester can be used to test the vehicle's fuel cap and which adapter, if any, is required, based on one or more of the following items: VIN, make, model, and model year. If the fuel cap can be tested, then the following task shall be performed:

- A) ~~The~~ the pressure decay tester shall be pressurized to 28 ± 1 inches of water. The inspector shall initiate the test. The pressure decay tester shall monitor the pressure behind the fuel cap and look for pressure decay;
- B) ~~The~~ the pressure decay shall be monitored for 10 seconds after stability is achieved for 10 seconds. Pass/fail analysis shall be determined according to the procedures in subsection (c) of this Section;
- C) ~~Fuel~~ fuel caps that have failed an initial integrity test under subsection (c)(4) of this Section shall immediately receive a second-chance fuel cap pressure decay test after first ensuring that the fuel cap has been installed on the pressure decay tester correctly. The procedure contained in subsections (b)(2)(A) and (b)(2)(B) of this Section shall be repeated; and
- D) ~~At~~ at the conclusion of all fuel cap pressure decay tests, the fuel cap shall be removed from the pressure decay tester and replaced on the filler neck, ensuring that it is properly tightened.

3) Visual Functional Test

If the vehicle has a fuel cap, but the fuel cap cannot be tested using the leak flow or pressure decay test procedures, then a visual functional test of the fuel cap shall be performed.

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- c) Pass/Fail Determination
- 1) Vehicles which are presented for testing with missing, inaccessible, incorrect, non-removable, illegal, or otherwise non-testable fuel caps shall fail the evaporative system integrity test.
 - 2) If the vehicle's fuel cap is present and can be tested using either the fuel cap leak flow test or the fuel cap pressure decay test under subsection (b)(1) or (b)(2) of this Section and, if tested, the test result does not exceed either the fuel cap leak flow rate standard contained in 35 Ill. Adm. Code 240.172(b) or the fuel cap pressure decay standard contained in 35 Ill. Adm. Code 240.172(a), then the vehicle shall pass the evaporative system integrity test.
 - 3) If the vehicle's fuel cap is present and is tested under the provisions of subsection (b)(3) of this Section, and the test result does not exceed the visual functional test standard contained in 35 Ill. Adm. Code 240.172(c), then the vehicle shall pass the evaporative system integrity test.
 - 4) If the vehicle's fuel cap is tested using either the fuel cap leak flow test or the fuel cap pressure decay test under the provisions of subsection (b)(1) or (b)(2) of this Section, and does not meet the applicable standards contained in 35 Ill. Adm. Code 240.172, the vehicle shall fail the evaporative system integrity test.

~~(AGENCY NOTE: No vehicle will be failed under subsection (e) until applicable standards have been adopted at 35 Ill. Adm. Code 240 and are effective.)~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.207 Transient Loaded Mode Exhaust Emissions Test Procedures (Repealed)

- a) ~~General Requirements~~
- 1) ~~The test shall consist of up to 240 seconds of mass emission measurement using a constant volume sampler while the vehicle is driven through a computer-monitored driving cycle on a dynamometer with inertia weight settings appropriate for the weight of the vehicle. The driving cycle shall~~

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~~include acceleration, deceleration, and idle operating modes as specified in subsection (e)(1) of this Section. The 240-second sequence may be ended earlier using fast pass algorithms.~~

- 2) ~~The emission standards and dynamometer inertia and power absorption settings shall be automatically selected for the vehicle being tested based upon the identification and validation of the following, as needed:~~

- ~~A) Vehicle type: LDV, LDT1, LDT2, and others as needed;~~
- ~~B) GVWR;~~
- ~~C) Chassis model year;~~
- ~~D) Make;~~
- ~~E) Model;~~
- ~~F) Number of cylinders;~~
- ~~G) Transmission type;~~
- ~~H) LVW or ALVW; and~~
- ~~I) Engine displacement.~~

~~Alternative computerized methods of selecting dynamometer test conditions, such as VIN decoding, may be used.~~

- 3) ~~The ambient temperature, absolute humidity, and barometric pressure shall be recorded continuously during the transient test, or as a single set of readings if taken less than 4 minutes prior to the transient driving cycle.~~
- 4) ~~If the vehicle is shut off, the vehicle shall be restarted as soon as possible before the test and shall be running for at least 30 seconds prior to the transient driving cycle begins.~~
- 5) ~~If a vehicle stalls during a transient test, the test shall be aborted and restarted. If after 3 attempts the test cannot be completed, the vehicle shall~~

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~~be rejected.~~

b) ~~Pre-inspection and Preparation~~

- ~~1) Initial tests (i.e., those occurring for the first time in a vehicle's scheduled test cycle) shall be performed without repair or adjustment at the inspection facility prior to the test.~~
- ~~2) A test, once initiated, shall be performed in its entirety regardless of intermediate outcomes, except in the case of invalid test conditions or unsafe conditions.~~
- ~~3) Tests involving measurement shall be performed with Agency-approved equipment that is operated in accordance with the procedures contained in 40 CFR 85.2234 (Draft), incorporated by reference in Section 276.104(a) of this Part.~~
- ~~4) All accessories (air conditioning, heat, defogger, radio, automatic traction control if switchable, etc.) shall be turned off (if necessary, by the inspector).~~
- ~~5) The vehicle shall be inspected for exhaust leaks. Audio assessment while blocking exhaust flow or gas measurement of CO₂ or other gases shall be acceptable. Vehicles with leaking exhaust systems shall be rejected from testing.~~
- ~~6) Vehicles with missing tailpipe sections that prohibit placement of the exhaust collection system to capture the entire exhaust stream shall be rejected from testing.~~
- ~~7) The vehicle temperature gauge, if equipped and operating, shall be checked to assess temperature. If the temperature gauge indicates that the engine is well below normal operating temperature, the vehicle shall receive a second-chance emission test if it fails the initial test for HC or CO. Vehicles in overheated condition shall be rejected from testing.~~
- ~~8) Vehicles shall be rejected from testing if drive axle tires:
 - A) exhibit visible cords, belts, bubbles, cuts, or other damage, or~~

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- ~~B) are space-saver spare tires, or~~
- ~~C) are not reasonably sized tires.~~
- ~~9) Vehicles' drive axle tires shall be inspected for proper inflation. If one or more of these tires appears low, it shall be inflated to approximately 30 psi, or to tire sidewall pressure, or manufacturer's recommendation.~~
- ~~10) Drive axle tires of vehicles subject to additional testing for the purpose of program evaluation under 40 CFR 51.353, incorporated by reference in Section 276.104(d) of this Part, shall have their tires inflated to tire sidewall pressure.~~
- ~~11) Background concentrations of HC, CO, NO_x, and CO₂ shall be sampled as specified in 40 CFR 85.2226(b)(2)(iv) (Draft), incorporated by reference in Section 276.104(a) of this Part, to determine background concentration of dilution air. The sample shall be taken for a minimum of 15 seconds within 120 seconds after the start of the transient driving cycle, using the same analyzers used to measure tailpipe emissions. Average readings over the 15 seconds for each gas shall be recorded in the test record. Testing shall be prevented until the average ambient background levels are less than 20 ppmC HC, 35 ppm CO, and 2 ppm NO_x (when applicable), or outside ambient air levels (not influenced by station exhaust), whichever are greater.~~
- ~~12) While a lane is in operation, the CVS shall continuously purge the CVS hose between tests. The blower may be turned off if the CVS is not in operation, but the system shall be purged for 2 minutes prior to the start of a test if the blower has been turned off. The off time shall be computer monitored and recorded to a history file for quality assurance.~~
- e) **Equipment Positioning and Settings**

~~Vehicle positioning and settings shall be conducted according to the method specified in 40 CFR 85.2221(e) (Draft), incorporated by reference in Section 276.104(a) of this Part, with the following exceptions:~~

 - ~~1) the cooling fan need only be activated when the ambient temperature~~

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~~exceeds 72°F;~~

~~2) the parking brake should only be activated on front wheel drive vehicles when possible; and~~

~~3) the hood will not be opened for cooling purposes.~~

~~d) Vehicle Conditioning~~

~~1) Queuing Time~~

~~When the measured wait time exceeds 20 minutes, the vehicle shall receive a second chance emission test if the following conditions apply:~~

~~A) fails the test; and~~

~~B) measured values for HC, CO, and NO_x (if applicable) are at or below 1.5 times the applicable standards of 35 Ill. Adm. Code 240.~~

~~2) Program Evaluation~~

~~Vehicles selected for additional testing for the purpose of program evaluation under 40 CFR 51.353, incorporated by reference in Section 276.104(d) of this Part, shall receive two full transient emission tests of 240 seconds each. Results from both tests and the test order shall be separately recorded in the test record. Emission results shall be provided to the motorist according to the following criteria:~~

~~A) If the vehicle passes both tests, then the first test result shall be provided.~~

~~B) If the vehicle passes one test and fails the other test, then the test results from the passing test shall be provided.~~

~~C) If the vehicle fails both tests, then the test results from the second test shall be provided.~~

~~e) Vehicle Emission Test Sequence~~

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1) ~~Transient Driving Cycle~~

~~The vehicle shall be driven over the driving cycle contained in Section 276. Table A of this Part.~~

2) ~~Driving Trace~~

~~The inspector shall follow an electronic, visual depiction of the time/speed relationship of the transient driving cycle (hereinafter, the trace). The visual depiction of the trace shall be of sufficient magnification and adequate detail to allow accurate tracking by the driver and shall permit the driver to anticipate upcoming speed changes. The trace shall also clearly indicate gear shifts as specified in subsection (e)(3) of this Section.~~

3) ~~Shift Schedule~~

~~For vehicles with manual transmissions, inspectors shall shift gears according to the following shift schedule:~~

Shift Sequence Gear	Approximate Speed Miles Per Hour	Nominal Cycle Time Seconds
1-2	15	9.3
2-3	25	47.0
De-clutch	15	87.9
1-2	15	101.6
2-3	25	105.5
3-2	17	119.0
2-3	25	145.8
3-4	40	163.6
4-5	45	167.0
5-6	50	180.0
De-clutch	15	234.5

~~Gear shifts shall occur at the points in the driving cycle where the specified speeds are obtained. For vehicles with fewer than 6 forward gears, the same schedule shall be followed with shifts above the highest gear disregarded.~~

4) ~~Speed excursion limits shall apply as follows:~~

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- A) ~~The upper limit is 2 mph higher than the highest point on the trace within 1 second of the given time.~~
- B) ~~The lower limit is 2 mph lower than the lowest point on the trace within 1 second of the given time.~~
- C) ~~Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided that they occur for no more than 2 seconds on any occasion.~~
- D) ~~Speeds lower than those prescribed during the underpowered intervals of seconds 4 through 18, 97 through 115, and 154 through 219 of the trace will allow the station supervisory personnel the option of overriding the automatic void of the test. As part of the override, the station supervisory personnel will be required to witness a second trace.~~
 - i) ~~During the station supervisory personnel's witness of the second or subsequent trace, the test will be aborted if a speed variation exists for more than two seconds on any occasion outside the underpowered intervals. If this condition is detected, the test shall be stopped, and may be restarted, or aborted and rejected.~~
 - ii) ~~If a speed lower than those prescribed during the underpowered intervals is detected, the vehicle will have the opportunity to regain the test trace speed. Once the test trace speed is attained, the vehicle will be required to meet the speed excursion limitations for the entirety of the trace, outside the underpowered intervals.~~
 - iii) ~~Station supervisory personnel overrides can be used to accept the results of the witnessed second or subsequent trace(s) if the override is flagged with a trace statistic or distance error so long as it meets the requirements specified in subsections (e)(4)(D)(i) and (e)(4)(D)(ii).~~
- E) ~~The test shall be aborted and immediately restarted if speed excursion limits are exceeded, except as described in subsection~~

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~~(e)(4)(D) of this Section.~~

5) ~~Speed Variation Limits~~

~~The speed variation limits shall be determined by one of the following methods:~~

A) ~~Linear Regression Method~~

i) ~~A linear regression of feedback value on reference value shall be performed on each transient driving cycle for each speed using the method of least squares, with the best fit equation having the form: $y = mx + b$, where:~~

~~y = The feedback (actual) value of speed~~

~~m = The slope of the regression line~~

~~x = The reference value~~

~~b = The y-intercept of the regression line~~

ii) ~~The SE of y on x shall be calculated for each regression line. A transient driving cycle lasting the full 240 seconds that exceeds the following criteria shall be void and the test shall be repeated:~~

~~SE = 2.0 mph maximum~~

~~m = 0.96-1.01~~

~~r^2 = 0.97 minimum~~

~~b = 2.0 mph~~

iii) ~~A transient driving cycle that ends before the full 240 seconds that exceeds the following criteria shall be void and the test shall be repeated:~~

~~SE = (Reserved)~~

~~m = (Reserved)~~

~~r^2 = (Reserved)~~

~~b = (Reserved)~~

B) ~~Positive Kinetic Energy (PKE) Method~~

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- i) ~~The speed variation limits shall be determined by the following equation for Positive Kinetic Energy (PKE):~~

$$PKE = \sum_{t=0}^N PP_t / \int_0^x dx$$

where:

$$PP_t = V_t^2 - V_{t-1}^2 \text{ mi}^2/\text{hr}^2 \text{ for } V_t > V_{t-1}$$

$$PP_t = 0 \text{ for } V_t \leq 0$$

$$x = \text{distance (miles)}$$

$$PP_t = \text{Positive Specific Power at time } t$$

$$V_t = \text{Velocity at time } t$$

$$V_{t-1} = \text{Velocity at time } t-1$$

- ii) ~~A transient driving cycle lasting the full 240 seconds with a PKE value that is below the lower PKE limit for passing vehicles or above the upper limit for failing vehicles shall be void and the test shall be repeated:~~

$$\text{Upper Limit: } PKE > 3456 \text{ mi/hr}^2$$

$$\text{Lower Limit: } PKE < 3082 \text{ mi/hr}^2$$

- iii) ~~A transient driving cycle that ends before the full 240 seconds with a PKE value that is below the lower second-by-second PKE limit for passing vehicles or above the upper second-by-second PKE limit for failing vehicles shall be void and the test shall be repeated. The second-by-second upper and lower PKE limits are specified in Section 276. Table B.~~
- iv) ~~PKE values shall not be used to make early pass/fail determination.~~

- 6) ~~The actual distance traveled for the transient driving cycle shall be measured. If the absolute difference between the measured distance and the theoretical distance for the actual test exceeds 0.05 miles, the test shall be void and shall be repeated.~~

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~~7) The vehicle shall be rejected if, during the course of the transient loaded mode test, station supervisory personnel verify that the test cannot be completed due to the mechanical condition of the vehicle.~~

~~8) Inertia Weight Selection~~

~~Operation of the inertia weight selected for the vehicle shall be verified as specified in Section 276.506(a) of this Part. For systems employing electrical inertia simulation, an algorithm identifying the actual inertia force applied during the transient driving cycle shall be used to determined proper inertia simulation.~~

~~9) The CVS operation shall be verified for each test for a CFV type CVS by measuring either the absolute pressure difference across the venturi or measuring the blower vacuum behind the venturi for minimum levels needed to maintain choke flow for the venturi design. The operation of an SSV type CVS shall be verified throughout the test by monitoring the difference in pressure between upstream and throat pressure. The minimum values shall be determined from system calibrations. Monitored pressure differences below the minimum values shall void the test, and a test lane system lockout shall be initiated. No further testing shall be done until the problem is corrected by station supervisory personnel. At Official Inspection Stations, the vehicle involved shall be immediately retested in a properly operating lane.~~

~~f) Transient Loaded Mode Exhaust Gas Test Score Calculations~~

~~The transient loaded mode exhaust gas test score shall be determined according to the method specified in 40 CFR 85.2205(b) (Draft), incorporated by reference in Section 276.104(a) of this Part, with the following exceptions:~~

~~1) The Phase 2 scores for the test shall be determined by dividing the sum of the mass of each pollutant obtained in each second of the Phase 2 test by the number of miles driven in the Phase 2 test. The first data point is the sample taken from t=94 to t=95. The Phase 2 test score shall be determined by the following equation:~~

$$\underline{\text{Phase 2 gpm}} = \quad \text{s}$$

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$$\frac{\sum_{t=94} \text{grams of emissions}}{\sum_{t=94} \text{miles traveled}}$$

~~Where s = duration of test in seconds for fast pass, or~~

~~s = 239 seconds for complete transient loaded mode exhaust gas test.~~

~~2) NO_{xe} = nitrogen oxide concentration of the dilute exhaust sample as measured in ppm and multiplied by 1.03.~~

~~3) NO_{xd} = background nitrogen oxide concentration of the dilution air, sampled as described in 40 CFR 85.2221(b)(5) (Draft), incorporated by reference in Section 276.104(a) of this Part, as measured in ppm and multiplied by 1.03.~~

~~g) Pass/Fail Determination~~

~~Compliance with the transient loaded mode exhaust emission test shall be made in accordance with the standards contained in 35 Ill. Adm. Code 240, Subpart E.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.209 On-Board Diagnostic Test Procedures

- a) Test Procedures
The OBD test procedure shall be conducted according to the method specified in 40 CFR 85.2222(a), (b), and (c), incorporated by reference in Section 276.104(**be**) of this Part. However, once initiated, the OBD test shall be conducted as completely as possible, regardless of intermediate reject or fail results.
- b) Pass/Fail Determination
The pass/fail determination for OBD testing shall be conducted according to the method specified in 40 CFR 85.2222(d), incorporated by reference in Section

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276.104(~~be~~) of this Part.

c) Reject Determination

The reject determination for OBD testing shall be conducted according to the method specified in 40 CFR 85.2222(c), incorporated by reference in Section 276.104(b) of this Part, with the following modifications, according to which a vehicle shall be rejected from testing:

- 1) ~~The~~the vehicle is presented for testing, passes the OBD inspection, but the number of unset non-continuous OBD readiness codes exceeds the following:
 - A) 2 monitors "not ready" for MY 1996 to MY 2000 vehicles, and
 - B) 1 monitor "not ready" for MY 2001 and newer vehicles, or
- 2) ~~The~~the vehicle is presented for retesting after an OBD failure involving catalytic converter DTCs P0420 through P0439, and the catalyst monitor is "not ready" at the time of retest.

d) OBD Test Report

The OBD test report shall be prepared according to the method specified in 40 CFR 85.2223, incorporated by reference in Section 276.104(~~be~~) of this Part, ~~with the exception that the following statement shall be added to the report for all OBD tests conducted prior to January 1, 2002, in accordance with 35 Ill. Adm. Code 240.191:~~

~~"At the present time, passing the OBD test is not a requirement for passing the Enhanced I/M test. Therefore, this information is being provided strictly as an aid in diagnosing emission-related problems."~~

~~AGENCY NOTE: No vehicle shall fail the I/M test on the basis of the OBD test until January 1, 2002, in accordance with 35 Ill. Adm. Code 240.191.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART C: EMISSIONS COMPLIANCE~~TICKET OR~~ CERTIFICATE ~~ISSUANCE,~~
DISPLAY, AND POSSESSION

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Section 276.301 General Requirements

- a) The owners of all vehicles subject to inspection shall obtain ~~and display on the vehicle a valid unexpired vehicle emissions inspection sticker, or carry within the vehicle~~ a valid ~~unexpired vehicle emissions~~ compliance inspection certificate ~~from the Agency, whichever is required by the Agency and issued in the manner described in this Section.~~
- b) ~~The owner of every vehicle which receives an emissions inspection sticker or certificate shall be required to have the vehicle inspected prior to the expiration date of the sticker or certificate, and shall be requested to have the vehicle inspected prior to the end of the Assigned Test Month.~~
- be) Failure to comply with applicable provisions of the ~~Vehicle Emissions Inspection Law [625 ILCS 5/Ch. 13A] or the~~ Vehicle Emissions Inspection Law of ~~20051995~~ [625 ILCS 5/Ch. 13CB] ~~(shall subject the~~ ownersowner(s) of the vehicle to the enforcement provisions ~~thereof.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.303 Emissions Compliance Inspection Sticker or Certificate Design and Content

All emissions ~~compliance inspection stickers or~~ certificates required under this Section shall, at a minimum, include the following information in a clear and recognizable fashion:

- a) ~~The statement "Registration Renewal Authorized"the month and year the sticker or compliance certificate expires;~~
- b) ~~The~~ TED (month and year) in which the vehicle is next scheduled for testing; ~~and;~~
- c) A unique emissions or compliance certificate number; ~~and.~~
- d) The following vehicle information:
- 1) VIN;

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- 2) License plate number;
- 3) Vehicle model year; and
- 4) Vehicle make.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.304 Initial Emissions Inspection Stickers or Certificates (Repealed)

~~The Initial Emissions Inspection Sticker or Certificate enables a vehicle not previously subject to inspection to display a valid sticker or possess a valid certificate within the vehicle to demonstrate compliance with the Vehicle Emissions Inspection Law or the Vehicle Emissions Inspection Law of 1995 pending such vehicle receiving an initial emissions inspection. Such sticker or certificate shall be issued as follows:~~

- a) ~~The Agency or its designee shall send Initial Emissions Inspection Stickers or Certificates to owners of all vehicles initially subject to inspection no less than fifteen days prior to the first day of the month in which the vehicle is scheduled for its initial inspection. Each Initial Emissions Inspection Sticker or Certificate shall expire on the last day of the third month following the month assigned by the Agency for the initial inspection.~~
- b) ~~Each Initial Emissions Inspection Sticker or Certificate shall include a notice of the assigned month of the initial emissions inspection and shall be accompanied by a clear statement from the Agency that, based on vehicle records, the vehicle is subject to applicable emissions inspection requirements of the Vehicle Emissions Inspection Law and the Vehicle Emissions Inspection Law of 1995, as applicable. A form accompanying the sticker or certificate will be provided to the vehicle owner to allow for correction of any information relied upon by the Agency.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.305 Exempt Emissions Inspection Stickers or Certificates (Repealed)

- a) ~~An Exempt Emissions Inspection Sticker or Certificate may be issued by the Agency or its designee for each vehicle registered in an Affected County that either:~~

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- 1) ~~is exempt from emissions inspection pursuant to Section 13B-15f of the Vehicle Emissions Inspection Law of 1995; or~~
 - 2) ~~is exempt from emissions inspection pursuant to Section 13B-15(g) of the Vehicle Emissions Inspection Law of 1995, provided however, that in order to receive an exemption under Section 13B-15(g), the owner of the vehicle must provide sufficient proof to the Agency that the vehicle is not located and primarily operated within an Affected County.~~
- b) Each Exempt Emissions Inspection Sticker or Certificate shall, at a minimum, include the following information in a clear and recognizable fashion:
- 1) ~~A unique sticker or certificate number;~~
 - 2) ~~the word "EXEMPT"; and~~
 - 3) ~~the month and year the sticker or certificate expires, if applicable.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.306 Renewal Emissions Inspection Stickers or Certificates (Repealed)

~~A Renewal Emissions Inspection Sticker or Certificate will be issued by the Agency or its designee to the owner of each vehicle which successfully passes a vehicle emissions test. Each Renewal Emissions Inspection Sticker or Certificate will contain the information indicated in Section 276.303 and the word "PASS".~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.307 Temporary Emissions Inspection Stickers or Certificates (Repealed)

- a) ~~The Agency or its designee may issue a Temporary Emissions Inspection Sticker or Certificate for any vehicle subject to inspection which currently has a valid Renewal or Initial Emissions Inspection Sticker or Certificate, and for which an Initial Emissions Inspection Sticker or Certificate has already been issued.~~
- b) ~~A Temporary Emissions Inspection Sticker or Certificate may only be issued if the vehicle's owner informs the Agency that the vehicle will be tested by the end of the seventh month after the vehicle's Assigned Test Month, and one or more of~~

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~~the following conditions exist:~~

- ~~1) the vehicle is located and being primarily operated in an area not currently subject to inspection under the Vehicle Emissions Inspection Law;~~
 - ~~2) the vehicle is inoperative or has failed a vehicle emissions inspection and is awaiting necessary repairs to enable the vehicle to comply; or~~
 - ~~3) the vehicle has not received necessary repairs or adjustments for which it is eligible under any emissions performance warranty provided pursuant to Section 207 of the Clean Air Act.~~
- ~~e) A Temporary Emissions Inspection Sticker or Certificate shall be issued and contain a sticker or certificate expiration date which is the end of the seventh complete month after the Assigned Test Month.~~
- ~~d) A Temporary Emissions Inspection Sticker or Certificate may only be issued to the owner of a vehicle once in the vehicle's test cycle.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.308 Corrected or Interim Emissions Inspection Stickers or Certificates
(Repealed)

~~Vehicles subject to emissions inspection which have previously been issued an Initial Emissions Inspection Sticker or Certificate and which have an Assigned Test Month may be reassigned to a later Assigned Test Month. Whenever such reassignment is approved by the Agency, the Agency or its designee shall issue a Corrected or Interim Emissions Inspection Sticker or Certificate to the owner of the vehicle.~~

- ~~a) The Agency shall issue a Corrected or Interim Emissions Inspection Sticker or Certificate for a vehicle if one or more of the following conditions exist:~~
- ~~1) the Agency is notified by the Secretary of State that the vehicle has been registered by a new owner and the Agency assigns a test month for the vehicle that is later than the currently Assigned Test Month in order for the registered owner of the vehicle to receive proper notice to have the vehicle tested;~~

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- 2) ~~the Agency finds it necessary to reassign vehicles to a later Assigned Test Month and year in order to implement the Vehicle Emissions Inspection Law of 1995; or~~
- 3) ~~the vehicle is assigned a new test month and year as a result of the granting of a petition pursuant to Section 276.311.~~
- b) ~~All Corrected or Interim Emissions Inspection Stickers or Certificates shall expire at the end of the third month following the Assigned Test Month.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.309 Waiver Emissions Inspection Stickers or Certificates (Repealed)

~~A Waiver Emissions Inspection Sticker or Certificate shall be issued by the Agency to the owner of any vehicle which fails a vehicle emissions test and at least one retest but successfully complies with the applicable waiver requirements of Section 276.401. Each Waiver Emissions Inspection Sticker or Certificate will contain the information indicated in Section 276.303 and the word "WAIVER".~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.310 Emissions Inspection Sticker and Certificate Display and Possession (Repealed)

- a) ~~If an emissions inspection sticker required by this Part is issued by the Agency or its designee to the owner of a vehicle, it shall be affixed to the lower left hand side of the vehicle's windshield as viewed by the driver facing toward the front of the vehicle. Such sticker shall be affixed so as not to obscure the Vehicle Identification Number (VIN) of the vehicle when viewed from the outside. No more than one emission inspection sticker shall be displayed at any time. If an emissions inspection certificate required by this Part is issued by the Agency or its designee, it shall be carried inside the vehicle for which it is issued.~~
- b) ~~Any sticker or certificate issued and required to be affixed to or possessed within a vehicle subject to inspection under the Vehicle Emissions Inspection Law, whether expired or unexpired, shall not be removed by any person for any reason. If the sticker or certificate is damaged or destroyed a duplicate sticker or certificate shall be requested from the Agency or its designee and issued to the~~

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~~owner of the vehicle.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.311 Change of Assigned Test Month (Repealed)

~~Any person who is unable to have his or her vehicle tested in the month assigned by the Agency may request a permanent change of the Vehicle's Assigned Test Month. The Agency may grant the request, reassign the vehicle's Assigned Test Month, and issue a Corrected Emissions Inspection Sticker or Certificate as follows:~~

- ~~a) if a vehicle is unable to be tested by the end of the seventh month after its Assigned Test Month, and is not eligible for an exemption under Section 276.305 nor covered by reciprocity provisions of Subpart J, a new test month will be assigned based on the month the vehicle will return to an Affected County; and~~
- ~~b) if the vehicle is in storage during the month of October, November, December, January, February or March, the vehicle will be assigned a test month of the following April, May, or June if the request is received prior to the sticker or certificate expiration date.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.312 Economic Hardship Extension Stickers or Certificates (Repealed)

~~An Economic Hardship Extension Sticker or Certificate shall be issued by the Agency to the owner(s) of any vehicle that fails a vehicle emissions test but successfully complies with the applicable economic hardship extension requirements of Section 276.404 of this Part. Each Economic Hardship Extension Emissions Inspection Sticker or Certificate will contain the information indicated in Section 276.303 and the words "ECONOMIC HARDSHIP EXTENSION".~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

SUBPART D: WAIVER, AND ECONOMIC HARDSHIP EXTENSION, AND OUTSIDE OF AFFECTED COUNTIES ANNUAL EXEMPTION REQUIREMENTS**Section 276.401 Waiver Requirements**

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- a) All vehicles subject to inspection under the Vehicle Emissions Inspection Law of ~~2005~~1995 [625 ILCS 5/~~Ch.~~13CB] shall be eligible for a waiver from meeting the applicable vehicle emission standards contained in 35 Ill. Adm. Code 240 upon submission of proof to a Waiver Inspector of compliance with all of the following:
- 1a) ~~After~~ failing a retest, the vehicle has failed to comply with the applicable vehicle emission standards;
- 2b) ~~A~~ minimum expenditure of at least \$450 in emission-related repairs exclusive of tampering-related repairs have been made;
- 3e) ~~The~~ vehicle has received all repairs and adjustments for which it is eligible under any emission performance warranty provisions pursuant to Section 207 of the Clean Air Act (42 USC 7541);
- d) ~~the repairs have resulted in an improvement in vehicle emissions as determined by comparison of initial and final retest results;~~
- 4e) ~~The~~ Agency determines by normal inspection procedures that the emission control devices are present and appear to be properly connected and operating;
- 5f) ~~Repairs~~repairs for vehicles of model year 1981 and later are conducted by a recognized repair technician; and
- 6g) ~~Evidence~~evidence of repair is presented consisting of either of the following:
- A) ~~Signed~~signed and dated receipts identifying the vehicle and describing the diagnostic procedures that were utilized in determining the repairs, justification that the repairs performed were appropriate and necessary for the emissions test failure, and the work performed and amount charged for eligible emission-related ~~repairs; repairs;~~ or
- B) ~~An~~ affidavit executed by the person performing the eligible emission related repairs.

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- b) Emission-related repairs performed not more than 30 days prior to the current TED may be applied to the \$450 minimum expenditure if the repairs were appropriate for the DTCs present at the time of the initial failure.
- c) Waivers shall not be issued if the MIL is inoperative.
- d) Vehicles subject to a steady-state idle exhaust test shall not be eligible for waivers unless the vehicle passes a fuel cap test.
- e) Waivers shall be issued to the vehicle owners. In the event the vehicle owner is not present, a waiver may be issued to the vehicle owner's designee if specific written authorization from the vehicle owner on a form prescribed by the Agency is presented at the time of waiver application.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.403 Denial or Issuance of Waiver

- a) If the Agency determines that an applicant for a waiver has not complied with all applicable waiver criteria set forth in Section 276.401 of this Part, the waiver request shall be denied. The Agency shall provide to the applicant a written statement containing the reasons for the denial.
- b) If the Agency determines that an applicant for a waiver has complied with all waiver criteria set forth in Section 276.401 of this Part, the waiver shall be issued. The Agency shall provide to the applicant an emissions compliance certificate of waiver containing, at a minimum, the information described in Section 276.303-a description of the vehicle, including the manufacturer's vehicle identification number; the issuance date of the waiver; and the expiration date of the waiver.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.404 Economic Hardship Extension Requirements

The Agency shall issue a one year emissions compliance certificate to the owner of a vehicle that meets the requirements of subsection (a) of the Section.

- a) Requirements

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~~A one year economic hardship extension sticker or certificate shall be granted by the Agency to the owner(s) of a vehicle upon application if the following criteria are met:~~

- 1) ~~When~~when tested, the subject vehicle failed to meet applicable emission standards contained in 35 Ill. Adm. Code 240, except that the economic hardship extension ~~sticker or certificate~~ will not be granted if only the applicable fuel cap emissions test standard contained in 35 Ill. Adm. 240 is failed;
- 2) ~~The~~the registered ~~owner or owners~~owner(s) of the subject vehicle certifies that his or her, or their, household income qualifies as "low income" as defined in this Part. In the case of multiple registered owners who are not part of the same household, the registered owners must certify that the sum of each registered owner's household income qualifies as "low income" as defined in Section 276.102 of this Part;
- 3) ~~The~~the current or former ~~owner~~owner(s) of a subject vehicle has not previously received an emissions compliance certificate for economic hardship ~~extension sticker or certificate~~ for the subject vehicle, or, if an emissions compliance certificate for economic hardship ~~extension~~ has previously been issued, the vehicle passed all required emissions tests prior to issuance of another emissions compliance certificate for economic hardship ~~extension sticker or certificate~~;
- 4) ~~The~~the registered ~~owner~~owner(s) of the subject vehicle ~~presents~~present(s) either of the following, which shall not include any costs associated with any motor vehicle emission related recall that has been, or is to be, paid by a manufacturer or dealer:
 - A) ~~An~~a written estimate prepared by a recognized repair technician for emission related vehicle repairs, parts or services, including diagnostic fees, related to the emissions test failure, in the amount of 50 percent or greater of the current waiver repair minimum amount contained in Section 276.40~~12~~(a)(23) of this Part; or
 - B) ~~If~~if the registered ~~owner~~owner(s) intends to perform the necessary services or repairs, the written estimate shall include only the cost of emission related parts;

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- 5) ~~The~~ registered ~~owner~~owner(s) of the vehicle grants authorization to the Agency or its representatives to make legitimate inquiries as necessary, including to all relevant State departments or agencies, including but not limited to the ~~Illinois Office of the~~ Secretary of State and the Department of Human Services, to verify ownership and income information.
- b) An ~~emissions compliance certificate issued under this Section~~economic hardship extension sticker or certificate is not transferable to one or more subsequent owners.
- c) An ~~emissions compliance certificate issued under this Section~~economic hardship extension sticker or certificate may be revoked by the Agency if the Agency determines that the ~~applicant or applicants~~applicant(s) made false statements on the economic hardship extension application.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.405 Outside of Affected Counties Annual Exemption Requirements

- a) The owner of a vehicle that is located and being primarily operated outside of the affected counties, or in other jurisdictions in which vehicle emission inspections are not required, may be issued a one year emissions compliance certificate allowing the motorist to renew the registration without having an emissions inspection. Written proof of the vehicle's location must be provided by one of the following:
- 1) Tax bill;
 - 2) Utility bill;
 - 3) Tuition bill;
 - 4) Storage receipt;
 - 5) Military orders; or
 - 6) Other written proof deemed acceptable by the Agency.

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- b) Vehicles obtaining a one year emissions compliance certificate under this Section will be subject to inspection by the next TBD unless the motorist complies with subsection (a) of this Section.
- c) A vehicle owner who is currently in the military and deployed outside the affected counties may be issued a one year emissions compliance certificate under this Section if written proof as specified in Section 276.405(a)(5) or 276.405(a)(6) is provided.

(Source: Added at 35 Ill. Reg. _____, effective _____)

SUBPART E: TEST EQUIPMENT SPECIFICATIONS

Section 276.501 General Requirements

Compliance with Illinois vehicle ~~test~~~~exhaust and evaporative emissions~~ standards shall be determined by following the test procedures set forth in Subpart B of this Part and by utilizing sampling vehicle exhaust and evaporative emissions with the following: a) steady-state~~Steady-state~~ idle test equipment meeting the specifications set forth in Sections 276.502 and 276.503 of this Part; and:

- ~~a~~b) Evaporative system test equipment meeting the specifications set forth in Section 276.504 of this Part; or
- ~~e~~) ~~Transient loaded mode test equipment meeting the specifications set forth in Sections 276.505 and 276.506 of this Part;~~
- ~~b~~d) On-road remote sensing test equipment meeting the specifications set forth in Section 276.507 of this Part; or~~and~~
- ~~c~~e) OBD test equipment meeting the specifications set forth in Section 276.508 of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.502 Steady-State Idle Exhaust Test Analysis Systems Functional Requirements

The steady-state idle ~~test~~-exhaust ~~test~~ analysis system shall meet the functional requirements specified in 40 CFR 85.2225(b)-~~(Draft)~~, incorporated by reference in Section 276.104(a) of this

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Part ~~with the following exception: the sampling system shall have both a tachometer and a dynamometer.~~ Additionally, all exhaust gas analyzers ~~used at Official Inspection Stations~~ shall be capable of:

- a) ~~Provide~~providing reliable, continuous service ~~under high throughput (i.e., 25 tests per hour minimum) conditions;~~
- b) ~~Make~~making an automatic selection of the proper emission standard for each vehicle tested;
- c) ~~Make~~making automatic pass/fail determinations for each vehicle tested;
- d) ~~Record~~recording test data in machine-readable (computer) form for subsequent data processing and analysis; and
- e) ~~Make~~making an instantaneous printing of duplicate copies of test results; ~~and~~
- f) ~~meeting the following equipment calibration requirements:~~
 - 1) ~~automatic HC hangup check with purging to begin upon completion of each test;~~
 - 2) ~~automatic zero and span check to be conducted prior to each test;~~
 - 3) ~~automatic leak check within 4 hours prior to the test; and~~
 - 4) ~~automatic 2-point gas calibration within 4 hours prior to the test.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.503 Steady-State Idle ~~Test~~ Exhaust Test Analysis Systems Performance Criteria

The steady-state idle ~~test~~-exhaust test analysis system shall meet the performance criteria specified in 40 CFR 85.2225(c) ~~(Draft)~~, incorporated by reference in Section 276.104(a) of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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Section 276.504 Evaporative System Integrity Test Functional Requirements and Performance Criteria

- a) Requirements
Both fuel cap leak flow testers and fuel cap pressure decay testers used for evaporative system integrity testing shall be:
- 1) ~~Easily~~easily connected to fuel caps, including those tethered to the vehicle;
 - 2) ~~Compatible~~compatible with at least 95 percent of all vehicles required to receive a fuel cap test;
 - 3) ~~Adaptable~~adaptable as required to test future model year vehicles as they enter the eligible fleet;
 - 4) ~~Capable~~capable of performing the following additional functions ~~if used at Official Inspection Stations~~:
 - A) ~~Provide~~provide reliable, continuous service ~~under high throughput (i.e., 25 tests per hour minimum) conditions~~;
 - B) ~~Provide~~provide for the automatic selection of the proper fuel cap test equipment (if applicable) for each vehicle tested;
 - C) ~~Provide~~provide for an automatic pass/fail determination for each vehicle tested;
 - 5) ~~Unaffected~~unaffected by atmospheric variation (i.e., barometric pressure, humidity, temperature, etc.). Test accuracy shall be within 2 percent of stated values from 0°F to 120°F;
 - 6) ~~Pressurized~~pressurized using air, Nitrogen (N₂), or an equivalent non-toxic, non-greenhouse, inert gas;
 - 7) ~~Capable~~capable of controlling the supply pressure and preventing over pressurization;
 - 8) ~~Tampert~~tampert resistant; and

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- 9) ~~Designed~~designed to avoid damage to the vehicle during installation, testing and removal.
- b) Fuel cap pressure decay tester
The fuel cap pressure decay tester used for evaporative system integrity testing shall be equipped with a pressure gauge with a minimum range of 0 to 50 inches of water and an accuracy of 0.3 inches of water or 2 percent of point, whichever is greater.
- c) Fuel cap leak flow tester
The fuel cap leak flow tester used for evaporative system integrity testing shall be:
- 1) ~~Equipped~~equipped with a serviceable air filter upstream of the flow comparison circuitry;
 - 2) ~~Equipped~~equipped with an automatic shutoff and a low-battery indicator if battery powered;
 - 3) ~~Supplied~~supplied with a NIST traceable reference passing fuel cap of nominal 52 to 56 cc/min for ~~daily~~daily test verification;
 - 4) ~~Supplied~~supplied with a NIST traceable reference failing fuel cap of nominal 64 to 68 cc/min for daily test verification;
 - 5) ~~Accurate~~accurate to 3 cc/min at the 60 min flow standard; and
 - 6) ~~Able~~able to be modified, either by the manufacturer or an authorized service center, to test at a revised leakage (flow) rate from that originally shipped.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.505 Transient Loaded Mode Test Systems Functional Requirements**(Repealed)**

~~The transient loaded mode test system shall meet the functional requirements specified in 40 CFR 51.358(b), incorporated by reference in Section 276.104(d) of this Part.~~

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(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.506 Transient Loaded Mode Test Systems Performance Criteria (Repealed)**a) ~~Dynamometer Specifications~~**

~~The dynamometer system shall meet the performance criteria specified in 40 CFR 85.2226(a) (Draft), incorporated by reference in Section 276.104(a) of this Part, with the following exceptions:~~

- ~~1) the inertia simulation capability need not be any higher than 5500 pounds;~~
- ~~2) the dead weight method is not required for the torque meter or load cell calibration; and~~
- ~~3) the vehicle cooling fan is required equipment for all transient loaded mode test systems.~~

b) ~~Constant Volume Sampler Specifications~~

~~The constant volume sampler system shall meet the performance criteria specified in 40 CFR 85.2226(b) (Draft), incorporated by reference in Section 276.104(a) of this Part.~~

c) ~~Analytical Instruments Specifications~~

~~The analytical instruments shall meet the performance criteria specified in 40 CFR 85.2226(c) (Draft), incorporated by reference in Section 276.104(a) of this Part, with one exception: the NO_x measurement shall be determined by measuring nitrogen oxide and multiplying this value by 1.03. The measurement of nitrogen dioxide is not required.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 276.507 On-Road Remote Sensing Test Systems Functional Requirements and Performance Criteria

- a) The on-road remote sensing test equipment shall consist of the following:

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- 1) ~~Ana~~ infrared SDM capable of measuring the concentration of HC, CO, and CO₂~~[2]~~ present in an in-use vehicle;
 - 2) ~~Aa~~ camera system that automatically photographs vehicle license plates;
 - 3) ~~Aa~~ system that links each emission record to the correct vehicle license plate photograph; and
 - 4) ~~Aa~~ laser based speed and acceleration measurement system.
- b) The Infrared SDM shall be of a design certified to meet the following accuracy requirements:

<u>Pollutant</u>	<u>Range</u>	<u>Accuracy</u>
HC	ALL	± 150 ppm or ± 15 percent of expected HC Concentration
CO	≤ 3.0 percent	± 10 percent or 0.25 percent (Whichever is greater)
	> 3.0 percent	± 15 percent

- c) The speed and acceleration measurement system shall be of a design certified to measure vehicle speed to within ~~±+ç~~ 0.5 miles per hour and vehicle acceleration to within ~~±+ç~~ 0.3 miles per hour per second at the moment exhaust is measured.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.508 On-Board Diagnostic Test Systems Functional Requirements and Performance Criteria

The OBD test system shall meet the functional requirements specified in 40 CFR 85.2231, incorporated by reference in Section 276.104(~~be~~) of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART F: EQUIPMENT MAINTENANCE AND CALIBRATION

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Section 276.602 Steady-State Idle Test Equipment Calibration

All operators of steady-state idle ~~test~~-exhaust test gas analyzers shall comply with the following calibration and operating procedures unless alternative procedures have been approved by the Agency:

- a) ~~Exhaust~~exhaust gas analyzers shall be warmed up prior to each vehicle inspection, zero check, span check, or calibration. Analyzers shall be considered to be in a warmed-up condition once stabilized zero readings (readings stabilize for one minute within ± 2 percent of full scale, low range on all 3 channels) are obtained.
- b) The analyzer shall conduct a zero and span check prior to each test. The span check shall include the HC, CO and CO₂ channels, and the NO and O₂ channels, if present. If zero and/or span drift cause the signal levels to move beyond the adjustment range of the analyzer, it shall lock out from testing.
- c) The system shall lock out from testing if sample flow falls below 3 percent of full scale, or causes system response time to exceed 13 seconds to 90 percent of a step change in input, whichever is less.
- d) A system leak check shall be performed within 244 hours before the test, and may be performed in conjunction with the gas calibration described in subsection (e)(1) of this Section. If a leak check is not performed within 244 hours or if the analyzer fails the leak check, the analyzer shall lock out from testing. The leak check shall be a procedure demonstrated to effectively check the sample hose and probe for leaks and shall be performed in accordance with good engineering practices. An error of more than ± 2 percent of the reading using low range span gas shall cause the analyzer to lock out from testing and shall require repair of leaks.
- e) Gas Calibration
 - 1) Analyzers must undergo a two-point calibration within 72 hours before each test unless changes in barometric pressure are compensated for automatically and statistical process control demonstrates equal or better quality control using different frequencies~~On each operating day, analyzers shall successfully pass a two-point gas calibration for HC, CO, and CO₂ and shall continually compensate for changes in barometric~~

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~~pressure. Calibration shall be checked within 4 hours before the test and the analyzer adjusted if the reading is more than 2 percent different from the span gas value.~~ Gas calibration shall be accomplished by introducing span gas that meets the requirements of subsection (e)(3) of this Section into the analyzer through the calibration port. If the analyzer reads the span gas within the allowable ~~tolerance~~^{tolerance} range (i.e., the square root sum of the squares of the span gas tolerance described in subsection (e)(3) of this Section and the calibration tolerance, which shall be equal to 2 percent), no adjustment of the analyzer is necessary. The gas calibration procedure shall correct readings that exceed the allowable tolerance range to the center of the allowable tolerance range. The pressure in the sample cell shall be the same with the calibration gas flowing during calibration as with the sample gas flowing during sampling. If the system is not calibrated, or the system fails the calibration check, the analyzer shall lock out from testing.

- 2) A two point gas calibration procedure shall be followed. The span shall be accomplished at one of the following pairs of span points:

A) Low

300 – ppm propane (HC)

1.0 – percent CO

6.0 – percent CO₂~~[2]~~

1000 – ppm nitric oxide (if equipped with NO)

High

1200 – ppm propane (HC)

4.0 – percent CO

12.0 – percent CO₂~~[2]~~

3000 – ppm nitric oxide (if equipped with NO)

B) Low

0 – ppm propane (HC)

0.0 – percent CO

0.0 – percent CO₂~~[2]~~

0 – ppm nitric oxide (if equipped with NO)

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High

600 – ppm propane (HC)

1.6 – percent CO

11.0 – percent CO₂[2]

1200 – ppm nitric oxide (if equipped with NO)

- 3) The span gases used for the gas calibration shall be traceable to NIST standards within two percent and shall be within two percent of the span points specified in subsection (e)(2) of this Section.

f) Other Checks

In addition to the other periodic checks described in this Section, those described in subsections (f)(1) and (f)(2) of this Section shall also be used to verify system performance under the special circumstances described therein.

1) Gas Calibration

- A) Each time the analyzer electronic or optical systems are repaired or replaced, a gas calibration shall be performed prior to returning the unit to service.

- B) ~~MultiMonthly multi~~-point calibrations shall be performed every 6 months. The calibration curve is checked at 20 percent, 40 percent, 60 percent, and 80 percent of full scale, and must be adjusted or repaired if the specifications in Section 276.503 are not met.

2) Leak Checks

Each time the sample line integrity is broken, a leak check shall be performed prior to testing.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.604 Record Keeping

All ~~operators of emissions test equipment shall maintain written records of all~~ maintenance and calibration records pertaining to emissions test equipment shall be submitted to the Agency, as required, performed on such equipment. Said records shall be kept on site for a period of two

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~~years and shall be made available to the Agency upon request.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.605 Transient Loaded Mode Test Equipment Maintenance and Calibration**(Repealed)****a) General Requirements**

~~The transient loaded mode test equipment shall meet the general maintenance and calibration requirements specified in 40 CFR 85.2234(a) (Draft), incorporated by reference in Section 276.104(a) of this Part.~~

b) Dynamometer

~~The dynamometer equipment shall meet the maintenance and calibration requirements specified in 40 CFR 85.2234(b) (Draft), incorporated by reference in Section 276.104(a) of this Part.~~

c) Constant Volume Sampler

~~The constant volume sampler test equipment shall meet the maintenance and calibration requirements specified in 40 CFR 85.2234(c) (Draft), incorporated by reference in Section 276.104(a) of this Part, with one exception: The bag sample check described in 40 CFR 85.2234(e)(6) (Draft), incorporated by reference in Section 276.104(b) of this Part, shall be performed during initial acceptance testing.~~

d) Analysis System

~~The transient loaded mode test analysis system shall meet the maintenance and calibration requirements specified in 40 CFR 85.2234(d) (Draft), incorporated by reference in Section 276.104(a) of this Part, with the following exceptions:~~

- ~~1) the zero and up-scale span points shall be checked at 2-hour instead of 3-hour intervals following the daily mid-scale curve check;~~
- ~~2) the NO_x-converter check and the NO/NO_x-flow balance are not required;~~
- ~~3) the integrator check as specified in 40 CFR 85.2234(d)(9) (Draft);~~

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~~incorporated by reference in Section 276.104(b) of this Part, is required; and~~

- 4) ~~the interference check (laboratory testing) as specified in 40 CFR 85.2234(d)(11) (Draft), incorporated by reference in Section 276.104(b) of this Part, is required to be performed instead of the interference check specified in 40 CFR 85.2234(d)(11) (Draft), incorporated by reference in Section 276.104(a) of this Part.~~

e) Gases

~~The transient loaded mode test analysis system gases shall meet the calibration requirements specified in 40 CFR 85.2234(e) (Draft), incorporated by reference in Section 276.104(a) of this Part.~~

f) Overall System Performance

~~The overall system performance for the transient loaded mode test shall meet the requirements specified in 40 CFR 85.2234(f) (Draft), incorporated by reference in Section 276.104(a) of this Part.~~

g) Control Charts

~~The transient loaded mode test analysis system control charts shall meet the requirements specified in 40 CFR 85.2234(g) (Draft), incorporated by reference in Section 276.104(a) of this Part, with the following exception: combined control charts for all facilities will be maintained.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

SUBPART G: FLEET SELF TESTING REQUIREMENTS

Section 276.701 General Requirements

- a) Any owner or lessee of a fleet of 15 or more vehicles subject to inspection may apply to the Agency for a permit to establish and operate one or more private official inspection~~Private Official Inspection (stations for the limited purpose of self-testing their fleet of vehicles)~~Stations Fleet Inspection Permit.
- b) Vehicle inspections shall be conducted in accordance with Subpart B of this Part,

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~~as applicable. Fleet inventory vehicles shall be required to receive the same emissions tests as vehicles tested at an Official Inspection Station. However, for a period not to exceed 5 years after implementation of the Enhanced I/M testing program as described in Section 276.101(b) of this Part, fleet self-testers who have been issued and maintain a valid fleet inspection permit ("fleet inspection permittees") prior to implementation of the Enhanced I/M testing program shall be allowed to conduct steady state idle exhaust tests only on vehicles required to receive such tests under Section 13B-25(e) of the Vehicle Emissions Inspection Law of 1995 using currently approved steady state idle test equipment and steady state idle equipment maintenance and calibration procedures. This authority shall terminate for each such fleet inspection permittee prior to the expiration of this 5 year period if such permittee discontinues fleet self-testing. Beginning with the implementation of the Enhanced I/M testing program, fleet inspection permittees utilizing the authority of this subsection to conduct steady state idle exhaust tests shall also conduct evaporative system integrity tests as described in Sections 276.205, 276.504 and 276.603 of this Part, and shall also conduct on-board diagnostic tests as described in Sections 276.209, 276.508, and 276.607 of this Part as applicable. Such fleet inspection permittees shall not substitute a steady state idle exhaust test for the transient loaded mode exhaust test required to be performed on vehicles specified by Section 13B-25(b) of the Vehicle Emissions Inspection Law of 1995.~~

- c) If the Agency substantially amends emissions ~~test inspection~~ standards, procedures, or other requirements, it may require emissions inspectors to be re-certified and fleet self-testers to be re-permitted.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.702 Fleet Inspection Permit

The Agency ~~may~~ ~~shall~~ issue ~~fleet inspection permits~~ ~~Fleet Inspection Permits~~ to eligible applicants upon a showing of compliance with the following requirements:

- a) Equipment
All fleet inspections shall be conducted utilizing equipment ~~approved by the Agency. This equipment shall meet~~ ~~that meets~~ the same functional requirements, performance criteria, maintenance standards, and calibration requirements as ~~specified in Subparts E and F of this Part~~ ~~equipment used in Official Inspection Stations.~~

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- b) Training
Each fleet inspector shall be required to complete and pass a training course given by the Agency covering the following topics:
- 1) I/M rules and regulations;
 - 2) ~~Testing~~testing procedures;
 - 3) ~~Analyzer~~analyzer use;
 - 4) ~~Analyzer~~analyzer calibration and quality control; and
 - 5) ~~Data~~data recording, ~~record-keeping~~ and submittal.
- c) General Fleet Inspection Permit Requirements
- 1) Applicants shall submit an application for a fleet inspection permit for each inspection location on forms provided by the Agency and shall include a list of vehicles that will be inspected at the private official inspection station.
 - 2) Applicants shall execute a fleet inspection agreement.
 - 3) Fleet inspection permits issued by the Agency~~Inspection Permits~~ shall expire two years after the date of issuance.
 - 4) Fleet inspection permits~~Inspection Permits~~ are not transferable.
 - 5) Any change in the name and/or address of any permittee or any fleet inspector or inspectors~~inspector(s)~~ employed by the permittee shall be reported to the Agency in writing on forms provided by the Agency within 30 days after the change.
 - 6) A permittee may request, and the Agency may grant, a relocation of equipment at a private official inspection station.
- d) Fleet Inspection Permit Suspension and Revocation
For the following reasons, the Agency may suspend for a period of up to two

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years or revoke, with the permittee being ineligible to reapply for two years, a fleet inspection permit~~Fleet Inspection Permit~~:

- 1) ~~The~~ permittee has violated any applicable laws, rules, or regulations~~provision of this rule~~;
- 2) ~~The~~ permittee has provided false or misleading information in its application for a fleet inspection permit~~Fleet Inspection Permit~~;
- 3) ~~the permittee has failed to keep proper records as required by the Agency in that: i)the permittee has failed to notify the Agency of a vehicle's emissions test results within 45 days after the date of inspection; ii)The~~ permittee has failed to notify the Agency that a vehicle has been proposed to be added or deleted from its vehicle inventory within the time specified by the Agency~~;60 days after the vehicle's disposal; or~~
- 4) ~~iii)~~ 20 percent or more of the vehicles in the permittee's fleet have failed to comply with the Vehicle Emissions Inspection Law of 2005~~expired compliance stickers or certificates~~;
- 5) ~~The~~ permittee has misrepresented any information provided in fleet vehicle lists, vehicle inspection reports, and/or equipment maintenance and calibration reports;
- 6) ~~The~~ number of vehicles subject to inspection in the permittee's fleet becomes less than 15.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.703 Fleet Inspection Permittee Operating Requirements

a) Vehicle Eligibility

- 1) The permittee shall furnish the Agency with a list of all vehicles subject to inspection and for which fleet inspection is requested. ~~The Agency shall provide forms to the~~ permittee shall provide this list to the Agency for the purpose of establishing a fleet vehicle inventory and requesting vehicle inspection dates. The information shall be submitted to the Agency either on the forms supplied, or by electronic media and shall include, at a

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minimum, ~~in~~ the following:

A) VIN;

B) License plate number;

C) Vehicle make;

D) Vehicle model; and

E) Vehicle model year.

~~format required by the Agency. When the Agency approves or denies the fleet vehicle inspection dates, it shall notify the fleet tester and, if approved, provide test forms to the fleet for submission to the Agency after testing.~~

2) The permittee shall notify the Agency in writing on forms provided by the Agency or by electronic media in the format required by the Agency in the event that any vehicles in the fleet inventory are proposed to be added or deleted from its vehicle inventory within the time specified by the Agency ~~sold or otherwise removed from fleet service. This notification shall be made within 30 days after the end of the month the vehicle is removed from fleet service.~~

3) Unless authorized by the Agency, vehicles contained in the fleet vehicle inventory pursuant to subsection (a) of this Section shall only be inspected at private official inspection stations ~~Private Official Inspection Stations~~. If authorization is given by the Agency for a vehicle contained in the fleet vehicle inventory to be tested or retested at an official inspection station ~~Official Inspection Station~~, any subsequent retests in that vehicle's testing cycle shall be conducted at an official inspection station ~~Official Inspection Station~~.

b) Inspection Frequency/Scheduling
At a minimum, all ~~All~~ vehicles in the fleet inventory shall be inspected biennially. ~~Upon Agency approval, the Assigned Test Months and sticker or compliance certificate expiration dates become compliance deadlines for use in program enforcement. Agency approval shall be based on the availability of personnel to audit the performance of inspections and the ability of the fleet operators to meet~~

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~~the proposed schedule (this will be determined by the number of vehicles to be inspected and the number of inspectors available).~~

- c) ~~Inspection Results Reports and Stickers or Certificates~~
All inspection results shall be submitted to the Agency electronically.
- ~~1) A Vehicle Inspection Report shall be submitted to the Agency for each vehicle that passes or fails an emissions inspection. Inspection results shall be reported on forms provided by the Agency. Inspection results shall be submitted to the Agency within 45 days after the date of inspection.~~
 - ~~2) Following review and processing, the Agency shall validate inspection stickers or certificates for all vehicles complying with program requirements. If the Agency determines that a vehicle inspection report is deficient, a sticker or certificate will not be validated and it shall return the inspection report along with instructions to correct the identified deficiencies.~~
 - ~~3) The permittee shall be responsible for the security and accountability of all vehicle inspection stickers or certificates issued to the permittee. In the event of lost or stolen stickers or certificates, the permittee shall notify the Agency in writing within 10 business days. Failure to report missing stickers or certificates shall be grounds for suspension or revocation of a Fleet Inspection Permit.~~
 - ~~4) Inspection stickers or certificates shall be displayed or possessed in accordance with Section 276.310.~~
 - ~~5) The permittee shall retain a legible copy of each completed Vehicle Inspection Report for a minimum of two years after the date of inspection. The reports shall be made available for Agency review upon request during normal business hours.~~
- d) Equipment, Maintenance and Calibration
~~1) All equipment used for emissions testing in private official inspection stations Private Official Inspection Stations shall meet the functional requirements, and performance criteria, maintenance standards, and calibration requirements contained in Subparts E and F of this Part.~~

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- 2) ~~The permittee shall keep records of all calibrations, leak checks, and other maintenance performed on emissions inspection equipment for two years. The records shall be retained at the fleet facility.~~

~~All records shall be kept on standardized forms provided by the Agency and shall be made available for Agency review upon request during normal business hours.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.704 Private Official Inspection Station Auditing and Surveillance

- a) All private official inspection stations shall be equipped with surveillance equipment as specified by the Agency.
- b) The Agency may, on an unscheduled and unannounced basis, during normal business hours, conduct an audit inspection of any private official inspection stations~~Private Official Inspection Stations~~ to determine if inspection equipment is properly operating and calibrated,~~to review vehicle inspection reports and maintenance records,~~ and to check inspector proficiency. During the course of the audit inspection, the Agency representative may take one or more of the following actions:
- 1a) Require~~require~~ that if any vehicle emissions test equipment, calibration equipment, or related materials fails to perform as required, such item shall be removed from service until corrective action is taken;
- 2b) The~~the~~ fleet inspector may be required to perform an emissions inspection on a fleet vehicle. If no fleet vehicles are available, the fleet inspector may be required to perform an emissions inspection on an Agency vehicle.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART H: GRIEVANCE PROCEDURE

Section 276.802 Procedure for Filing Grievance

- a) Grievances shall be filed with the Agency within 30 days after the decision made

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by the Agency.

- b) Grievances shall be made in writing on petition forms provided by the Agency.
- c) Grievance petition forms and instructions shall be available at all full-service official inspection stations~~Official Inspection Stations~~ and by mail from the Agency.
- d) Original repair orders, receipts, and other pertinent documentation shall be submitted with the grievance petition.
- e) Grievances and supporting documentation shall be mailed to the Agency at the address specified on the grievance petition.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.803 Agency Investigation

- a) The Director of the Agency or the Director's designee shall appoint an Agency employee to investigate every grievance regarding the failure of an emissions test or the denial of a waiver submitted to the Agency in accordance with this Part.
- b) The Agency's investigation shall be concluded within 45 days after the receipt of the grievance petition~~form~~.
- c) Within the 45 day investigation period, the Agency shall ~~submit~~issue written notification to the ~~petitioner~~petitioner, and affected inspector or station, its written determination indicating ~~the Agency's determination as to~~ the correctness or incorrectness of the decision ~~that~~which precipitated the grievance. In conducting the investigation, the Agency may require the petitioner to present the vehicle for inspection by the Agency or its designated agent.
- d) The Agency's written ~~determination~~determination notification shall include a statement of the facts relied upon and the legal and technical issues decided by the Agency in making its determinations.
- e) The Agency's written ~~determination~~determination notification may also require that an employee of the Agency or its designee:

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- 1) ~~Issue~~ an emissions ~~compliance inspection sticker or~~ certificate;
- 2) ~~Reinspect~~ the vehicle;
- 3) ~~Apply~~ the standards that the Agency has determined to be applicable;
or
- 4) ~~Take~~ any other action that the Agency deems to be appropriate.

f) If the Agency's investigation determines that a part needed to complete the necessary and appropriate repairs is unavailable after contacting at least 3 independent sources, one of which shall be the original equipment manufacturer, a waiver may be granted.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART I: NOTICES

Section 276.901 General Requirements

The Agency shall send ~~a vehicle emissions test notice an Initial Emissions Inspection Notice and, when appropriate, a Warning Notice~~ to owners of vehicles subject to inspection ~~that~~ which shall ~~include~~ state the ~~TED Assigned Test Month of the initial emissions inspection~~ and be accompanied by a clear statement from the Agency that, based on vehicle records, the vehicle is subject to inspection under the Vehicle Emissions Inspection Law of ~~2005~~ 1995. ~~A form accompanying the explanation will be provided to the vehicle owner to allow for correction of any information relied upon by the Agency.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.902 ~~Vehicle~~ Initial Emissions ~~Test~~ Inspection Notice

At least 15 days ~~after~~ prior to the beginning of the ~~TED Assigned Test Month~~, the Agency shall send ~~a vehicle emissions test notice~~ an Initial Emissions Inspection Notice to the registered ~~owner of~~ owner the vehicle requesting that the vehicle be tested ~~during the Assigned Test Month~~. This ~~vehicle emissions test notice~~ Initial Emissions Inspection Notice shall include the following information:

- a) ~~an Initial Emissions Inspection Sticker or Certificate, or a Corrected or Interim~~

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~~Emissions Inspection Sticker or Certificate, if required;~~

- ~~ab) Information relating to the operation of official inspection stations addresses and operating hours of Official Inspection Stations;~~
- ~~be) Agency vehicle emissions test program contact information a form or card to be returned to the Agency indicating the reasons the owner believes that the vehicle should not be subject to inspection pursuant to the Vehicle Emissions Inspection Law of 1995, or cannot comply by the expiration date;~~
- ~~cd) Brief brief explanation of the program; and~~
- ~~de) Instructions instructions for vehicle inspections.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.903 Warning Notice (Repealed)

~~If a vehicle has not complied with the provisions of the Vehicle Emissions Inspection Law of 1995 within two months before the sticker or certificate expiration date, the Agency shall send a Warning Notice to the vehicle's owner at the registration address currently on file with the Agency. The Warning Notice shall include the following information:~~

- ~~a) the addresses of Official Inspection Stations near the registration address of the vehicle;~~
- ~~b) a form or card to be returned to the Agency indicating the reasons the owner believes that the vehicle should not be subject to inspection under the Vehicle Emissions Inspection Law of 1995, or cannot comply by its expiration date; and~~
- ~~c) a statement of potential penalties for failure to comply with the requirements of the Vehicle Emissions Inspection Law of 1995, or this Part, as applicable.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

SUBPART J: RECIPROCITY WITH OTHER JURISDICTIONS

Section 276.1001 Requirements for Vehicles Registered in Affected Counties and Located in Other Jurisdictions Requiring Vehicle Emissions Inspection

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- a) Vehicles registered in the ~~affected counties~~Affected Counties and located and being primarily operated in other jurisdictions requiring vehicle emission testing ~~that will not be returning to an Affected County within 7 months after the vehicle's Assigned Test Month~~, or that are permanently located in such other jurisdiction, must be tested in that jurisdiction and comply with such jurisdiction's emissions testing requirements and the vehicle's registered owner must comply with the following requirements:
- 1a) ~~Upon~~upon written notification from the Agency ~~and/or the Illinois Secretary of State~~ to the vehicle's registered owner to have the vehicle inspected, the vehicle must be presented for inspection in the jurisdiction where the vehicle is located; ~~and~~
- 2b) ~~When~~when the vehicle passes the inspection, receives a waiver or exemption, or otherwise complies with the emissions inspection requirements of the jurisdiction in which the vehicle is located, the vehicle inspection report or other appropriate documentation must be forwarded to the Agency ~~using the method at the address~~ stated on the vehicle emission ~~test inspection~~ notice; ~~and~~
- be) ~~When~~when the Agency receives the appropriate vehicle inspection report or other documentation, the vehicle inspection record will be updated to reflect compliance ~~and the vehicle's registered owner shall be issued an emissions compliance certificate.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 276.1002 Requirements for Vehicles Registered in Other Jurisdictions Requiring Vehicle Emissions Inspection and Located in an Affected County

Vehicles ~~that~~which are registered in another jurisdiction, which requires vehicle emissions testing, and ~~that~~which are located and being primarily used in an ~~affected county~~Affected County, ~~and would be considered a non-exempt vehicle as defined in this Part~~, may be tested at a ~~full service official inspection station~~an Official Inspection Station in accordance with the following:

- a) ~~The vehicle's registered owner shall obtain a voluntary test voucher from the Agency prior to inspection upon a written request for an emissions inspection by~~

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~~the vehicle's registered owner to the Agency, the Agency shall request appropriate vehicle and owner information necessary for testing;~~

- b) ~~The vehicle's registered owner shall have the vehicle inspected if, upon review, the Agency determines the vehicle is eligible to receive an emissions inspection, the Agency shall notify the vehicle's registered owner (or one of the registered owners, if more than one) authorizing the vehicle to be tested at an Official Inspection Station; and~~
- c) ~~After~~ after the vehicle has received an emissions inspection, the appropriate test results will be issued to the vehicle's registered owner for submission to the jurisdiction requiring emissions inspections ~~and a sticker or certificate will be issued as appropriate.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART K: REPAIR FACILITY PERFORMANCE REPORTINGSection 276.1101 Requirements for Collecting and Reporting Data Pertaining to the Repair of Vehicles that Failed or Were Rejected from an Emissions Inspection

- a) The Agency shall:
- 1) Compile pertinent emissions repair data into a report that is provided to owners of vehicles that do not pass an emissions inspection and that is made available to the general public; and
 - 2) Specify the method for transmitting repair data to the Agency.
- b) Individuals or businesses that perform emissions-related repairs and report that data to the Agency shall:
- 1) Register at a website specified by the Agency and agree to be bound by the terms and conditions of any user agreement associated with that website;
 - 2) Submit accurate, complete, and legible repair data in order to be included in the compiled report; and

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Agency determinations under subsection (c) or (d) of this Section shall be furnished in writing to the individual or business by mail, electronic mail, facsimile, personal service, or by similar means.

2) Disputes

A) An individual or business that disagrees with an Agency determination under subsection (c) or (d) of this Section may dispute that determination. Disputes shall:

i) Be in writing;

ii) Include a copy of the Agency's written determination;

iii) Include a justification with any supporting documentation explaining why the individual or business should not be excluded from the compiled report; and

iv) Be clearly marked "Repair Facility Performance Report Dispute".

B) The written dispute must be postmarked within 30 days after the date of the Agency's determination.

C) If the written dispute has not been disposed of by written agreement within 30 days after the postmarked date of the written dispute, the individual or business may appeal the Agency's determination to the Director in accordance with subsection (e)(3) of this Section.

3) Appeals

A) If a dispute is not disposed of by written agreement as specified in subsection (e)(2) of this Section, an individual or business may file a notice of appeal with the Director of the Agency.

B) A notice of appeal shall:

i) Be in writing;

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- ii) Include a copy of the Agency's written determination;
 - iii) Include a copy of the written dispute;
 - iv) Include any additional justification with any supporting documentation explaining why the individual or business should not be excluded from the compiled report; and
 - v) Be clearly marked "Repair Facility Performance Report Appeal".
- C) The notice of appeal must be postmarked within 60 days after the postmarked date of the written dispute.
- D) The appeal shall be decided by the Director, or his or her authorized representative, who shall render a decision in writing. This decision shall be furnished to the individual or business by mail, electronic mail, facsimile, personal service, or by similar means. The decision of the Director shall be final and conclusive.
- E) The Director shall not be precluded from considering questions of law or equity in any decision.

(Source: Added at 35 Ill. Reg. _____, effective _____)

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Section 276.TABLE A Transient Driving Cycle (Repealed)

Time (second)	Speed (mph)
0	0
1	0
2	0
3	0
4	0
5	3
6	5.9
7	8.6
8	11.5
9	14.3
10	16.9
11	17.3
12	18.1
13	20.7
14	21.7
15	22.4
16	22.5
17	22.1
18	21.5
19	20.9
20	20.4
21	19.8
22	17.0
23	14.9
24	14.9
25	15.2
26	15.5
27	16.0
28	17.1
29	19.1
30	21.1
31	22.7
32	22.9
33	22.7

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34	22.6
35	21.3
36	19.0
37	17.1
38	15.8
39	15.8
40	17.7
41	19.8
42	21.6
43	23.2
44	24.2
45	24.6
46	24.9
47	25.0
48	25.7
49	26.1
50	26.7
51	27.5
52	28.6
53	29.3
54	29.8
55	30.1
56	30.4
57	30.7
58	30.7
59	30.5
60	30.4
61	30.3
62	30.4
63	30.8
64	30.4
65	29.9
66	29.5
67	29.8
68	30.3
69	30.7
70	30.9
71	31.0
72	30.9

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73	30.4
74	29.8
75	29.9
76	30.2
77	30.7
78	31.2
79	31.8
80	32.2
81	32.4
82	32.2
83	31.7
84	28.6
85	25.1
86	21.6
87	18.1
88	14.6
89	11.1
90	7.6
91	4.1
92	0.6
93	0
94	0
95	0
96	0
97	0
98	3.3
99	6.6
100	9.9
101	13.2
102	16.5
103	19.8
104	22.2
105	24.3
106	25.8
107	26.4
108	25.7
109	25.1
110	24.7
111	25.2

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112	25.4
113	27.2
114	26.5
115	24.0
116	22.7
117	19.4
118	17.7
119	17.2
120	18.1
121	18.6
122	20.0
123	20.7
124	21.7
125	22.4
126	22.5
127	22.1
128	21.5
129	20.9
130	20.4
131	19.8
132	17.0
133	17.1
134	15.8
135	15.8
136	17.7
137	19.8
138	21.6
139	22.2
140	24.5
141	24.7
142	24.8
143	24.7
144	24.6
145	24.6
146	25.1
147	25.6
148	25.7
149	25.4
150	24.9

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

151	25.0
152	25.4
153	26.0
154	26.0
155	25.7
156	26.1
157	26.7
158	27.3
159	30.5
160	33.5
161	36.2
162	37.3
163	39.3
164	40.5
165	42.1
166	43.5
167	45.1
168	46.0
169	46.8
170	47.5
171	47.5
172	47.3
173	47.2
174	47.2
175	47.4
176	47.9
177	48.5
178	49.1
179	49.5
180	50.0
181	50.6
182	51.0
183	51.5
184	52.2
185	53.2
186	54.1
187	54.6
188	54.9
189	55.0

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

190	54.9
191	54.6
192	54.6
193	54.8
194	55.1
195	55.5
196	55.7
197	56.1
198	56.3
199	56.6
200	56.7
201	56.7
202	56.3
203	56.0
204	55.0
205	53.4
206	51.6
207	51.8
208	52.1
209	52.5
210	53.0
211	53.5
212	54.0
213	54.9
214	55.4
215	55.6
216	56.0
217	56.0
218	55.8
219	55.2
220	54.5
221	53.6
222	52.5
223	51.5
224	50.5
225	48.0
226	44.5
227	41.0
228	37.5

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

229	34.0
230	30.5
231	27.0
232	23.5
233	20.0
234	16.5
235	13.0
236	9.5
237	6.0
238	2.5
239	0

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 276. TABLE B Fast-Pass Speed Variation Limits Using Positive Kinetic Energy (PKE) Measurements (Repealed)Cumulative PKE Limits

<u>Second</u>	<u>Lower</u>	<u>Upper</u>
30	4621	7359
31	4820	7664
32	4650	7380
33	4446	7045
34	4261	6739
35	4100	6474
36	3968	6254
37	3856	6068
38	3759	5905
39	3667	5750
40	3849	6026
41	4074	6367
42	4258	6643
43	4409	6867
44	4451	6920
45	4383	6802
46	4300	6663
47	4188	6478
48	4183	6460
49	4128	6364
50	4109	6323
51	4124	6336
52	4190	6426
53	4186	6410
54	4150	6343
55	4082	6228
56	4017	6119
57	3956	6015
58	3851	5846
59	3752	5686
60	3659	5535
61	3571	5393

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

62	3501	5278
63	3474	5230
64	3397	5104
65	3323	4985
66	3255	4874
67	3225	4821
68	3220	4806
69	3204	4774
70	3164	4707
71	3114	4624
72	3055	4529
73	2999	4438
74	2946	4352
75	2906	4285
76	2887	4251
77	2890	4248
78	2893	4245
79	2907	4258
80	2899	4239
81	2871	4191
82	2824	4116
83	2779	4044
84	2740	3980
85	2708	3926
86	2680	3880
87	2658	3842
88	2642	3811
89	2630	3787
90	2622	3770
91	2619	3760
92	2621	3756
93	2624	3754
94	2627	3751
95	2629	3749
96	2632	3746
97	2634	3743
98	2649	3757
99	2691	3811
100	2760	3902

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

101	2856	4031
102	2978	4196
103	3125	4396
104	3238	4547
105	3342	4685
106	3409	4772
107	3415	4771
108	3378	4712
109	3344	4656
110	3310	4602
111	3310	4594
112	3290	4558
113	3377	4672
114	3342	4616
115	3312	4566
116	3284	4520
117	3261	4481
118	3241	4445
119	3221	4411
120	3240	4429
121	3241	4423
122	3284	4474
123	3294	4481
124	3320	4509
125	3331	4516
126	3311	4481
127	3286	4440
128	3262	4401
129	3240	4364
130	3219	4327
131	3198	4293
132	3181	4263
133	3168	4239
134	3153	4211
135	3138	4184
136	3192	4248
137	3259	4330
138	3318	4402
139	3324	4403

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

140	3414	4515
141	3399	4487
142	3379	4453
143	3354	4413
144	3329	4373
145	3305	4334
146	3306	4329
147	3308	4323
148	3288	4291
149	3265	4253
150	3242	4216
151	3224	4186
152	3221	4175
153	3228	4177
154	3205	4141
155	3183	4105
156	3181	4095
157	3188	4098
158	3195	4101
159	3343	4283
160	3491	4465
161	3630	4636
162	3668	4676
163	3769	4796
164	3814	4847
165	3890	4934
166	3951	5004
167	4029	5094
168	4053	5116
169	4069	5127
170	4077	5129
171	4031	5063
172	3986	4998
173	3942	4935
174	3899	4874
175	3872	4832
176	3868	4818
177	3871	4814
178	3874	4810

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

179	3862	4787
180	3858	4774
181	3861	4771
182	3850	4749
183	3846	4736
184	3857	4742
185	3890	4774
186	3916	4798
187	3911	4784
188	3892	4753
189	3858	4704
190	3818	4647
191	3779	4592
192	3740	4538
193	3717	4502
194	3701	4475
195	3692	4458
196	3670	4423
197	3662	4406
198	3640	4373
199	3625	4348
200	3597	4307
201	3563	4259
202	3530	4213
203	3498	4167
204	3467	4123
205	3437	4082
206	3409	4042
207	3393	4016
208	3384	3998
209	3380	3987
210	3382	3984
211	3384	3980
212	3387	3976
213	3412	3999
214	3414	3995
215	3399	3970
216	3395	3959
217	3368	3921

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

218	3341	3884
219	3316	3848
220	3291	3813
221	3267	3778
222	3243	3746
223	3221	3714
224	3200	3683
225	3180	3654
226	3162	3627
227	3145	3603
228	3131	3580
229	3118	3560
230	3107	3541
231	3096	3525
232	3090	3510
233	3084	3496
234	3079	3487
235	3076	3478
236	3075	3470
237	3075	3465
238	3077	3461
239	3079	3458

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.510	Amend
120.640	Amend
120.650	Amend
120.660	Amend
120.670	Amend
- 4) Statutory Authority: 5 ILCS 100/5-10
- 5) A Complete Description of the Subjects and Issues Involved: One proposed amendment clarifies that an ex parte communication does not include communications between the parties. The other proposed amendments set forth when an Administrative Law Judge can make a final determination after a hearing and in what circumstances the Administrative Law Judge can only make a recommendation to the Director. These changes are necessary for the Department's compliance with OSHA's requirements for a State Plan State Program.
- 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 does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this Notice, to:

Valerie A. Puccini

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Labor
160 N. LaSalle Street, C-1300
Chicago, IL 60601

Telephone: 312/793-7838

Facsimile: 312/793-5257

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any party who is subject to administrative proceedings before the agency.
 - 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 2010

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

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

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

PART 120
RULES OF PROCEDURE IN ADMINISTRATIVE HEARINGS

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: NOTICE OF HEARING, SERVICE AND APPEARANCE

Section	
120.200	Notice of Hearing
120.210	Manner of Service
120.220	Appearance

SUBPART C: MOTION, JOINDER AND INTERVENTION

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

SUBPART D: PREHEARING CONFERENCES, DISCOVERY AND SUBPOENAS

Section	
120.400	Prehearing Conferences
120.410	Discovery

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

120.420 Subpoenas

SUBPART E: CONDUCT OF HEARINGS AND RULES OF EVIDENCE

Section

120.500 Authority of Administrative Law Judge
120.510 Ex Parte Communications
120.520 Disqualification of Administrative Law Judge
120.530 Contumacious Conduct
120.540 Consent Decree
120.545 Settlement Agreements
120.550 Conduct of Hearings
120.560 Rules of Evidence
120.570 Official Notice
120.580 Hostile or Adverse Witnesses

SUBPART F: POST-HEARING PROCEDURES

Section

120.600 Default
120.610 Record in Contested Cases
120.620 Briefs
120.630 Administrative Law Judge's Findings and Opinions (Repealed)
120.640 Administrative Law Judge's Decision and Order
120.650 Administrative Law Judge's Recommendations
120.660 Order of the Director
120.670 Judicial Review

AUTHORITY: Implementing and authorized by Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].

SOURCE: Adopted at 25 Ill. Reg. 899, effective January 5, 2001; amended at 30 Ill. Reg. 10424, effective May 24, 2006; amended at 35 Ill. Reg. _____, effective _____.

SUBPART E: CONDUCT OF HEARINGS AND RULES OF EVIDENCE

Section 120.510 Ex Parte Communications

- a) No party may engage in any ex parte communication with an Administrative Law

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

Judge ~~or with any member of the Department~~ regarding matters pending before an Administrative Law Judge.

- b) The Administrative Law Judge shall not initiate ex parte communications, directly or indirectly, in any matter in connection with any substantive issue, with any interested person or party. If the Administrative Law Judge receives any such ex parte communication, including any documents, he or she shall inform the other parties of the substance of any such oral communication or documents. The other parties shall be given an opportunity to review any such ex parte communication.
- c) Nothing shall prevent the Administrative Law Judge from communicating ex parte about routine matters such as requests for continuances or opportunities to inspect the file, as long as all parties are informed of the substance of the ex parte communication. The date and type of communication, the persons involved and the results of such routine communications shall be part of the record. A member of the Department may communicate with other members of the Department and a Department member or Administrative Law Judge may have the aid and advice of one or more personal assistants.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART F: POST-HEARING PROCEDURES

Section 120.640 Administrative Law Judge's Decision and Order

The Administrative Law Judge's decision shall be in writing and when necessary include findings of fact and conclusions of law and opinions. The findings of fact shall be based exclusively on the evidence presented at hearing or known to all parties, including matters officially noticed. The Administrative Law Judge shall, in addition to the decision, issue an appropriate order. The decision in the case ~~will be the decision for and of the Director and~~ shall become effective immediately upon the execution of the order by the Administrative Law Judge or as otherwise specified within the order or an applicable statute. A copy of the order shall be delivered or mailed to each party of record and to each attorney of record. This Section applies to formal hearings held pursuant to the Child Labor Law [820 ILCS 205], Day and Temporary Labor Services Act [820 ILCS 175], Nurse Agency Licensing Act [225 ILCS 510], Prevailing Wage Act [820 ILCS 130/11a], Health and Safety Act [820 ILCS 225], Safety Inspection and Education Act [820 ILCS 220] and Illinois Worker Adjustment and Retraining Notification Act [820 ILCS 65].

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 120.650 Administrative Law Judge's Recommendations

- a) Where the Director is required by law to be the sole, personal acting officer, the Administrative Law Judge shall, in lieu of decision and order under Section 120.640, make recommendations by way of proposal for decision. The recommendations shall be made upon consideration of the record as a whole or portion of the record as may be supported by competent, material and substantial evidence.
- b) The Administrative Law Judge shall forward a copy of his or her proposed findings of fact, opinions and recommendations to each party of record and each party of record shall be allowed 10 days in which to submit exceptions to the findings, opinions, and recommendations of the Administrative Law Judge and to present a brief to the Administrative Law Judge in support of those exceptions.
- c) The Administrative Law Judge shall then prepare and submit to the Director or his or her authorized representative a final set of findings, opinions and recommendations that, if a party submitted proposed findings of fact that might control the decision or order, shall include a ruling upon each proposed finding of fact together with the exceptions and briefs filed pursuant to this Section.
- d) This Section applies to formal hearings held pursuant to the Environmental Protection Act [415 ILCS 5/52(c)], Private Employment Agency Act [225 ILCS 515], Prevailing Wage Act [820 ILCS 130/11b] and Victims' Economic Security and Safety Act [820 ILCS 180].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 120.660 Order of the Director

Upon receipt of an Administrative Law Judge's recommendation, the The Director shall review the record and the Administrative Law Judge's findings, opinions and recommendations, together with exceptions and briefs, and shall issue an order as set forth by applicable statutes within a reasonable time. The decision in the case will become effective immediately upon the execution of the order or as otherwise specified within the order or an applicable statute. A copy of the order shall be delivered or mailed to each party and to each attorney of record.

DEPARTMENT OF LABOR

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(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 120.670 Judicial Review

- a) If a party seeks judicial review of an Administrative Law Judge's decision or an Order of the Director, that party will pay the actual cost to the Department of preparing the administrative record and filing it in court. Payment shall be by certified check made payable to the Illinois Department of Labor.
- b) Actions for judicial review under this Section shall be filed where the hearing proceedings took place, which is in either ~~in~~ the circuit court of Cook County or of Sangamon County.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

- 1) Heading of Part: Intern Training Program
- 2) Code Citation: 20 Ill. Admin. Code 1725
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1725.101	New Section
1725.102	New Section
1725.103	New Section
1725.104	New Section
1725.105	New Section
1725.201	New Section
1725.202	New Section
1725.203	New Section
1725.204	New Section
1725.205	New Section
1725.206	New Section
1725.207	New Section
1725.208	New Section
1725.209	New Section
1725.301	New Section
1725.302	New Section
1725.303	New Section
1725.304	New Section
1725.305	New Section
1725.306	New Section
1725.307	New Section
1725.308	New Section
1725.309	New Section
1725.310	New Section
1725.311	New Section
1725.312	New Section
1725.APPENDIX A	New Section
- 4) Statutory Authority: Implementing 50 ILCS 708 and authorized by 50 ILCS 708/30
- 5) A complete description of the Subjects and Issues Involved: On July 30, 1997, the Governor signed into law HB 695 (PA 90-259), the Law Enforcement Intern Training Act. The Act provides for entrance requirements for civilians who seek admission to basic law enforcement training courses and eligibility to take the State Certification

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

Examination to become a law enforcement officer. The Law Enforcement Training and Standards Board ("the Board") published first notice of proposed rules to implement the statute at 22 Ill. Reg. 14402 on August 7, 1998. These rules appear to have been through second notice and considered by JCAR without objection. The rules were not, however, ever published as adopted rules in the Illinois Register. This fact has only recently come to light, and the proposed rules have been minimally revised (primarily through renumbering) and are now being re-submitted in order to address this oversight.

- 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 rulemakings pending on this Part: No
- 11) Statement of Statewide policy objectives: There should be little if any impact to local units of government under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days of publication to:

Agency Rules Coordinator
Illinois Law Enforcement Training and Standards Board
4500 South Sixth Street Road, Room 173
Springfield, IL 62703-6617

217/782-4540
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

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- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: None

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

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER V: ILLINOIS LAW ENFORCEMENT TRAINING STANDARDS BOARD

PART 1725
INTERN TRAINING PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
1725.101	Purpose and Scope
1725.102	Definitions
1725.103	Veracity of Information
1725.104	Confidentiality of Information
1725.105	Board Review

SUBPART B: ELIGIBILITY REQUIREMENTS

Section	
1725.201	Participation in the Program
1725.202	Minimum Background Requirements
1725.203	Cognitive Testing
1725.204	Psychological Testing
1725.205	Background Investigation
1725.206	Drug Testing
1725.207	Wellness Standards
1725.208	Cooperation with the Board
1725.209	Financial Responsibility

SUBPART C: ADMISSION AND COMPLETION REQUIREMENTS

Section	
1725.301	Application
1725.302	Filing Date of Application
1725.303	Failure to Provide a Complete Application or Additional Information
1725.304	Board Review
1725.305	Signatures on the Application
1725.306	Final Board Decision
1725.307	Training Standards
1725.308	Minimum Curriculum Requirements

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

- 1725.309 Certification of Facilities
- 1725.310 Standards and Requirements
- 1725.311 Minimum Requirements of the Intern
- 1725.312 Procedures for the Administration of the Law Enforcement Intern Certification Examination

1725.APPENDIX A Physical Fitness Standards

AUTHORITY: Implementing the Law Enforcement Intern Training Act [50 ILCS 708] and authorized by Section 10 of the Illinois Police Training Act [50 ILCS 705/10].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1725.101 Purpose and Scope

Unless otherwise indicated, this Part sets forth the general requirements and procedures that are applicable for the training of all interns.

Section 1725.102 Definitions

The definitions of terms used in this Part are the same as those found in the Illinois Police Training Act [50 ILCS 705]. The following terms are defined for purposes of this Part:

"Act" means the Law Enforcement Intern Training Act [50 ILCS 708].

"Applicant" means a person who has applied for admission to the intern training program.

"Application" means the application process including, but not limited to, those tests and procedures set forth by the Board and set forth in the Act.

"Board" means the Illinois Law Enforcement Training and Standards Board.

"Certified Law Enforcement Intern" means a graduate law enforcement intern who has successfully completed the law enforcement intern training program and the State Certification Examination.

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

"Executive Director" means the Executive Director of the Illinois Law Enforcement Training and Standards Board.

"Graduate Law Enforcement Intern" means a civilian who has successfully completed the law enforcement intern training program but has not passed the State Certification Examination.

"Intern" means an individual who has applied for, been admitted into and is currently enrolled in the intern training program.

"POWER test" means the physical fitness standards established pursuant to 20 Ill. Adm. Code 1720.30(h).

"Program" means the Intern Training Program.

Section 1725.103 Veracity of Information

No person shall make any false or misleading statement, representation or certification of any record, report or any other document filed with the Board or required by the Board. In the event records, reports or other documents are determined to be not in compliance with this Section, the Board may take appropriate action, including, but not limited to, disqualifying, dismissing or prosecuting that person.

Section 1725.104 Confidentiality of Information

- a) Claims of confidentiality must be asserted at the time of submission, by stamping the words "Confidential Business Information" on each page containing such information. No confidential information will be submitted to parties involved in litigation without subpoenas.
- b) Claims of confidentiality on the following information will be denied: name and address of any person who receives funding and financial data submitted to the Board in order to implement the Program.
- c) Notwithstanding the provisions of subsection (a), the Board will adhere to the provisions of the Freedom of Information Act [5 ILCS 140]. Personal and private information may be acquired from the Board with the signed consent of the interested person.

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

Section 1725.105 Board Review

The Board shall be responsible for annually reviewing the curriculum of the Intern Training Program. The Board shall, as changes in the law or training techniques occur, make modifications to the Program.

SUBPART B: ELIGIBILITY REQUIREMENTS

Section 1725.201 Participation in the Program

To be eligible to participate in the Program, a person must meet the requirements as set forth in the Intern Training Act and this Part.

Section 1725.202 Minimum Background Requirements

- a) The Board shall establish minimum criteria and standards for all persons who wish to enter into and participate in the Program. Minimum criteria include: completion of an Associate's degree, no conviction for a felony or crime of moral turpitude, U.S. citizenship, Illinois residency and possession of a Firearm Owner's Identification card.
- b) The Board shall establish minimum testing requirements that shall be considered as a whole in determining the eligibility of a person to enter the Program. The minimum testing will include, but not be limited to, the following:
 - 1) Cognitive testing
 - 2) Psychological testing
 - 3) Background investigation
 - 4) Drug testing
 - 5) POWER test
- c) The Board shall interview and evaluate each person for the Program after the person has successfully met the testing criteria established in subsection (b).
- d) In addition to the provisions of this Section, the Board shall determine whether the person has met the requirements set forth in Section 15 of the Act.

Section 1725.203 Cognitive Testing

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF PROPOSED RULES

- a) The Board shall establish minimum testing requirements for those persons who wish to enter the Program for cognitive testing.
- b) Cognitive testing shall demonstrate the person's ability in the following areas: reading, comprehension, situational judgment, memory and writing.

Section 1725.204 Psychological Testing

The Board shall establish minimum testing requirements for those persons who wish to enter the Program to determine whether the person meets the minimum requirements established by psychological written examination.

Section 1725.205 Background Investigation

- a) The Board shall conduct a background investigation including, but not limited to, the criminal history check, driver's license check, verification of employment, verification of residency, verification of education and verification of the requirements set forth in Section 15 of the Act.
- b) The person shall also be fingerprinted and checked for a complete criminal history background.

Section 1725.206 Drug Testing

A person must meet the necessary laboratory levels and criteria prescribed by the Department of Public Health.

Section 1725.207 Wellness Standards

- a) Each person who wishes to enter the Program shall successfully complete the Board's physical fitness tests before being allowed to enter the Program.
- b) Prior to being allowed to attempt any part of the POWER test, each person who wishes to enter the Program shall provide in writing to the Board, on a form approved by the Board, a medical release and authorization report signed by a licensed physician that indicates that physically the person who wishes to enter the Program is fit medically to take the POWER test.

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- c) Each person who wishes to enter the Program shall be required to perform and successfully complete all of the Board's physical fitness tests in the sequence delineated in this subsection (c). The tests shall be as follows:
 - 1) Every person shall meet the Board's sit and reach standard as defined in Appendix A.
 - 2) Every person shall meet the Board's one minute sit-up standard as defined in Appendix A.
 - 3) Every person shall meet the Board's benchpress standard as defined in Appendix A.
 - 4) Every person shall meet the Board's 1.5 mile run standards as defined in Appendix A.
- d) If the person who wishes to enter the Program fails to complete the requirements set forth in this Section, the person shall not be eligible to proceed with the Program.
- e) A person who wishes to enter the Program shall be allowed to successfully complete the requirements set forth in subsection (c) at test sites approved for the Program within 10 days prior to the beginning of the Program.

Section 1725.208 Cooperation with the Board

The intern shall cooperate with the Board to assist the Board in ensuring compliance with the Board's responsibilities under the Police Training Act and the Act. This cooperation shall include, but not be limited to, providing the Board with consent forms necessary to do a thorough investigation as to the eligibility of the person to enter the Program, and an ongoing consent authority to allow the Board to remain informed and apprised of the person's status and concurrence with Board established directives and procedures.

Section 1725.209 Financial Responsibility

A person who wishes to enter the Program shall be 100 percent responsible for the payment of all costs and expenses associated with the administration and completion of his or her participation in the Program. These expenses shall be established by the Board and shall include, but not be limited to, the application fee (at least \$300, but no more than \$425), the cost of

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testing, cost of travel, cost of payment for tuition (\$1800 up to \$3000, depending on the school), room, board and miscellaneous fees, the administration of the exam, physical fitness testing, doctors' reports and doctors' examinations (from \$100 to \$200, doctor ordered medical tests excluded), and any expenses associated directly or indirectly with the application for entry and completion of the Program. In addition, it shall be the responsibility of the person who enters the Program to have adequate personal health insurance at all times and to hold harmless any trainer, institution or entity, including the State of Illinois, in the presentation of the Program to the person.

SUBPART C: ADMISSION AND COMPLETION REQUIREMENTS

Section 1725.301 Application

- a) Persons who wish to enter the Program shall submit a complete application in accordance with this Part.
- b) An application is complete when the Board receives all information that the Board deems necessary to determine whether to admit or deny the applicant in accordance with this Part.
- c) The completeness of any application shall be judged independently of any other application or activity.

Section 1725.302 Filing Date of Application

- a) An application shall be deemed filed on the date when the Board receives the application, unless the Board notifies the applicant within 30 days after the date of receiving the application that the application is incomplete and the reason the Board finds it incomplete.
- b) An application to enter the Program shall be filed at least 90 days prior to the start of instruction.
- c) Additional information notwithstanding the person's filing of a complete application in accordance with this Part, a person shall, upon request by the Board:
 - 1) provide additional information necessary to determine whether the activities comply with the Act or this Part; or

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- 2) provide additional information necessary to clarify, modify or supplement previously submitted applications.

Section 1725.303 Failure to Provide a Complete Application or Additional Information

The Board may deny an application if a person fails to comply with this Part. In determining whether to deny an application, the Board shall examine the contents of the application and deny the application if the person fails to provide information the Board needs to review the application and conditionally approve the application if there are minor deviations from the requirements, such as minor technical or other informational deficiencies that do not impede the Board's ability to judge the compliance of the application with the standards and procedures set forth in this Part.

Section 1725.304 Board Review

In reviewing an application, the Board must determine if the person is qualified to enter the Program and acceptance of the person would be in the best interests of the public to promote and protect the health, safety and welfare of the public. The number of persons accepted into the Program will be based, in part, but not be limited to, the amount of money appropriated for training, the ability of Board certified facilities and instructors to train additional personnel, the cost to administer the training, number of other police officers to be trained in law enforcement programs, and the success of the program based upon the ability of interns to obtain employment once completing the Program.

Section 1725.305 Signatures on the Application

- a) All applications shall be signed by the person and include such other signatures as the documents call for on their face.
- b) Any person signing a document required pursuant to any form or directive of the Board shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based upon my inquiry and my personal knowledge, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false or misleading information, including the possibility of fine and imprisonment."

Section 1725.306 Final Board Decision

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The Board shall notify the person who seeks to enter the Program in writing after the Board decides to grant or deny entry into the Program.

Section 1725.307 Training Standards

- a) The Board shall establish training standards and a curriculum for the implementation of the Intern Training Program course.
- b) Except as provided for in Section 8.1 of the Illinois Police Training Act, every person who enters the Program must successfully complete the Basic Training Program and State Certification Exam to be a Certified Law Enforcement Intern under this Program.

Section 1725.308 Minimum Curriculum Requirements

- a) The Board shall review the Basic Training Course to update the minimum basic training requirements to ensure the course is of similar content and number of hours as the courses for law enforcement officers.
- b) The Board's mandated training course may be reviewed and modified at any time by the Board. Nevertheless, the approved curriculum will include, but not be limited to, the following:
 - 1) The elements required by the Peace Officer Firearm Training Act [50 ILCS 710]; and
 - 2) Those curriculum courses and topics established in Section 7 of the Illinois Police Training Act [50 ILCS 705/7].

Section 1725.309 Certification of Facilities

The Board shall approve persons for the Program on a case by case basis. Once a person has been approved to enter the Program, the person will attend basic training at an approved Board-certified academy.

Section 1725.310 Standards and Requirements

- a) Each Board-certified academy with the Program shall operate under the

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guidelines set forth in this Part.

- b) The director of the academy shall assume the responsibility of the overall supervision of the program, including, as determined by the Board, the maintaining and grading of tests, the maintaining of all records, rating of course notebooks, arranging for instructors as approved by the Board, providing for food and lodging where appropriate, arranging for adequate training facilities, such as firearms courses, gymnasiums, auditoriums, driving and running courses, and maintaining and overseeing the conduct and discipline of interns.
- c) The academy shall maintain complete records for each intern. The records shall include, but not be limited to, the attendance and performance ratings of the intern, including test scores for every written or oral test taken during the Intern Training Program course. All records gathered by the academy or other facilities approved by the Board shall be maintained in accordance with the State Records Act [5 ILCS 160].
- d) The director of the academy shall be responsible for submitting to the Executive Director a class roster of all Interns who attend the Program. The director of the academy shall keep the Executive Director informed of the progress and status of the interns during the program. The director of the academy shall make the final determination whether an intern has satisfactorily passed all reasonable standards and requirements during training. The director of the academy shall have the authority to dismiss from the Program any intern who fails to comply with the standards established in this Part. Upon such dismissal action, the director of the academy shall submit a written report within 7 calendar days to the Executive Director. The intern shall have the opportunity within 7 days after notification of dismissal to submit a written report to the Executive Director describing the intern's version of the event. The Executive Director has the discretion to determine whether the action of the academy director should be ratified.

Section 1725.311 Minimum Requirements of the Intern

- a) Regular attendance at all sessions is required. However, excused absences may be granted by the director of the academy under certain limited circumstances beyond the intern's control, which may include, but not be limited to, a death in the family, illness, disability, or a transportation breakdown. In order to successfully complete the course, absences shall not exceed 10 percent of the total hours of instruction for any course of instruction.

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- b) Maintenance of an adequate classroom notebook is required. Factors to be considered in rating the notebook are neatness, legibility, accuracy and sufficiency of content. "Adequate", for purposes of this subsection, refers to:
- 1) Neatness. Concise organization of the notes. All notes and handouts will be placed in the book received during the course. Dividers into topics are required;
 - 2) Legibility. Recording of notes in brief, clear, complete sentences, underlining the important items;
 - 3) Accuracy. The notes taken in class must precisely reflect the content of the class; and
 - 4) Sufficiency of content. Recording in the intern's notebook should be in the intern's own words. The intern should strive to achieve condensation of the material clearly and concisely.
- c) Qualification in the use of firearms as required by the Peace Officer Firearm Training Act [50 ILCS 710] is required.
- d) An overall average of 70 percent must be achieved on all written examinations given during any course of training. Separate evaluation of any skill-oriented performance requirements shall be made by the designated director of the academy on a satisfactory/unsatisfactory basis.
- e) The director of the academy shall establish standards of conduct for the intern while he or she is taking the Program pursuant to Section 10 the Police Training Act. These shall include demeanor, deportment and compliance with the discipline and regulations of the facility or course. These standards shall be reviewed and approved by the Executive Director prior to implementation.
- f) Each intern shall provide, on a form prescribed by the Board, certification that he or she is a person of good character and has not been convicted of a felony offense or a crime involving moral turpitude. An intern shall immediately notify the Board in writing of all arrests and convictions while the intern is undergoing intern training.

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- g) Each intern will bring such equipment and clothing to training sessions as is required by the Board.
- h) Persons who are accepted into the Program must comply with all other laws and requirements set by federal or State law, including, but not limited to, having a Firearm's Owner Identification card and valid State of Illinois driver's license.
- i) An intern shall pass the State Certification Examination to qualify as a Certified Law Enforcement Intern under the Act, except as is otherwise provided for in the Act.
 - 1) The test shall be in writing. It shall be administered by the staff of the Board, or such other testing company or association expressly authorized by the Board;
 - 2) The Board shall establish a minimum passing score. In establishing the minimum passing score, the Board will ensure that the score reflects the knowledge and competency of the intern for law enforcement work. The minimum passing score will be established by the Board within the range of 60 to 80 percent of the total score. At the beginning of each training course, the minimum passing score will be announced;
 - 3) The content of the test for interns may include, but not be limited to, material in the areas as specified in Section 7(b) of the Police Training Act and subjects covered in the Peace Officer Firearm Training Act;
 - 4) The content of the test for interns may include, but not be limited to, materials in the areas specified in 20 Ill. Adm. Code 1780.202; and
 - 5) The Board shall review the content of the exam and minimum passing score to ensure they are current and reliable.

Section 1725.312 Procedures for the Administration of the Law Enforcement Intern Certification Examination

- a) The certification examination will be administered to all interns who successfully complete the Program certified by the Board.

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- b) Interns who successfully pass the certification examination shall be eligible to receive certification attesting to their successful completion of the Program.
- c) Examination results will be reported in writing to the intern within 14 days after the examination date.
- d) Only interns who have been certified by the Board as having met all the requirements of having successfully completed the Program are eligible to take the certification examination.
- e) In the event the intern fails to successfully complete the certification examination on the initial administration, he or she will be allowed to re-take the certification examination a maximum of one time. Failure of this test shall result in the intern not being eligible for intern officer certification.
- f) In order to be eligible to re-take the certification examination, the intern must submit a written request to the Board. The Intern must apply for and complete the re-take examination within 6 months after the first attempt.
- g) Interns who initially fail to successfully complete the certification examination on the first attempt will be administered an alternate version of the certification examination on the second attempt.
- h) The Board will establish and publish the locations with the dates and times for the administration of re-take examinations.
- i) The initial certification examination will be administered at the academy.
- j) The intern will have 3.5 hours to complete the certification examination. An intern will be excused from completing the examination at that session if he/she is ill and excused by the proctor.
- k) Individuals allowed within the testing area will be limited to Board-approved examination proctors, and those who are taking the examination.
- l) Any intern who is uncooperative, disruptive or is thought to be cheating during the administration of the certification examination will be ordered by the proctor to turn in his or her examination and to leave the examination area. A complete written report of the incident will then be submitted by the proctor to the

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Executive Director of the Board. The intern shall have the opportunity within 7 days to submit a written report to the Executive Director describing the intern's version of the event. In such cases it will be left to the discretion of the Executive Director to determine whether the intern has declined the examination and whether the intern is eligible to re-take the certification examination. The Executive Director's determination will be based on the nature of the intern's misbehavior and on the supporting evidence of such misbehavior.

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Section 1725.APPENDIX A Physical Fitness Standards

1. **SIT AND REACH TEST:** This is a measure of the flexibility of the lower back and upper leg area. It is an important area for performing police tasks involving range of motion and is important in minimizing lower back problems. The test involves stretching out to touch the toes beyond the extended arms from the sitting position. The score is reflected by the inches reached on a yard stick with 15" being at the toes.

MALE AGE

TEST	20-29	30-39	40-49	50-59	60 Plus
Sit and Reach	16.0	15.0	13.8	12.8	12.0

FEMALE AGE

TEST	20-29	30-39	40-49	50-59	60 Plus
Sit and Reach	18.8	17.8	16.8	16.3	15.0

2. **1 MINUTE SIT UP TEST:** This is a measure of the muscular endurance of the abdominal muscles. It is an important area for performing police tasks that may involve the use of force and is an important area for maintaining good posture and minimizing lower back problems.

MALE AGE

TEST	20-29	30-39	40-49	50-59	60 Plus
1 Minute Sit Up	37	34	28	23	18

FEMALE AGE

TEST	20-29	30-39	40-49	50-59	60 Plus
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1 Minute Sit Up	31	24	18	13	5
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3. 1 REPETITION MAXIMUM BENCH PRESS: This is a maximum weight pushed from the bench press position and measures the amount of force the upper body can generate. The score is reflected by the ratio of weight pressed to body weight.

	MALE AGE					FEMALE AGE				
TEST	20-29	30-39	40-49	50-59	60 Plus	20-29	30-39	40-49	50-59	60 Plus
Maximum Bench Press Ratio	.98	.87	.79	.70	.65	.58	.52	.49	.43	.42

4. 1.5 MILE RUN: This is a timed run to measure the heart and vascular systems' capability to transport oxygen. It is an important area for performing police tasks involving stamina and endurance and to minimize the risk of cardiovascular problems. The score is in minutes and seconds.

	MALE AGE					FEMALE AGE				
TEST	20-29	30-39	40-49	50-59	60 Plus	20-29	30-39	40-49	50-59	60 Plus
1.5 Mile Run	13:46	14:31	15:24	16:21	17:38	16:21	16:52	17:53	18:44	19:39

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- 1) Heading of the Part: Mobile Sources
- 2) Code Citation: 35 Ill. Adm. Code 240
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
240.102	Amend
240.104	Amend
240.105	Amend
240.106	Amend
240.107	Amend
240.151	Amend
240.152	Amend
240.153	Amend
240.161	Repeal
240.162	Repeal
240.163	Repeal
240.164	Repeal
240.165	Repeal
240.171	Amend
240.181	Amend
240.182	Amend
240.191	Amend
240.TABLE A	Repeal
240.TABLE B	Repeal
240.TABLE C	Repeal
- 4) Statutory authority: Implementing Section 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-20] and authorized by Sections 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, 28]
- 5) A complete description of the subjects and issues involved: This proposal for public comment amends Part 240 to reflect the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C], which replaces and continues the Vehicle Emissions Inspection Law of 1995. Chief provisions of this proposal exempt model year 1995 and older vehicles from inspection, replace the transient loaded mode (IM 240) emissions inspection test with the OBD inspection test as the primary test, and maintain the steady-state idle exhaust gas analysis and evaporative system integrity emissions tests as secondary emissions tests. The proposal also includes clarification, updates, and clean-ups.

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For a more detailed description of this rulemaking, see the Board's December 16, 2010, first-notice opinion and order: Revision of Enhanced Vehicle Inspection and Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code Part 240 (R11-17).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Illinois Environmental Protection Agency filed this proposal and states that its preparation relied upon the following sources:
- a) Clean Air Act (42 U.S.C. 7401 *et seq.*)
 - b) Vehicle Emissions Inspection Law of 2005 (625 ILCS 5/13C)
 - c) 40 CFR 51, subpart S (2009)
 - d) 40 CFR 85, subpart W (2009)
 - e) 66 Fed. Reg. 18156-79 (Apr. 5, 2001)
 - f) "Reinventing the Illinois I/M Program, 2005 Clean Air Conference", James Matheny, Illinois Environmental Protection Agency, September 2005.
 - g) "The Road to OBD Only Insights and Changes, I/M Solutions", Stephen W. Thorpe, Illinois Environmental Protection Agency, June 2, 2009.
 - h) "VOC Reduction (TPD) for the Chicago Area from the Pre-'07 I/M Program and the '07-On Program", Sam Long, Illinois Environmental Protection Agency, June 11, 2009.
 - i) "VOC Reduction (TPD) for the Metro-East Area from the Pre-'07 I/M Program and the '07-On Program", Sam Long, Illinois Environmental Protection Agency, October 2010.
- 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

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- 11) Statement of statewide policy objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2008)].
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal. Comments should reference docket R11-19 and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Address all questions to Timothy Fox at 312-814-6085.

Interested persons may obtain copies of the Board's opinion and order by downloading them from the Board's Web site at www.ipcb.state.il.us or by calling the Clerk's office at 312-814-3620.

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: The proposal would affect a small business, small municipality, or not-for-profit corporation to the extent that it owned a vehicle subject to emissions inspection.
- B) Reporting, bookkeeping or other procedures required for compliance: The proposal is not expected to require new reporting, bookkeeping, or other procedures for compliance.
- C) Types of professional skills necessary for compliance: No professional skills beyond those currently required by the existing state and federal air pollution control requirements are expected to be necessary.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER k: EMISSION STANDARDS AND LIMITATIONS
FOR MOBILE SOURCES

PART 240
MOBILE SOURCES

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section	
240.101	Preamble
240.102	Definitions
240.103	Prohibitions
240.104	Inspection
240.105	Penalties
240.106	Determination of Violation
240.107	Incorporations by Reference

SUBPART B: EMISSIONS

Section	
240.121	Smoke Emissions
240.122	Diesel Engine Emissions Standards for Locomotives
240.123	Liquid Petroleum Gas Fuel Systems
240.124	Vehicle Exhaust Emission Standards (Repealed)
240.125	Compliance Determination (Repealed)

SUBPART C: SMOKE OPACITY STANDARDS AND TEST PROCEDURES
FOR DIESEL-POWERED HEAVY DUTY VEHICLES

Section	
240.140	Applicability
240.141	Smoke Opacity Standards and Test Procedures for Diesel-Powered Heavy Duty Vehicles

SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

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Section

240.151	Applicability
240.152	Steady-State Idle Mode Vehicle Exhaust Emission Standards
240.153	Compliance Determination

SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

Section

240.161	Applicability <u>(Repealed)</u>
240.162	Vehicle Exhaust Emission Start-Up Standards <u>(Repealed)</u>
240.163	Vehicle Exhaust Emission Final Standards <u>(Repealed)</u>
240.164	Vehicle Exhaust Emission Fast-Pass Standards <u>(Repealed)</u>
240.165	Compliance Determination <u>(Repealed)</u>

SUBPART F: EVAPORATIVE TEST STANDARDS

Section

240.171	Applicability
240.172	Evaporative System Integrity Test Standards
240.173	Evaporative System Purge Test Standards (Repealed)

SUBPART G: ON-ROAD REMOTE SENSING TEST EMISSION STANDARDS

Section

240.181	Applicability
240.182	On-Road Remote Sensing Emission Standards
240.183	Compliance Determination

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section

240.191	Applicability
240.192	On-Board Diagnostic Test Standards
240.193	Compliance Determination

240.APPENDIX A Rule into Section Table

240.APPENDIX B Section into Rule Table

240.TABLE A Vehicle Exhaust Emission Start-Up Standards (Repealed)

240.TABLE B Vehicle Exhaust Emission Final Standards (Repealed)

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240.TABLE C Vehicle Exhaust Emission Fast-Pass Standards ~~(Repealed)~~

AUTHORITY: Implementing Sections 9 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9, 10, 27, and 28] and Section 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-20].

SOURCE: Adopted as Chapter 2: Air Pollution, Part VII: Mobile Sources, filed and effective April 14, 1972; codified at 7 Ill. Reg. 13628; amended in R85-25, at 10 Ill. Reg. 11277, effective June 16, 1986; amended in R90-20 at 16 Ill. Reg. 6184, effective April 7, 1992; amended in R94-20 at 18 Ill. Reg. 18013, effective December 12, 1994; amended in R94-19 at 18 Ill. Reg. 18228, effective December 20, 1994; amended in R98-24 at 22 Ill. Reg. 13723, effective July 13, 1998; expedited correction at 22 Ill. Reg. 21120, effective July 13, 1998; amended in R01-12 at 24 Ill. Reg. 19188, effective December 18, 2000; amended in R01-8 at 25 Ill. Reg. 3680, effective February 26, 2001; amended in R02-8 at 25 Ill. Reg. 16379, effective December 18, 2001; amended in R11-19 at 35 Ill. Reg. _____, effective _____.

BOARD NOTE: This ~~Part~~ implements the Environmental Protection Act as of July 1, 1994.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section 240.102 Definitions

All terms ~~that~~^{which} appear in this Part have the definitions specified in this ~~Section, the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C], Part~~ and 35 Ill. Adm. Code 201 and 211. ~~When~~^{Where} conflicting definitions occur ~~between this Section and 35 Ill. Adm. Code 201 or 211~~, the definitions of this Section apply in this Part.

~~"Adjusted loaded vehicle weight ("ALVW") means the value of the vehicle curb weight plus gross vehicle weight rating divided by two."~~

"Agency" means the Illinois Environmental Protection Agency.

"Diesel engine" means all types of internal-combustion engines in which air is compressed to a temperature sufficiently high to ignite fuel injected directly into the cylinder area.

"Diesel locomotive" means a diesel engine vehicle designed to move cars on a railway.

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"Evaporative system integrity test" means a test of a vehicle's evaporative system. The test shall either consist of a leak check of a vehicle's fuel cap with a fuel cap pressure decay tester (fuel cap pressure decay test), a fuel cap leak flow tester (fuel cap leak flow test), or a visual functional check, as applicable.

"Fuel cap" means a device used to seal a vehicle's fuel inlet.

"Fuel cap leak flow test" means a test which may be performed in accordance with this Part on a vehicle's fuel cap using a fuel cap leak flow tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Fuel cap leak flow tester" means a device used to determine the leak flow integrity of a vehicle's fuel cap by comparing the measured leak flow of the fuel cap with an established fuel cap leak flow standard.

"Fuel cap pressure decay test" means the test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap pressure decay tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Fuel cap pressure decay tester" means a device used to determine the pressure decay integrity of a vehicle's fuel cap by monitoring the pressure behind the fuel cap for a ten second period and comparing the measured pressure decay of the fuel cap to an established fuel cap pressure decay standard.

"Fuel cap visual functional test" means the test performed in accordance with this Part on a vehicle's fuel cap using visual analysis to determine whether the vehicle complies with the evaporative system emission standards of this Part.

~~"Full power position" means the throttle position at which the engine fuel delivery is at maximum flow.~~

"Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Heavy duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.

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"High idle" means a vehicle operating condition with engine disconnected from an external load (placed in either neutral or park) and operating at speed of 2500 ± 300 RPM.

~~"IM240" means the transient mass emissions inspection procedure that the USEPA developed and has been implemented for use in the Illinois Enhanced Vehicle Inspection and Maintenance Program. 240 refers to the 240-second maximum duration of the driving cycle that the vehicle undergoes as it is positioned on the dynamometer and essentially driven for the purpose of measuring the mass amount of emissions coming out of the tail pipe.~~

"Idle mode" means that portion of a vehicle emission test procedure conducted with the engine disconnected from an external load and operating at minimum throttle.

"Initial idle mode" means the first of up to two idle mode sampling periods during a steady-state idle mode test, during which exhaust emission measurements are made with the vehicle in "as-received" condition.

"Light duty truck 1" means a motor vehicle rated at 6000 pounds maximum GVWR or less and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty truck 2" means a motor vehicle rated between 6001 and 8500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or fewer.

~~"Loaded mode" means that portion of a vehicle emission test procedure conducted with the vehicle positioned and operating under load on a chassis dynamometer.~~

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~~"Loaded vehicle weight (LVW)" means the vehicle curb weight plus 300 pounds.~~

"Measured values" means five-second running averages of exhaust emission concentrations sampled at a minimum rate of twice per second.

"Model year" means the year of manufacture of a motor vehicle based upon the annual production period as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture.

"Motor vehicle" as used in this Part, shall have the same meaning as in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].

"Opacity" means the percentage of light transmitted from a source that is prevented from reaching a light detector.

"Preconditioning mode" means a period of steady-state loaded mode or high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failures caused by improper or insufficient warm-up.

"Second-chance idle mode" means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

"Snap-acceleration test" means a test to measure exhaust smoke opacity from heavy-duty diesel powered vehicles in accordance with the SAE J1667 procedure, incorporated by reference at Section 240.107 of this Subpart.

"Steady-state idle test" means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if necessary, by a loaded or high idle preconditioning mode and a second-chance idle mode.

~~"Transient loaded mode test" or "IM240 testing" or "transient IM240 loaded mode exhaust emission test procedure" or "transient IM 240 test procedure" means a vehicle emissions test run on an inertial and power absorbing dynamometer using~~

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~~USEPA's IM240 driving cycle consisting of accelerations and decelerations simulating on-road driving conditions.~~

"Vehicle curb weight" means the actual vehicle weight plus standard equipment and a full fuel tank.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.104 Inspection

- a) All motor vehicles subject to inspection pursuant to Section 13~~CB~~-15 of the Vehicle Emissions Inspection Law of ~~2005-1995~~ [625 ILCS 5/13~~CB~~-15] shall comply with applicable vehicle emission standards contained in Sections 240.152, ~~240.162, 240.163~~, 240.172, 240.182, and 240.192 of this Part.
- b) All diesel-powered vehicles subject to inspection pursuant to Section 13-109.1 of the Illinois Vehicle Code [625 ILCS 5/13-109.1] must comply with applicable smoke opacity standards set forth in Section 240.141(a) of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.105 Penalties

- a) Any violations of Sections 240.103, 240.121, 240.122, ~~or and~~ 240.123 of this Part shall be subject to the penalties as set forth in Section 42 of the Act [415 ILCS 5/42].
- b) Any violations of Sections 240.104(b), 240.152, ~~240.162, 240.163~~, 240.172, 240.182, ~~or and~~ 240.192 of this Part shall be subject to the penalties as set forth in Sections 13~~CB~~-55 and 13~~CB~~-60 of the Vehicle Emissions Inspection Law [625 ILCS 5/13~~CB~~-55 and 13~~CB~~-60].
- c) Any violation of Section 240.141(a) of this Part will be subject to penalties as set forth in Section 13-109.1 of the Illinois Vehicle Code [625 ILCS 5/13-109.1].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.106 Determination of Violation

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- a) Any violations of ~~Sections~~Section 240.103, 240.121, 240.122, ~~and~~240.123 of this Part shall be determined by visual observation or by a test procedure employing an opacity measurement system as qualified by 35 Ill. Adm. Code 201, Subpart J.
- b) Any violations of ~~Sections~~Section 240.152, ~~240.162, 240.163,~~240.172, 240.182, or 240.192 of this Part shall be determined in accordance with test procedures adopted by the Agency in 35 Ill. Adm. Code 276.
- c) Any violation of Section 240.141(a) of this Part will be determined in accordance with test procedures set forth in Section 240.141(b) of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.107 Incorporations by Reference

The following ~~material is~~materials ~~are~~ incorporated by reference and ~~includes~~include no later editions or amendments:

- a) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096-0001, www.sae.org: Report J1667 Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles (February 1996).
- b) ~~United States Environmental Protection Agency (USEPA), "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance," Report EPA-AA-RSPD-IM-96-1 (June 1996), 2565 Plymouth Road, Ann Arbor, MI 48105.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS**Section 240.151 Applicability**

The standards of ~~this~~ Subpart ~~D~~ apply to ~~those~~all vehicles ~~identified in subsection 13C-25(d) inspected upon implementation~~ of the Vehicle Emissions Inspection Law of ~~2005-1995 and identified in Subsections 13B-25(c) and (d) of that law utilizing steady-state exhaust emission test procedures adopted by the Agency.~~

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(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.152 Steady-State Idle Mode Vehicle Exhaust Emission Standards

- a) Exhaust emissions from light duty vehicles shall not exceed the following limitations:

Model Year	Carbon Monoxide (%)	Hydrocarbons as Hexane (ppm)
1968—1971	9.0	900
1972—1974	8.0	800
1975—1977	7.0	700
1978—1979	6.0	600
1980	3.0	300
1996+1981 and <u>newer+later</u>	1.2	220

- b) Exhaust emissions from light duty trucks 1 and light duty trucks 2 shall not exceed the following limitations:

Model Year	Carbon Monoxide (%)	Hydrocarbons as Hexane (ppm)
1968—1971	9.0	900
1972—1974	8.0	800
1975—1978	7.0	700
1979—1980	6.0	600
1996+1981 and <u>newer+later</u>	1.2	220

- c) Exhaust emissions from heavy duty vehicles shall not exceed the following limitations:

Model Year	Carbon Monoxide (%)	Hydrocarbons as Hexane (ppm)
1968—1971	9.5	1500
1972—1978	9.0	900
1979—1984	7.0	700
1996+1985 and	3.0	300

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~~newer~~later

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.153 Compliance Determination

Compliance shall be determined based upon the measurement of exhaust emissions using the steady-state idle test while the vehicle to be tested is operating in the idle mode. The vehicle shall pass exhaust emissions inspection if at any time during the initial idle mode or second-chance idle mode of the steady-state idle test the measured values are at or below the applicable limits of Section 240.152 of this Subpart. Vehicles failing the initial idle mode shall undergo a ~~loaded or~~ high idle preconditioning mode and receive a second-chance idle mode unless no measured values less than 1800 ppm HC are obtained within an elapsed time of 30 seconds.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

Section 240.161 Applicability (Repealed)

~~The standards of this Subpart apply to model year 1981 and newer light duty vehicles, light duty trucks 1, and light duty trucks 2 which are inspected utilizing transient IM240 loaded mode exhaust emission test procedures adopted by the Agency in 35 Ill. Adm. Code 276.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 240.162 Vehicle Exhaust Emission Start-Up Standards (Repealed)

~~Vehicle exhaust emission start-up standards contained in Section 240. Table A of this Part shall apply for all vehicles subject to inspection until January 31, 2001. From February 1, 2001, onward, these standards shall continue to apply to all model year 1981 through model year 1987 LDV, LDT1, and LDT2 vehicles. All standards are expressed in grams per mile (gpm).~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 240.163 Vehicle Exhaust Emission Final Standards (Repealed)

~~Beginning February 1, 2001, vehicle exhaust emission final standards contained in Section 240. Table B of this Part shall apply for all vehicles subject to except for model year 1981~~

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~~through model year 1987 LDV, LDT1, and LDT2 vehicles, which shall continue to use the standards contained in Section 240. Table A of this Part as described in Section 240.162. All standards are expressed in grams per mile (gpm).~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 240.164 Vehicle Exhaust Emission Fast-Pass Standards (Repealed)

~~Vehicle exhaust emissions fast-pass standards contained in Section 240. Table C of this Part will apply for all vehicles subject to inspection under Section 240.161 of this Part utilizing the IM240 transient loaded mode exhaust emission test procedures that have been adopted by the Agency in 35 Ill. Adm. Code 276. All standards are expressed as the cumulative grams for each second of the composite and Phase 2 tests.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 240.165 Compliance Determination (Repealed)

- a) ~~Vehicle Exhaust Emission Start-Up and Final Standards—Compliance shall be determined based upon the measurement of exhaust emissions while operating the vehicle on a dynamometer and following the driving cycle as specified for the transient IM240 test procedures adopted by the Agency. If the corrected, composite emission rates exceed standards for any pollutant, additional analysis of test results shall review the second phase ("Phase 2") of the driving cycle separately. Phase 2 shall include second 94 through second 239 of the driving cycle. Second-by-second emission rates in grams and composite emission rates in grams per mile for Phase 2 and for the entire composite test shall be recorded for each pollutant. For any given pollutant, if the composite emission level is at or below the composite standard or if the Phase 2 grams per mile emission level is at or below the applicable Phase 2 standard, then the vehicle shall pass the test for that pollutant. Composite and Phase 2 emission rates shall be calculated in accordance with procedures specified in "High Tech I/M Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance", incorporated by reference at Section 240.107(c) of this Part.~~
- b) ~~Vehicle Exhaust Emission Fast-Pass Standards—Compliance will be determined based upon the measurement of exhaust emissions while operating the vehicle on a dynamometer and following the driving cycle as specified for the transient~~

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~~IM240 test procedures adopted by the Agency. Vehicles will be fast-passed using the following algorithm:~~

- ~~1) Beginning at second 30 of the driving cycle, cumulative second-by-second emission levels for each second, calculated from the start of the cycle in grams, will be compared to the cumulative fast-pass emission standards for the second under consideration. Beginning at second 109, fast-pass decisions are based upon analysis of cumulative emissions in Phase 2, the portion of the test beginning at second 94, as well as emission levels accumulated from the beginning of the composite test.~~
- ~~2) A vehicle will pass the transient IM240 test for a given pollutant if either of the following conditions occurs:
 - ~~A) cumulative emissions of the pollutant are below the full cycle fast-pass standard for the second under consideration; or~~
 - ~~B) at second 109 and later, cumulative Phase 2 emissions are below the Phase 2 fast-pass standards for the second under consideration.~~~~
- ~~3) Testing may be terminated when fast-pass criteria are met for all subject pollutants in the same second.~~
- ~~4) If a fast-pass determination cannot be made for all subject pollutants before the driving cycle ends, the pass/fail determination for each component will be based on composite or Phase 2 emissions over the full driving cycle according to the procedures in subsection (a) of this Section. In cases where fast-pass standards are not used, composite emission rates in grams per mile for Phase 2 and for the entire composite test will be recorded for each pollutant.~~
- ~~5) Composite and Phase 2 emission rates will be calculated in accordance with procedures specified in "High-Tech I/M Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance" incorporated by reference at Section 240.107(e) of this Part.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

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SUBPART F: EVAPORATIVE TEST STANDARDS

Section 240.171 Applicability

~~The standards of this Subpart apply to those vehicles identified in subsection 13C-25(d) of the Vehicle Emissions Inspection Law of 2005. The standards of Section 240.172 of this Subpart shall apply to all model year 1968 and newer vehicles required at the time of manufacture to be equipped with evaporative emission control systems.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART G: ON-ROAD REMOTE SENSING TEST EMISSION STANDARDS

Section 240.181 Applicability

~~The standards of this Subpart apply to those all vehicles tested pursuant to subsection 13C-15(b)(11) of the Vehicle Emissions Inspection Law of 2005 which are inspected utilizing the on-road remote sensing exhaust emission test procedures that will be adopted by the Agency in 35 Ill. Adm. Code 276.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 240.182 On-Road Remote Sensing Emission Standards

~~Exhaust emissions from all subject vehicles and trucks shall not exceed the following limitations:~~

Model Year	Hydrocarbons (ppm)	Carbon Monoxide (%)
1996 and newer 1992+	400	2.0
1988-1991	450	3.0
1981-1987	650	5.0
1975-1980	1300	7.0
1968-1974	1700	8.0

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(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section 240.191 Applicability

The standards of this Subpart apply to those vehicles tested pursuant to subsection 13C-25(c) of the Vehicle Emissions Inspection Law of 2005~~all 1996 and newer model year light duty vehicles, light duty trucks 1, and light duty trucks 2 that are required to meet the standards contained in 40 CFR 86.094-17 and which are inspected utilizing the on-board diagnostic test procedures contained in 35 Ill. Adm. Code 276.209. Vehicles that receive a result of fail do not thereby fail their emissions test until January 1, 2002.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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Section 240. TABLE A Vehicle Exhaust Emission Start-Up Standards (Repealed)**Light Duty Vehicles:**

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite (gpm)	Phase-2 (gpm)	Composite (gpm)	Phase-2 (gpm)	Composite (gpm)	Phase-2 (gpm)
1996+	0.80	0.50	15.0	12.0	2.0	Reserved
1991-1995	1.20	0.75	20.0	16.0	2.5	Reserved
1983-1990	2.00	1.25	30.0	24.0	3.0	Reserved
1981-1982	2.00	1.25	60.0	48.0	3.0	Reserved

Light Duty Trucks 1:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite (gpm)	Phase-2 (gpm)	Composite (gpm)	Phase-2 (gpm)	Composite (gpm)	Phase-2 (gpm)
1996+						
(\leq 3750 LVW)	0.80	0.50	15.0	12.0	2.0	Reserved
(>3750 LVW)	1.00	0.63	20.0	16.0	2.5	Reserved
1991-1995	2.40	1.50	60.0	48.0	3.0	Reserved
1988-1990	3.20	2.00	80.0	64.0	3.5	Reserved
1984-1987	3.20	2.00	80.0	64.0	7.0	Reserved
1981-1983	7.50	5.00	100.0	80.0	7.0	Reserved

Light Duty Trucks 2:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite (gpm)	Phase-2 (gpm)	Composite (gpm)	Phase-2 (gpm)	Composite (gpm)	Phase-2 (gpm)
1996+						
(\leq 5750 ALVW)	1.00	0.63	20.0	16.0	2.5	Reserved
(>5750 ALVW)	2.40	1.50	60.0	48.0	4.0	Reserved
1991-1995	2.40	1.50	60.0	48.0	4.5	Reserved

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1988-1990	3.20	2.00	80.0	64.0	5.0	Reserved
1984-1987	3.20	2.00	80.0	64.0	7.0	Reserved
1981-1983	7.50	5.00	100.0	80.0	7.0	Reserved

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

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Section 240. TABLE B Vehicle Exhaust Emission Final Standards (Repealed)**Light Duty Vehicles:**

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite (gpm)	Phase 2 (gpm)	Composite (gpm)	Phase 2 (gpm)	Composite (gpm)	Phase 2 (gpm)
1996+	0.60	0.40	10.0	8.0	1.5	Reserved
1983-1995	0.80	0.50	15.0	12.0	2.0	Reserved
1981-1982	0.80	0.50	30.0	24.0	2.0	Reserved

Light Duty Trucks 1:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite (gpm)	Phase 2 (gpm)	Composite (gpm)	Phase 2 (gpm)	Composite (gpm)	Phase 2 (gpm)
1996+						
(≤3750 LVW)	0.60	0.40	10.0	8.0	1.5	Reserved
(>3750 LVW)	0.80	0.50	13.0	10.0	1.8	Reserved
1988-1995	1.60	1.00	40.0	32.0	2.5	Reserved
1984-1987	1.60	1.00	40.0	32.0	4.5	Reserved
1981-1983	3.40	2.00	70.0	56.0	4.5	Reserved

Light Duty Trucks 2:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite (gpm)	Phase 2 (gpm)	Composite (gpm)	Phase 2 (gpm)	Composite (gpm)	Phase 2 (gpm)
1996+						
(≤5750 LVW)	0.80	0.50	13.0	10.0	1.8	Reserved
(>5750 LVW)	0.80	0.50	15.0	12.0	2.0	Reserved
1988-1995	1.60	1.00	40.0	32.0	3.5	Reserved
1984-1987	1.60	1.00	40.0	32.0	4.5	Reserved
1981-1983	3.40	2.00	70.0	56.0	4.5	Reserved

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(Source: Repealed at 35 Ill. Reg. _____, effective _____)

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Section 240. TABLE C Vehicle Exhaust Emission Fast-Pass Standards (Repealed)

- a) ~~Vehicles having composite hydrocarbon emission limitations of less than 1.25 grams per mile, in Section 240. Table A or Section 240. Table B, shall use the hydrocarbon fast-pass standards contained in this subsection. Vehicles having composite carbon monoxide emission limitations of less than 20.0 grams per mile, in Section 240. Table A or Section 240. Table B, shall use the carbon monoxide fast-pass standards contained in this subsection:~~

	Hydrocarbons		Carbon Monoxide	
	Second	Composite	Phase-2	Composite
30	0.124	N/A	0.693	N/A
31	0.126	N/A	0.773	N/A
32	0.129	N/A	0.837	N/A
33	0.135	N/A	0.851	N/A
34	0.140	N/A	0.853	N/A
35	0.146	N/A	0.857	N/A
36	0.150	N/A	0.900	N/A
37	0.153	N/A	0.960	N/A
38	0.156	N/A	1.034	N/A
39	0.160	N/A	1.070	N/A
40	0.165	N/A	1.076	N/A
41	0.169	N/A	1.083	N/A
42	0.172	N/A	1.102	N/A
43	0.173	N/A	1.111	N/A
44	0.177	N/A	1.114	N/A
45	0.197	N/A	1.157	N/A
46	0.200	N/A	1.344	N/A
47	0.208	N/A	1.482	N/A
48	0.221	N/A	1.530	N/A
49	0.232	N/A	1.542	N/A
50	0.235	N/A	1.553	N/A
51	0.238	N/A	1.571	N/A
52	0.240	N/A	1.595	N/A
53	0.242	N/A	1.633	N/A
54	0.246	N/A	1.685	N/A
55	0.249	N/A	1.689	N/A
56	0.252	N/A	1.693	N/A

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57	0.261	N/A	1.700	N/A
58	0.271	N/A	1.723	N/A
59	0.276	N/A	1.852	N/A
60	0.278	N/A	1.872	N/A
61	0.280	N/A	1.872	N/A
62	0.282	N/A	1.872	N/A
63	0.283	N/A	1.900	N/A
64	0.284	N/A	1.917	N/A
65	0.285	N/A	1.944	N/A
66	0.286	N/A	2.000	N/A
67	0.288	N/A	2.060	N/A
68	0.291	N/A	2.064	N/A
69	0.294	N/A	2.076	N/A
70	0.296	N/A	2.104	N/A
71	0.298	N/A	2.117	N/A
72	0.300	N/A	2.125	N/A
73	0.302	N/A	2.130	N/A
74	0.304	N/A	2.138	N/A
75	0.307	N/A	2.152	N/A
76	0.308	N/A	2.170	N/A
77	0.308	N/A	2.188	N/A
78	0.308	N/A	2.200	N/A
79	0.314	N/A	2.212	N/A
80	0.320	N/A	2.212	N/A
81	0.324	N/A	2.221	N/A
82	0.327	N/A	2.222	N/A
83	0.329	N/A	2.227	N/A
84	0.333	N/A	2.236	N/A
85	0.336	N/A	2.243	N/A
86	0.339	N/A	2.262	N/A
87	0.343	N/A	2.271	N/A
88	0.347	N/A	2.284	N/A
89	0.350	N/A	2.299	N/A
90	0.356	N/A	2.308	N/A
91	0.358	N/A	2.326	N/A
92	0.360	N/A	2.330	N/A
93	0.363	N/A	2.331	N/A
94	0.367	N/A	2.344	N/A
95	0.370	N/A	2.347	N/A

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96	0.372	N/A	2.355	N/A
97	0.376	N/A	2.395	N/A
98	0.388	N/A	2.451	N/A
99	0.396	N/A	2.508	N/A
100	0.405	N/A	2.590	N/A
101	0.410	N/A	2.660	N/A
102	0.411	N/A	2.749	N/A
103	0.412	N/A	2.913	N/A
104	0.413	N/A	3.162	N/A
105	0.421	N/A	3.170	N/A
106	0.428	N/A	3.197	N/A
107	0.430	N/A	3.288	N/A
108	0.455	N/A	3/419	N/A
109	0.459	0.015	3.587	0.168
110	0.462	0.017	3.595	0.173
111	0.464	0.021	3.640	0.237
112	0.466	0.024	3.740	0.266
113	0.468	0.024	3.868	0.280
114	0.471	0.025	3.877	0.291
115	0.488	0.026	3.934	0.314
116	0.513	0.029	4.015	0.331
117	0.538	0.032	4.061	0.350
119	0.577	0.035	4.079	0.356
120	0.580	0.036	4.140	0.367
121	0.586	0.038	4.185	0.388
122	0.594	0.040	4.199	0.407
123	0.603	0.041	4.205	0.463
124	0.610	0.042	4.212	0.480
125	0.615	0.042	4.323	0.506
126	0.624	0.042	4.298	0.518
127	0.628	0.045	4.344	0.522
128	0.632	0.046	4.361	0.525
129	0.637	0.046	4.366	0.528
130	0.641	0.049	4.369	0.530
131	0.643	0.050	4.372	0.530
132	0.644	0.052	4.435	0.534
133	0.645	0.054	4.523	0.550
134	0.647	0.054	4.524	0.544
135	0.651	0.054	4.525	0.590

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136	0.658	0.055	4.531	0.616
137	0.663	0.055	4.534	0.639
138	0.666	0.056	4.542	0.653
139	0.668	0.059	4.553	0.662
140	0.670	0.061	4.554	0.683
141	0.672	0.061	4.554	0.696
142	0.675	0.061	4.554	0.708
143	0.678	0.063	4.554	0.721
144	0.681	0.064	4.554	0.739
145	0.684	0.065	4.554	0.742
146	0.686	0.066	4.554	0.743
147	0.688	0.067	4.554	0.745
148	0.690	0.068	4.554	0.748
149	0.692	0.069	4.554	0.751
150	0.694	0.070	4.554	0.762
151	0.696	0.071	4.556	0.789
152	0.698	0.072	4.556	0.790
153	0.700	0.073	4.565	0.794
154	0.702	0.073	4.612	0.799
155	0.704	0.074	4.834	0.805
156	0.706	0.077	5.702	0.842
157	0.708	0.079	5.841	0.990
158	0.710	0.082	6.170	1.038
159	0.712	0.082	6.670	1.357
160	0.716	0.086	7.425	1.455
161	0.750	0.095	8.379	1.546
162	0.784	0.107	9.648	1.824
163	0.805	0.115	10.918	2.746
164	0.840	0.122	12.157	3.073
165	0.853	0.127	12.731	3.633
166	0.874	0.159	12.831	4.505
167	0.903	0.186	12.892	4.952
168	0.910	0.189	12.932	5.254
169	0.914	0.200	13.702	5.730
170	0.916	0.220	14.139	6.051
171	0.919	0.236	14.964	6.333
172	0.931	0.247	15.704	6.490
173	0.948	0.257	16.253	6.796
174	0.983	0.267	16.907	7.205

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175	1.018	0.283	17.655	8.151
176	1.027	0.295	18.020	8.230
177	1.035	0.312	18.349	8.584
178	1.051	0.318	18.671	8.800
179	1.074	0.323	18.972	8.847
180	1.084	0.337	19.228	8.913
181	1.099	0.345	20.123	9.122
182	1.121	0.350	20.405	9.532
183	1.132	0.359	20.754	10.256
184	1.152	0.387	21.684	10.862
185	1.161	0.398	21.955	10.996
186	1.168	0.400	22.650	11.206
187	1.175	0.402	22.989	11.514
188	1.181	0.405	23.535	11.894
189	1.188	0.418	23.876	12.019
190	1.203	0.429	24.018	12.170
191	1.219	0.442	24.464	12.517
192	1.233	0.457	24.685	12.598
193	1.251	0.473	24.931	12.625
194	1.255	0.487	25.188	12.653
195	1.258	0.501	25.468	12.777
196	1.265	0.510	25.627	12.906
197	1.280	0.512	25.746	12.989
198	1.293	0.514	25.850	13.060
199	1.301	0.516	26.974	13.165
200	1.313	0.518	26.141	13.242
201	1.324	0.527	26.225	13.412
202	1.332	0.540	26.338	13.662
203	1.341	0.547	26.547	13.773
204	1.357	0.553	26.818	13.942
205	1.35	0.559	27.052	14.090
206	1.392	0.563	27.393	14.224
207	1.408	0.567	27.501	14.426
208	1.422	0.571	27.632	14.498
209	1.433	0.575	27.803	14.776
210	1.443	0.579	27.953	14.907
211	1.453	0.595	28.205	14.916
212	1.463	0.605	28.543	15.014
213	1.468	0.614	28.997	15.221

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214	1.470	0.622	29.000	15.472
215	1.474	0.627	29.005	15.555
216	1.478	0.638	29.081	15.652
217	1.481	0.643	29.281	15.969
218	1.484	0.643	29.483	16.028
219	1.487	0.645	29.734	16.375
220	1.490	0.651	29.803	16.487
221	1.493	0.655	29.821	16.524
222	1.504	0.663	29.847	16.578
223	1.522	0.671	29.862	16.684
224	1.547	0.675	29.873	16.755
225	1.549	0.684	30.008	16.770
226	1.562	0.694	30.126	16.805
227	1.574	0.701	30.127	16.865
228	1.579	0.702	30.127	16.960
229	1.584	0.708	30.208	16.960
230	1.589	0.708	30.314	16.962
231	1.590	0.709	30.323	16.988
232	1.596	0.710	30.325	17.072
233	1.598	0.710	30.368	17.094
234	1.604	0.711	30.411	17.184
235	1.610	0.712	30.416	17.187
236	1.612	0.712	30.428	17.188
237	1.613	0.712	30.430	17.189
238	1.614	0.713	30.452	17.241
239	1.615	0.716	30.488	17.370

b) ~~Vehicles having composite hydrocarbon emission limitations of at least 1.25 grams per mile but less than 2.00 grams per mile, in Section 240. Table A or Section 240. Table B, shall use the hydrocarbon fast-pass standards contained in this subsection. Vehicles having composite carbon monoxide emission limitations of at least 20.0 grams per mile but less than 30.0 grams per mile, in Section 240. Table A or Section 240. Table B, shall use the carbon monoxide fast-pass standards contained in this subsection:~~

	Hydrocarbons		Carbon Monoxide	
Second	Composite	Phase 2	Composite	Phase 2
30	0.247	N/A	1.502	N/A

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31	0.253	N/A	1.546	N/A
32	0.258	N/A	1.568	N/A
33	0.263	N/A	1.582	N/A
34	0.268	N/A	1.593	N/A
35	0.277	N/A	1.602	N/A
36	0.283	N/A	1.621	N/A
37	0.293	N/A	1.631	N/A
38	0.297	N/A	1.702	N/A
39	0.298	N/A	1.784	N/A
40	0.313	N/A	1.879	N/A
41	0.320	N/A	2.162	N/A
42	0.327	N/A	2.307	N/A
43	0.342	N/A	2.343	N/A
44	0.360	N/A	2.376	N/A
45	0.376	N/A	2.406	N/A
46	0.389	N/A	2.433	N/A
47	0.408	N/A	2.458	N/A
48	0.423	N/A	2.483	N/A
49	0.434	N/A	2.774	N/A
50	0.444	N/A	2.844	N/A
51	0.454	N/A	2.900	N/A
52	0.465	N/A	2.936	N/A
53	0.472	N/A	3.133	N/A
54	0.478	N/A	3.304	N/A
55	0.485	N/A	3.407	N/A
56	0.493	N/A	3.456	N/A
57	0.500	N/A	3.480	N/A
58	0.505	N/A	3.518	N/A
59	0.514	N/A	3.560	N/A
60	0.537	N/A	3.593	N/A
61	0.540	N/A	3.628	N/A
62	0.543	N/A	3.641	N/A
63	0.546	N/A	3.655	N/A
64	0.551	N/A	3.680	N/A
65	0.559	N/A	3.700	N/A
66	0.567	N/A	3.728	N/A
67	0.575	N/A	3.857	N/A
68	0.588	N/A	3.894	N/A
69	0.595	N/A	3.943	N/A

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70	0.601	N/A	3.983	N/A
71	0.606	N/A	4.009	N/A
72	0.610	N/A	4.023	N/A
73	0.617	N/A	4.023	N/A
74	0.631	N/A	4.053	N/A
75	0.643	N/A	4.063	N/A
76	0.651	N/A	4.077	N/A
77	0.659	N/A	4.225	N/A
78	0.667	N/A	4.243	N/A
79	0.676	N/A	4.260	N/A
80	0.681	N/A	4.282	N/A
81	0.685	N/A	4.322	N/A
82	0.689	N/A	4.398	N/A
83	0.694	N/A	4.482	N/A
84	0.700	N/A	4.515	N/A
85	0.705	N/A	4.518	N/A
86	0.709	N/A	4.520	N/A
87	0.713	N/A	4.522	N/A
88	0.717	N/A	4.522	N/A
89	0.721	N/A	4.523	N/A
90	0.724	N/A	4.526	N/A
91	0.727	N/A	4.527	N/A
92	0.729	N/A	4.527	N/A
93	0.731	N/A	4.528	N/A
94	0.734	N/A	4.528	N/A
95	0.740	N/A	4.528	N/A
96	0.748	N/A	4.529	N/A
97	0.759	N/A	4.575	N/A
98	0.771	N/A	4.703	N/A
99	0.783	N/A	4.805	N/A
100	0.793	N/A	4.886	N/A
101	0.810	N/A	4.957	N/A
102	0.823	N/A	5.104	N/A
103	0.836	N/A	5.340	N/A
104	0.853	N/A	5.496	N/A
105	0.871	N/A	5.625	N/A
106	0.887	N/A	5.815	N/A
107	0.899	N/A	6.473	N/A
108	0.931	N/A	7.037	N/A

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109	0.947	0.040	7.419	0.246
110	0.957	0.047	7.643	0.257
111	0.965	0.052	7.759	0.286
112	0.971	0.056	7.824	0.379
113	0.977	0.061	7.889	0.425
114	0.983	0.064	7.960	0.457
115	1.003	0.072	8.024	0.477
116	1.030	0.081	8.076	0.494
117	1.041	0.082	8.111	0.504
118	1.050	0.083	8.130	0.512
119	1.052	0.092	8.148	0.519
120	1.055	0.094	8.211	0.529
121	1.061	0.097	8.478	0.529
122	1.071	0.100	8.548	0.530
123	1.081	0.103	8.561	0.531
124	1.091	0.106	8.568	0.532
125	1.102	0.108	8.572	0.533
126	1.110	0.110	8.584	0.548
127	1.116	0.112	8.592	0.610
128	1.121	0.114	8.596	0.614
129	1.125	0.116	8.597	0.622
130	1.128	0.118	8.601	0.631
131	1.130	0.120	8.605	0.640
132	1.132	0.122	8.608	0.646
133	1.134	0.123	8.626	0.650
134	1.135	0.124	8.650	0.652
135	1.143	0.127	8.660	0.738
136	1.147	0.130	8.767	0.754
137	1.156	0.134	9.029	0.780
138	1.163	0.139	9.238	0.795
139	1.816	0.146	9.389	0.804
140	1.253	0.149	9.493	0.810
141	1.262	0.151	9.583	0.815
142	1.271	0.153	9.626	0.818
143	1.277	0.155	9.669	0.821
144	1.283	0.157	9.716	0.825
145	1.291	0.162	9.763	0.840
146	1.294	0.164	9.809	0.847
147	1.296	0.166	9.852	0.855

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148	1.298	0.168	9.885	0.865
149	1.303	0.169	9.932	0.874
150	1.316	0.170	9.986	0.891
151	1.330	0.171	10.039	0.914
152	1.342	0.172	10.072	0.929
153	1.348	0.173	10.090	0.937
154	1.353	0.175	10.105	0.942
155	1.362	0.178	10.146	0.949
156	1.365	0.180	10.245	1.375
157	1.366	0.189	10.397	1.576
158	1.373	0.198	10.923	1.943
159	1.397	0.203	11.970	2.820
160	1.422	0.207	13.421	3.281
161	1.440	0.214	15.289	3.482
162	1.452	0.221	15.912	3.620
163	1.465	0.229	16.530	4.168
164	1.509	0.247	17.622	4.338
165	1.533	0.274	18.366	4.682
166	1.555	0.309	19.869	5.633
167	1.576	0.318	20.711	6.137
168	1.598	0.322	22.319	6.853
169	1.618	0.333	23.751	7.136
170	1.636	0.343	24.842	7.320
171	1.666	0.356	25.410	7.685
172	1.685	0.385	25.798	8.052
173	1.726	0.409	26.122	8.344
174	1.742	0.433	26.353	8.602
175	1.756	0.453	26.638	8.898
176	1.769	0.463	27.219	9.251
177	1.784	0.507	27.279	10.253
178	1.802	0.523	27.320	10.828
179	1.822	0.528	27.352	10.933
180	1.843	0.541	28.822	11.060
181	1.864	0.549	28.763	11.188
182	1.884	0.559	29.402	11.345
183	1.896	0.571	29.971	11.733
184	1.915	0.584	30.276	12.598
185	1.940	0.598	30.988	12.953
186	1.958	0.613	31.095	13.213

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187	1.972	0.624	31.314	14.131
188	1.985	0.629	31.833	14.839
189	1.991	0.629	32.239	15.137
190	1.993	0.638	32.547	15.138
191	1.995	0.648	32.855	15.141
192	2.001	0.659	33.153	15.595
193	2.015	0.663	33.444	15.658
194	2.031	0.671	33.482	15.704
195	2.047	0.681	33.516	15.729
196	2.063	0.693	33.549	16.058
197	2.079	0.709	33.653	16.987
198	2.094	0.725	33.973	17.064
199	2.109	0.740	34.159	17.073
200	2.122	0.754	34.191	17.153
201	2.130	0.767	34.250	17.332
202	2.137	0.775	34.469	17.406
203	2.157	0.787	34.716	17.641
204	2.172	0.795	34.969	17.922
205	2.194	0.803	35.144	18.484
206	2.222	0.854	35.418	18.553
207	2.245	0.859	35.766	18.658
208	2.268	0.872	35.949	18.953
209	2.279	0.892	36.010	19.266
210	2.288	0.896	36.548	19.309
211	2.301	0.903	37.179	19.731
212	2.316	0.924	37.651	19.902
213	2.332	0.938	38.041	20.012
214	2.345	0.941	38.591	20.260
215	2.354	0.951	38.852	20.739
216	2.362	0.966	38.861	21.346
217	2.368	0.979	38.926	21.810
218	2.376	0.980	39.194	22.001
219	2.384	0.981	39.474	22.290
220	2.391	1.005	39.668	22.324
221	2.395	1.016	39.781	22.343
222	2.400	1.022	39.890	22.522
223	2.405	1.028	39.954	22.661
224	2.409	1.035	39.984	22.666
225	2.413	1.041	39.989	22.667

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226	2.415	1.045	39.990	22.668
227	2.417	1.051	39.990	22.669
228	2.419	1.055	39.990	22.670
229	2.420	1.059	39.991	22.671
230	2.421	1.062	40.012	22.671
231	2.423	1.063	40.061	22.672
232	2.425	1.063	40.116	22.673
233	2.427	1.063	40.249	22.673
234	2.429	1.064	40.253	22.673
235	2.430	1.064	40.290	22.674
236	2.431	1.066	40.385	22.675
237	2.432	1.069	40.488	22.675
238	2.433	1.072	40.720	22.675
239	2.434	1.075	40.763	22.677

- e) ~~Vehicles having composite hydrocarbon emission limitations of 2.00 grams per mile or greater, in Section 240.Table A or Section 240.Table B, shall use the hydrocarbon fast pass standards contained in this subsection. Vehicles having composite carbon monoxide emission limitations of 30.0 grams per mile or greater in Section 240.Table A or Section 240.Table B, shall use the carbon monoxide fast pass standards contained in this subsection:~~

	Hydrocarbons		Carbon Monoxide		
	Second	Composite	Phase-2	Composite	Phase-2
30		0.407	N/A	3.804	N/A
31		0.415	N/A	3.985	N/A
32		0.423	N/A	4.215	N/A
33		0.436	N/A	4.440	N/A
34		0.451	N/A	4.579	N/A
35		0.464	N/A	4.688	N/A
36		0.468	N/A	4.749	N/A
37		0.475	N/A	4.783	N/A
38		0.487	N/A	4.813	N/A
39		0.506	N/A	4.876	N/A
40		0.530	N/A	5.104	N/A
41		0.549	N/A	5.217	N/A
42		0.569	N/A	5.383	N/A
43		0.588	N/A	5.571	N/A

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44	0.609	N/A	5.888	N/A
45	0.621	N/A	6.199	N/A
46	0.636	N/A	6.245	N/A
47	0.649	N/A	6.318	N/A
48	0.666	N/A	6.418	N/A
49	0.679	N/A	6.540	N/A
50	0.696	N/A	6.690	N/A
51	0.712	N/A	6.875	N/A
52	0.727	N/A	7.029	N/A
53	0.745	N/A	7.129	N/A
54	0.760	N/A	7.359	N/A
55	0.776	N/A	7.722	N/A
56	0.797	N/A	8.017	N/A
57	0.814	N/A	8.249	N/A
58	0.826	N/A	8.425	N/A
59	0.837	N/A	8.563	N/A
60	0.849	N/A	8.686	N/A
61	0.862	N/A	8.804	N/A
62	0.872	N/A	8.916	N/A
63	0.887	N/A	9.025	N/A
64	0.895	N/A	9.138	N/A
65	0.903	N/A	9.250	N/A
66	0.925	N/A	9.354	N/A
67	0.933	N/A	9.457	N/A
68	0.945	N/A	9.575	N/A
69	0.959	N/A	9.728	N/A
70	0.970	N/A	9.938	N/A
71	0.980	N/A	10.140	N/A
72	0.988	N/A	10.222	N/A
73	0.997	N/A	10.261	N/A
74	1.022	N/A	10.278	N/A
75	1.037	N/A	10.290	N/A
76	1.051	N/A	10.715	N/A
77	1.064	N/A	10.790	N/A
78	1.075	N/A	10.844	N/A
79	1.087	N/A	10.921	N/A
80	1.097	N/A	11.010	N/A
81	1.105	N/A	11.090	N/A
82	1.114	N/A	11.136	N/A

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83	1.136	N/A	11.136	N/A
84	1.160	N/A	11.165	N/A
85	1.182	N/A	11.191	N/A
86	1.201	N/A	11.205	N/A
87	1.217	N/A	11.211	N/A
88	1.233	N/A	11.211	N/A
89	1.248	N/A	11.211	N/A
90	1.262	N/A	11.211	N/A
91	1.271	N/A	11.220	N/A
92	1.279	N/A	11.294	N/A
93	1.287	N/A	11.332	N/A
94	1.295	N/A	11.355	N/A
95	1.302	N/A	11.383	N/A
96	1.309	N/A	11.410	N/A
97	1.316	N/A	11.433	N/A
98	1.325	N/A	11.516	N/A
99	1.339	N/A	11.820	N/A
100	1.356	N/A	12.104	N/A
101	1.365	N/A	12.344	N/A
102	1.378	N/A	12.781	N/A
103	1.397	N/A	13.472	N/A
104	1.420	N/A	14.405	N/A
105	1.445	N/A	14.808	N/A
106	1.470	N/A	14.965	N/A
107	1.491	N/A	15.121	N/A
108	1.506	N/A	15.372	N/A
109	1.517	0.151	15.530	1.113
110	1.528	0.159	15.687	1.213
111	1.542	0.172	16.018	1.344
112	1.559	0.186	16.527	1.399
113	1.578	0.199	16.810	1.520
114	1.594	0.207	16.961	1.640
115	1.605	0.216	17.120	1.684
116	1.615	0.229	17.135	1.693
117	1.625	0.235	17.249	1.786
118	1.642	0.240	17.451	2.007
119	1.670	0.245	17.509	2.084
120	1.694	0.261	17.605	2.179
121	1.705	0.267	17.734	2.644

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122	1.717	0.277	18.049	2.328
123	1.732	0.287	18.447	2.375
124	1.747	0.298	18.592	2.437
125	1.763	0.308	18.657	2.543
126	1.779	0.316	18.796	2.593
127	1.795	0.322	18.952	2.641
128	1.810	0.329	19.137	2.663
129	1.823	0.338	19.329	2.672
130	1.835	0.346	19.519	2.676
131	1.845	0.354	19.707	2.683
132	1.854	0.356	19.882	2.817
133	1.862	0.357	19.905	2.992
134	1.870	0.359	20.049	3.111
135	1.883	0.362	20.460	3.234
136	1.888	0.364	20.746	3.304
137	1.896	0.368	21.310	3.310
138	1.911	0.378	21.380	3.320
139	1.928	0.391	21.748	3.354
140	1.949	0.402	22.046	3.436
141	1.969	0.408	22.348	3.443
142	1.982	0.422	22.397	3.452
143	1.999	0.428	22.407	3.490
144	2.011	0.432	22.417	3.552
145	2.022	0.434	22.922	3.588
146	2.035	0.439	22.951	3.600
147	2.043	0.450	22.976	3.616
148	2.049	0.460	23.017	3.627
149	2.063	0.467	23.073	3.636
150	2.085	0.472	23.161	3.676
151	2.104	0.480	23.218	3.882
152	2.117	0.491	23.253	4.011
153	2.127	0.503	23.337	4.047
154	2.138	0.505	23.425	4.067
155	2.152	0.515	23.534	4.081
156	2.168	0.522	23.652	4.116
157	2.186	0.527	23.739	4.251
158	2.205	0.537	24.606	5.099
159	2.224	0.549	25.615	5.383
160	2.242	0.568	26.073	6.362

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161	2.268	0.586	28.496	7.926
162	2.308	0.610	29.772	8.429
163	2.352	0.648	31.056	9.201
164	2.406	0.677	33.351	10.825
165	2.421	0.699	34.980	12.291
166	2.435	0.720	35.937	13.366
167	2.470	0.738	37.012	14.428
168	2.501	0.767	37.892	15.318
169	2.537	0.828	39.028	15.699
170	2.571	0.855	40.406	16.073
171	2.625	0.869	41.379	16.475
172	2.657	0.885	42.033	17.158
173	2.683	0.900	42.432	17.532
174	2.701	0.941	42.742	17.965
175	2.717	0.979	43.399	18.242
176	2.732	1.002	43.895	18.283
177	2.756	1.025	44.227	18.480
178	2.781	1.047	44.926	19.576
179	2.811	1.065	45.256	20.015
180	2.853	1.089	45.553	20.203
181	2.898	1.109	45.753	20.433
182	2.946	1.133	46.210	21.025
183	2.988	1.158	47.017	21.882
184	3.023	1.184	48.185	22.204
185	3.057	1.209	48.741	22.859
186	3.076	1.222	49.462	23.533
187	3.101	1.231	50.313	24.281
188	3.120	1.239	51.285	25.078
189	3.136	1.254	52.076	25.276
190	3.151	1.278	52.857	25.578
191	3.163	1.300	52.876	25.859
192	3.209	1.313	53.067	25.985
193	3.223	1.324	53.777	26.153
194	3.237	1.340	54.242	26.582
195	3.263	1.367	54.489	27.067
196	3.302	1.387	54.601	27.456
197	3.338	1.402	54.912	27.805
198	3.372	1.417	55.588	28.070
199	3.390	1.432	56.266	28.590

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200	3.428	1.446	56.617	28.914
201	3.470	1.460	56.863	29.063
202	3.493	1.477	57.204	29.502
203	3.509	1.492	57.371	29.697
204	3.522	1.501	57.487	29.713
205	3.533	1.510	57.728	29.783
206	3.550	1.522	58.097	29.942
207	3.578	1.561	58.572	30.284
208	3.607	1.585	59.024	30.755
209	3.630	1.597	59.321	31.287
210	3.658	1.607	59.715	31.549
211	3.701	1.627	60.045	31.820
212	3.745	1.645	60.453	32.250
213	3.778	1.656	60.935	32.546
214	3.814	1.663	61.307	32.808
215	3.825	1.669	61.666	33.060
216	3.835	1.674	62.148	33.204
217	3.844	1.685	62.532	33.341
218	3.853	1.700	62.546	33.414
219	3.864	1.704	62.559	33.514
220	3.874	1.706	62.570	33.640
221	3.891	1.709	62.846	33.692
222	3.928	1.711	63.097	33.711
223	3.966	1.714	63.150	33.733
224	4.008	1.718	63.150	33.770
225	5.010	1.721	63.150	33.796
226	4.012	1.723	63.150	33.810
227	4.016	1.726	63.150	33.821
228	4.019	1.729	63.150	33.839
229	4.057	1.731	63.150	33.865
230	4.065	1.733	63.150	33.894
231	4.071	1.735	63.150	33.918
232	4.073	1.743	63.150	33.944
233	4.075	1.749	63.150	33.985
234	4.077	1.753	63.153	34.014
235	4.079	1.757	63.159	34.032
236	4.081	1.762	63.173	34.051
237	4.083	1.767	63.193	34.067
238	4.084	1.772	63.214	34.079

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~~239~~ ~~4.085~~ ~~1.776~~ ~~63.233~~ ~~34.085~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Manufacturing, Processing, Packing or Holding of Food
- 2) Code Citation: 77 Ill. Adm. Code 730
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
730.1000	Amend
730.1005	New
730.1006	New
- 4) Statutory Authority: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Part to incorporate the standards outlined by the National Shellfish Sanitation Program (NSSP) to evaluate and certify all wholesale shellfish dealers in Illinois. These dealers must be certified under the NSSP to ship, or process shellfish for shipment, within and outside of the State of Illinois. By making sure that wholesale shellfish dealers meet these standards, the safety and wholesomeness of the shellfish being purchased by consumers is ensured.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Guide for the Control of Molluscan Shellfish 2007 Revision. U.S. Food and Drug Administration, Office of Food Safety, Division of Food Safety, HFS-325, 5100 Paint Branch Parkway, College Park MD 20740-3835.
- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No

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

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761

217/782-2043
e-mail: idph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers engaged in the sale of shellfish
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for these amendments was not known at the time the agenda was proposed.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 730

~~THE~~ MANUFACTURING, PROCESSING, PACKING OR HOLDING OF FOOD CODE

SUBPART A: GENERAL PROVISIONS~~DEFINITIONS~~

Section

- 730.1000 State and Federal Food, Drug and Cosmetic Acts
- 730.1005 Incorporated and Referenced Materials
- 730.1006 Compliance with National Standards
- 730.1010 Adequate
- 730.1020 Plant
- 730.1030 Sanitize

SUBPART B: CURRENT GOOD MANUFACTURING PRACTICE (SANITATION)

Section

- 730.2010 Scope

SUBPART C: PLANT AND GROUNDS

Section

- 730.3010 Grounds
- 730.3020 Plant Construction and Design

SUBPART D: EQUIPMENT AND UTENSILS

Section

- 730.4010 Suitable for Intended Use
- 730.4020 Cleanable
- 730.4030 Maintenance
- 730.4040 Prevents Contamination
- 730.4050 Installation

SUBPART E: SANITARY FACILITIES AND CONTROLS

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Section

730.5000	Adequate Sanitary Facilities and Accommodations
730.5010	Water Supply
730.5020	Sewage Disposal
730.5030	Plumbing
730.5040	Toilet Facilities
730.5050	Hand-washing Facilities
730.5060	Waste Disposal

SUBPART F: SANITARY OPERATIONS

Section

730.6010	General Maintenance
730.6020	Animal and Vermin Control
730.6030	Sanitation of Equipment and Utensils
730.6040	Storage and Handling of Cleaned Portable Equipment and Utensils

SUBPART G: PROCESSES AND CONTROLS

Section

730.7000	Adequate Sanitation Principles
730.7010	Raw Material Inspection, Storage, and Preparation
730.7020	Raw Material Carrier Inspection
730.7030	Potable Ice
730.7040	Cross Contamination
730.7050	Equipment Cleaning
730.7060	Proper Processing
730.7070	Testing Procedures
730.7080	Packaging
730.7090	Products Coded and Records Retained
730.7100	Product Storage and Carriers

SUBPART H: PERSONNEL

Section

730.8000	Management Responsibilities
730.8010	Disease Control

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730.8020 Cleanliness
730.8030 Education and Training
730.8040 Supervision

SUBPART I: EXCLUSIONS

Section
730.9010 Operations Excluded

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620].

SOURCE: Filed November 12, 1969, effective January 12, 1970; codified at 8 Ill. Reg. 16832; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: ~~GENERAL PROVISIONS~~ DEFINITIONS**Section 730.1000 State and Federal Food, Drug and Cosmetic Acts**

The definitions and interpretations contained in Section 201 of the Federal Food, Drug, and Cosmetic Act, 21 ~~USC~~ ~~U.S.C.~~ 321, and Section 502 of the Illinois Food, Drug, and Cosmetic Act [410 ILCS 620], ~~Ill. Rev. Stat., 1983, Ch. 56½, par. 502,~~ are applicable ~~to such items~~ when used in this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 730.1005 Incorporated and Referenced Materials

- a) The following federal guidelines and regulations are incorporated by reference:
- 1) 21 CFR 123: Fish and Fishery Products (April 1, 2010)
 - 2) Guide for the Control of Molluscan Shellfish 2007 Revision. U.S. Food and Drug Administration, Office of Food Safety, Division of Food Safety, HFS-325, 5100 Paint Branch Parkway, College Park MD 20740-3835. <http://www.fda.gov/Food/FoodSafety/ProductSpecificInformation/Seafood/FederalStatePrograms/NationalShellfishSanitationProgram/ucm046353.htm>

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3) [National Shellfish Sanitation Program 2007 Model Ordinance \(NSSP Model Ordinance\). U.S. Food and Drug Administration, Office of Food Safety, Division of Food Safety, HFS-325, 5100 Paint Branch Parkway, College Park MD 20740-3835.](http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/Seafood/FederalStatePrograms/NationalShellfishSanitationProgram/ucm046412.htm)
<http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/Seafood/FederalStatePrograms/NationalShellfishSanitationProgram/ucm046412.htm>

b) [All incorporations by reference of federal guidelines and regulations and the standards of professional organizations refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.](#)

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 730.1006 Compliance with National Standards

[No person shall engage in the wholesale handling of shellfish, or operate or conduct an establishment for shipping, post-harvest processing, shucking, repacking or wet storage of shellfish except in compliance with the requirements of the National Shellfish Sanitation Program 2007 Model Ordinance and the Guide for the Control of Molluscan Shellfish 2007 Revision.](#)

(Source: Added at 35 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Grade A Pasteurized Milk and Milk Products
- 2) Code Citation: 77 Ill. Adm. Code 775
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
775.10	Amendment
775.20	Amendment
- 4) Statutory Authority: Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will update references to several documents that are incorporated by reference in this Part. Documents that are being updated include the Grade A Pasteurized Milk Ordinance (PMO), the Methods of Making Sanitation Ratings of Milk Shippers (MMSR), the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration (FDA) Program of the National Conference on Interstate Milk Shipments and the incorporated sections of the Code of Federal Regulations, all published by the FDA, and the Official Methods of Analysis of the Association of Official Analytical Chemists.

Key changes to the 2009 revision of the PMO include the approval of residue test kits for sheep and buffalo raw milk. Many inspection and rating forms were also updated. In addition, the definition of Grade A milk and milk products was refined. The somatic cell standard for raw goat's milk has been raised from 1,000,000 cells per milliliter to 1,500,000 cells per milliliter. Ultraviolet light can now be used as an equivalent to pasteurized water.

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

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: This rulemaking incorporates by reference several documents that were used to compose this rulemaking, including the Grade A Pasteurized Milk Ordinance (PMO), the Methods of Making Sanitation Ratings of Milk Shippers (MMSR), the Procedures Governing the Cooperative State-Public Health Service/Food and Drug

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Administration (FDA) Program of the National Conference on Interstate Milk Shipments and the incorporated sections of the Code of Federal Regulations, all published by the FDA, and the Official Methods of Analysis of the Association of Official Analytical Chemists.

- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Bulk milk hauler/samplers, milk tank truck owners, dairy producers and processors
 - B) Reporting, bookkeeping or other procedures required for compliance: There will be no change in the reporting, bookkeeping or other procedures required for compliance.

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- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 775
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section

775.1	Minimum Regulations (Renumbered)
775.10	Definitions
775.20	Incorporated and Referenced Materials
775.30	Minimum Requirements
775.40	Local Government Implementation
775.50	Permits
775.60	Suspension of Permits
775.70	Inspections and Investigations
775.80	Approval of Construction Plans
775.90	Administrative Hearings
775.100	Milk Hauler-Samplers Examination
775.110	Milk Tank Trucks
775.120	Cleaning and Sanitizing Procedures
775.130	Action Levels for Added Water in Milk
775.140	Pesticide, Herbicide and Mycotoxin Residue Control Program
775.150	Drug Residue Control Program

AUTHORITY: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 17 Ill. Reg. 14015, effective August 15, 1993; amended at 19 Ill. Reg. 12271, effective August 10, 1995; amended at 22 Ill. Reg. 20633, effective November 10, 1998; amended at 25 Ill. Reg. 11904, effective September 1, 2001; amended at 25 Ill. Reg. 12629, effective September 25, 2001; amended at 27 Ill. Reg. 15979, effective October 1, 2003; amended at 32 Ill. Reg. 8432, effective May 21, 2008; amended at 35 Ill. Reg. _____, effective _____.

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Section 775.10 Definitions

In addition to the definitions contained in Section 1 of the Grade A Pasteurized Milk Ordinance, the following definitions shall apply:

"Act" means the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

~~"Bulk milk pickup tank" means the tank, and those~~ *"Bulk milk pickup tank" means the tank, and those appurtenances necessary for its use, used by a milk hauler-sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station. (Section 3(b)(16) of the Act)*

"Clarification" means an operational procedure that removes sediment from milk.

"Cleaning and sanitizing facility" means any place, premise or establishment where milk tank trucks are cleaned and sanitized. (Section 3(b)(15) of the Act)

"Cultured dairy products" means milk and milk products that have been soured after pasteurization using harmless lactic-acid producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe, suitable milk-clotting enzymes.

"Dairy farm" means any place or premise where one or more cows, goats or sheep are kept, and from which a part or all of the milk or milk products are provided, sold or offered for sale to a milk plant, transfer station, or receiving station. (Section 3(b)(1) of the Act)

"Department" means the Illinois Department of Public Health. (Section 3(b)(7) of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 3(b)(8) of the Act)

"Downstream " means after the automatic milk flow safety device.

"Embargo or hold for investigation" means a detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit

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the use of equipment which may result in contaminated or unwholesome milk or dairy products. (Section 3(b)(9) of the Act)

"Enforcing agency" means the Illinois Department of Public Health or a unit of local government electing to administer and enforce the Act as provided for in the Act. (Section 3(b)(12) of the Act)

"Field representative" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this Part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

"Grade A" means that milk and milk products are produced and processed in accordance with the latest United States Public Health Service – Food and Drug Administration Grade A Pasturized Milk Ordinance as may be amended. The term Grade A is applicable to "dairy farm", "milk hauler-sampler", "milk plant", "milk product", "receiving station", "transfer station", "bulk milk pickup tank", and "certified pasteurizer sealer" whenever used in the Act. (Section 3(a) of the Act)

"High temperature short time flow-diversion device" or "H.T.S.T." means an automatic milk-flow safety device that controls the flow of milk in relation to the temperature of the milk or heating medium and/or pressure, vacuum, or other auxiliary equipment.

"Imminent hazard to the public health" means any hazard to the public health when the evidence is sufficient to show that a product or practice, posing or contributing to a significant threat of danger to health, creates or may create a public health situation that should be corrected immediately to prevent injury and that should not be permitted to continue while a hearing or other formal proceeding is being held. (Section 3(b)(10) of the Act)

"Milk" means the milk of cows, goats or sheep and includes skim milk and cream. (Section 3(b)(2) of the Act)

"Milkfat and Nonfat Solid Content Standards" means the standards set forth in 21 CFR 131.110 ([20092005](#)). (See Section 775.20.)

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"Milk hauler-sampler" means a person who is qualified and trained for the grading and sampling of raw milk in accordance with federal and State quality standards and procedures (Section 3(b)(14) of the Act) and transports bulk raw milk for pasteurization from a dairy farm to a receiving station, transfer station, or milk plant. (Section 3(b)(16)(A) of the Act)

"Milk product" means any product including cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, nonfat (skim) milk, reduced fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured reduced fat or lowfat milk or nonfat (skim) milk, cottage cheese (including dry curd, reduced fat, lowfat, and nonfat), yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, or nonfat (skim) milk, low-sodium milk, low-sodium reduced fat lowfat milk, low-sodium nonfat (skim) milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat (skim) milk, aseptically processed and packaged milk and milk products, and milk, reduced fat, lowfat milk or nonfat (skim) milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification of milk products defined in this Section. (Section 3(b)(4) of the Act)

"Milk tank truck" is the term used to describe both a bulk or milk pickup tanker and a milk transport tank.

"Milk transport tank" means a vehicle, including the truck and tank used to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"PMO" means the Grade A Pasteurized Milk Ordinance incorporated by reference. (See Section 775.20.)

"Permit" means a document awarded to a person for compliance with the provisions of and under conditions set forth in ~~the~~ Act and this Part. (Section 3(b)(13) of the Act)

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NOTICE OF PROPOSED AMENDMENTS

"Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or any political subdivision or Department thereof, or any other entity. (Section 3(b)(11) of the Act)

"Quality assurance program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

"Receiving station" means any place, premise, or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting. (Section 3(b)(5) of the Act)

"Separation" means an operational procedure that removes butterfat from milk.

"Transfer station" means any place, premise, or establishment where milk or milk products are transferred directly from one milk tank truck to another. (Section 3(b)(6) of the Act)

"Violative drug residue" means a drug residue at or above the tolerance and/or safe levels as set forth in 21 CFR 556 (~~2009~~2005) and Appendix N of the PMO.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 775.20 Incorporated and Referenced Materials

a) The following regulations, guidelines, standards, rules, and statutes are incorporated or referenced in this Part:

1) Federal government guidelinespublications:

A) The Grade A Pasteurized Milk Ordinance (PMO), and Appendices A through R (except Sections 16 and 17) Recommendations of the United States Public Health Service/Food and Drug Administration, ~~2009~~2005 Revision (Publication 229). U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835. In

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addition, the jurisdiction name, left blank in Sections 1, 2, 3, 5, and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1 shall mean the Illinois Department of Public Health. (See Section 775.30(a).)

- B) Evaluation of Milk Laboratories (2005 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.
 - C) Methods of Making Sanitation Ratings of Milk Supplies (~~2009~~~~2005~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.
 - D) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers (~~2009~~~~2005~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.
- 2) Private and professional standards:
- A) The Standard Methods for the Examination of Dairy Products (17th Edition, 2004, American Public Health Association, 1015 – 18th Street, N.W., Washington, D.C. 20036). (See Section 775.70(b).)
 - B) Official Methods of Analysis of the Association of Official Analytical Chemists (~~18th~~~~16th~~ Edition, ~~2010~~~~1996~~, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station, Washington, D.C. 20044). (See Section 775.70(b).)
- 3) Federal regulations:
- A) 21 CFR 131.110, Milk (~~2009~~~~2005~~). (See Section 775.10, the definition of "milkfat and nonfat solid content standards".)
 - B) 21 CFR 556, Tolerances for Residues or New Animal Drugs in Food (~~2009~~~~2005~~). (See Section 775.10, the definition of "violative

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

drug residue".)

- C) 40 CFR 180, Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food ([20092005](#)). (See Section 775.140(a)(1).)
- 4) State of Illinois rules and statutes:
 - A) Illinois Plumbing Code – 77 Ill. Adm. Code 890, Illinois Department of Public Health. (See Section 775.30(c)(4).)
 - B) Rules of Practice and Procedure in Administrative Hearings – 77 Ill. Adm. Code 100, Illinois Department of Public Health. (See Section 775.90.)
 - C) The Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115].
- b) All incorporations by reference of federal guidelines and regulations and the standards of professional organizations refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.
- c) All citations to federal regulations in this Part concern the specified regulation in the [20092005](#) Code of Federal Regulations, unless another date is specified.
- d) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
603.60	Amend
603.75	Amend
603.160	Amend
- 4) Statutory Authority: 230 ILCS 9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking updates the Board's medication rules to accurately reflect the most recent version of ARCI's Uniform Classification Guidelines.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will 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 in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

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

312/814-5017

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appear in this issue of the *Illinois Register* on page 265.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: School Construction Program
- 2) Code Citation: 23 Ill. Adm. Code 151
- 3) Section Number: 151.30 Proposed Action:
Amendment
- 4) Statutory Authority: 105 ILCS 230/5-55
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 96-37, effective August 25, 2009, made several changes to the School Construction Program, including setting forth "green" building standards for any school construction projects for which school districts make application on or after July 1, 2009. While the Board adopted amendments resulting from this Public Act earlier this year related to school maintenance and energy efficiency grants, the portion of the law addressing school construction grants was inadvertently omitted from that rulemaking.

Section 151.30(f) currently addresses options for providing evidence of meeting "green" building standards for applications submitted on or after July 1, 2007. That subsection is being amended to provide for the new standards, which include a link to the website where information about the standards can be found.
- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) This rulemaking was not included on either of the 2 most recent Agendas because: the need for the rulemaking was not apparent until recently.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 151

SCHOOL CONSTRUCTION PROGRAM

SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

Section

- 151.10 Purpose
- 151.20 Eligible Applicants
- 151.30 Application for School Construction Project Grant Entitlement
- 151.35 Application for School Construction Project Grant Entitlement – Districts With A Population Exceeding 500,000
- 151.40 Award of Construction Project Grant Entitlement
- 151.50 Priority Ranking of Construction Grant Entitlements
- 151.55 Needed Capacity for Unit Districts
- 151.60 Grant Index
- 151.70 Debt Service Grants (Repealed)

SUBPART B: SCHOOL MAINTENANCE PROJECT GRANTS

Section

- 151.100 Purpose; Eligible Applicants
- 151.110 Definitions
- 151.120 Application for School Maintenance Project Grants
- 151.130 Award of School Maintenance Project Grants – Applicants With a Population of 500,000 or Fewer
- 151.135 Award of School Maintenance Project Grants – School Districts With a Population Exceeding 500,000
- 151.140 Terms of the Grant

SUBPART C: SCHOOL ENERGY EFFICIENCY PROJECT GRANTS

Section

- 151.200 Purpose; Eligible Applicants
- 151.210 Definitions

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 151.220 Application for School Energy Efficiency Project Grants
151.230 Award of School Energy Efficiency Project Grants – Applicants with a
Population of 500,000 or Fewer
151.235 Award of School Energy Efficiency Project Grants – School Districts with a
Population Exceeding 500,000
151.240 Terms of the Grant

AUTHORITY: Implementing the School Construction Law [105 ILCS 230] and authorized by Section 5-55 of that Law.

SOURCE: Emergency rules adopted at 22 Ill. Reg. 2616, effective January 16, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 4500; emergency rules expired June 15, 1998; emergency rules adopted at 22 Ill. Reg. 6238, effective March 24, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 7703; emergency expired June 15, 1998; new Part adopted at 22 Ill. Reg. 12538, effective July 6, 1998; emergency amendment at 23 Ill. Reg. 11336, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 497, effective January 3, 2000; amended at 24 Ill. Reg. 5661, effective March 17, 2000; amended at 26 Ill. Reg. 886, effective January 15, 2002; amended at 32 Ill. Reg. 7410, effective April 22, 2008; amended at 33 Ill. Reg. 7919, effective June 1, 2009; amended at 34 Ill. Reg. 3000, effective February 18, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

Section 151.30 Application for School Construction Project Grant Entitlement

- a) A school district seeking a school construction project grant entitlement shall submit an application that includes a District Facilities Plan. A district shall annually update its application in order to establish eligibility for a construction grant.
- b) Applications shall be addressed as follows:
- Illinois State Board of Education
School Construction Program
100 North First Street
Springfield, Illinois 62777-0001
- c) Applications or updates must be received at the address shown in subsection (b)

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NOTICE OF PROPOSED AMENDMENT

of this Section by April 1 preceding the beginning of the fiscal year in question. Each application or update must include the Capital Development Board's program statement as defined in 71 Ill. Adm. Code 40.

- d) An application that is incomplete will be returned and will not be processed until it is complete. An application must be complete by the applicable filing deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Board of Education and the Capital Development Board by means including on-site inspection and review of documents.
- e) Each application shall include the following information.
 - 1) A narrative description of the present educational program of the district and anticipated changes in the educational program over the next five years, including:
 - A) the number of schools currently operated by the district;
 - B) the configuration of the district's schools by grade level;
 - C) the basis upon which students are assigned to the district's schools; and
 - D) the nature and estimated impact of any changes in these factors over the next five years.
 - 2) A description of the present and projected financial position of the district, including but not limited to the availability of current revenue, fund balances, the amount of general obligation debt of the district, and the amount of unused bonding power. This requirement may be met by attaching or, if already on file with the State Board, incorporating by reference:
 - A) a copy of the district's basic financial statements (i.e., Statement of Revenues Received/Revenues, Expenditures Disbursed/Expenditures, Other Financing Sources (Uses), and Changes in Fund Balances) from the district's Annual Financial Report for the fiscal year ending June 30 immediately preceding

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- the fiscal year in which the application or update is submitted;
- B) a copy of Part III (Budget Summary) and Part IV (Summary of Cash Transactions) from the School District Budget Form for the fiscal year in which the application or update is submitted; and
 - C) a statement showing the amount of the district's unused bonding power as determined under Article 19 of the School Code [105 ILCS 5/Art. 19].
- 3) A description of the district's maintenance plan and schedule, including but not limited to:
- A) the maximum authorized operations and maintenance tax rate of the district;
 - B) the rate at which the operations and maintenance taxes were last extended;
 - C) the amount of operations and maintenance expenditures for the last fiscal year;
 - D) a statement assuring that new, renovated, and existing facilities are being or will be properly maintained; and
 - E) a brief explanation of how the district intends to maintain new, renovated, and existing facilities.
- 4) Facility inventory information, including:
- A) a listing of each parcel of land, building, building addition, or other structure owned or used by the district to house its operations or held by the district for investment or revenue-producing purposes;
 - B) for each parcel of land, building, building addition, or other structure, a listing of the following information, as applicable:
 - i) the facility type;

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- ii) the ownership class;
 - iii) an indication of whether the structure is a main building or a building addition;
 - iv) the functional age of the building or addition as determined under Section 151.50(d)(2) of this Part;
 - v) the enrollment capacity as determined pursuant to the standards specified in Section 151.50(d) of this Part;
 - vi) the type of school housed in the building or building addition;
 - vii) the number of students currently housed in the facility;
 - viii) the number of inadequately housed students currently housed in the facility as determined under Section 151.50(c) and (d) of this Part;
 - ix) an indication of the district's plans for the facility within the next five years; and
 - x) an indication of which planned activities are the subject of a request for a school construction project grant.
- f) Each application submitted ~~on or after July 1, 2007~~, shall also include information demonstrating that the project conforms to the "green building" requirements of Section 5-40 of the School Construction Law [105 ILCS 230/5-40]. Conformance may be demonstrated by providing the evidence indicated either in subsection (f)(1) or (f)(2) of this Section, as applicable.
- 1) For each application submitted on or after July 1, 2007 through June 30, 2009:
- A)H) certification under the United States Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System [105 ILCS 230/5-40] posted at www.usgbc.org (2008; no later editions or revisions are incorporated); or

STATE BOARD OF EDUCATION

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~~B)2)~~ *a rating under the Green Building Initiative's Green Globes Green Building Rating System [105 ILCS 230/5-40] posted at www.thegbi.org/commercial/about-green-globes/rating-and-evaluation-process.asp (2007; no later editions or revisions are incorporated); or*

~~C)3)~~ *compliance with green building standards established by the Illinois Capital Development Board, when codified by that agency in its rules in Title 71 of the Illinois Administrative Code; ~~or:~~*

2) *For each application submitted on or after July 1, 2009, a silver certification from the United States Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System [105 ILCS 230/40] posted at <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=222> (2009; no later editions or revisions are incorporated).*

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Carnival and Amusement Ride Safety Act
- 2) Code Citation: 56 Ill. Adm. Code 6000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
6000.10	Amended
6000.50	Amended
- 4) Statutory Authority: 430 ILCS 85
- 5) Effective Date of Amendments: December 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Labor's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 13610, September 24, 2010
- 10) Has JCAR issued a Statement of Objections to this Rulemaking? No
- 11) Differences between proposal and final version: The Chapter name of the rulemaking was changed from "Carnival-Amusement Safety Board" to "Department of Labor".
- 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? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The purpose of this rulemaking is to increase the schedule of inspection and permit fees for each amusement ride or amusement attraction pursuant to Section 2-8 of the Act.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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Sara Scherer
Legislative Liaison
Illinois Department of Labor
1 W. Old State Capitol Plaza, 3rd Floor
Springfield, Illinois 62701

217/558-1270

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

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT

CHAPTER XIII: ~~DEPARTMENT OF LABOR CARNIVAL AMUSEMENT SAFETY BOARD~~

PART 6000

CARNIVAL AND AMUSEMENT RIDE SAFETY ACT

Section

6000.10	Definitions
6000.15	Incorporated and Referenced Materials
6000.20	Exemptions
6000.25	Qualifications of Inspectors
6000.30	Inspections
6000.40	Application for a Permit to Operate
6000.50	Permit, Inspection and Associated Fees
6000.60	Revocation of Permit to Operate (Repealed)
6000.65	Suspension of Permit to Operate
6000.70	Amusement Ride and Amusement Attraction Design and Construction
6000.80	Insurance
6000.85	Requirements for Liability Insurance, Bond or Deposit of Security
6000.90	Penalties
6000.100	Appeals of Permit Denials
6000.110	Assembly and Disassembly
6000.120	Operator Requirements
6000.130	Operator Authority Regarding Passenger Safety
6000.140	Signal Systems
6000.150	Daily Inspection and Test
6000.160	Reports
6000.170	Maintenance
6000.180	Stop Operation Order
6000.190	Fire Prevention and Protection
6000.200	Internal Combustion Engines
6000.210	Means of Access and Egress
6000.220	Electrical Equipment – Amusement Rides and Amusement Attractions
6000.230	Hydraulic Systems
6000.240	Air Compressors and Equipment
6000.250	Wire Rope
6000.260	Chain
6000.270	Inflatable Amusement Attractions
6000.280	Non-Destructive Testing

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6000.290	Ski Lifts, Aerial Tramways, and Rope Tows
6000.300	Go-Karts, Dune Buggies, and All-Terrain Vehicles (Repealed)
6000.302	Outdoor and Indoor Concession Go-Karts
6000.305	Racing Go-Karts
6000.308	Dune Buggies and All-Terrain Vehicles
6000.310	Water Slides (Repealed)
6000.320	Dry Type Slides
6000.330	Trams
6000.340	Bungee Jumping

AUTHORITY: Implementing and authorized by the Carnival and Amusement Rides Safety Act [430 ILCS 85].

SOURCE: Emergency Rules adopted at 9 Ill. Reg. 7176, effective May 3, 1985, for a maximum of 150 days; emergency expired September 30, 1985; adopted at 10 Ill. Reg. 7685, effective April 29, 1986; emergency amendment at 10 Ill. Reg. 19117, effective October 27, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5896, effective March 24, 1987; amended at 11 Ill. Reg. 19650, effective November 18, 1987; amended at 12 Ill. Reg. 11186, effective June 20, 1988; emergency amendment at 13 Ill. Reg. 8025, effective May 15, 1989, for a maximum of 150 days; emergency expired October 12, 1989; amended at 13 Ill. Reg. 20309, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 3235, effective February 9, 1990, for a maximum of 150 days; emergency expired July 9, 1990; amended at 15 Ill. Reg. 4109, effective February 28, 1991; emergency amendment at 16 Ill. Reg. 7716, effective May 11, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12436, effective August 1, 1992; amended at 16 Ill. Reg. 15415, effective September 28, 1992; amended at 17 Ill. Reg. 14910, effective September 1, 1993; amended at 18 Ill. Reg. 13384, effective September 1, 1994; amended at 21 Ill. Reg. 5135, effective April 15, 1997; amended at 21 Ill. Reg. 14954, effective December 1, 1997; amended at 24 Ill. Reg. 490, effective January 1, 2000; amended at 26 Ill. Reg. 871, effective January 9, 2002; amended at 27 Ill. Reg. 17992, effective November 14, 2003; amended at 28 Ill. Reg. 10569, effective July 19, 2004; amended at 30 Ill. Reg. 12093, effective June 30, 2006; amended at 34 Ill. Reg. 763, effective December 29, 2009; emergency amendment at 34 Ill. Reg. 13646, effective September 10, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 195, effective December 20, 2010.

Section 6000.10 Definitions

In addition to those definitions found in Section 2-2 of the Carnival and Amusement Rides Safety Act (the Act) [430 ILCS 85/2-2], the following definitions shall apply for the purposes of this Part:

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"Act" means the Carnival and Amusement Rides Safety Act [430 ILCS 85].

"Administrative Hearing Fee" means a fee assessed by the Department upon an operator when the Department issues a notice for an administrative hearing to suspend the Permit to Operate and/or collect past due fees.

"All-Terrain Vehicle" or "ATV" means any vehicle designed and manufactured for off-road use.

"A.M. Best" or "Best" is the abbreviation for A.M. Best Company, Ambest Road, Oldwick ~~NJ, New Jersey~~ 08858.

"Annual Inspection" is the official inspection of an amusement ride or amusement attraction performed by the Director or the Director's designee.

"ANSI" is the abbreviation for the American National Standards Institute, Inc., 1430 Broadway, New York ~~NY, New York~~ 10018.

"ASNT" is the abbreviation for the American Society for Nondestructive Testing, Inc., 1711 Arlingate Plaza, P.O. Box #28518, Columbus ~~OH, Ohio~~ 43228-0518.

"ASTM" means ASTM International, 100 Barr Harbor Drive, West Conshohocken ~~PA, Pennsylvania~~ 19428-2959.

"Board" means the Carnival-Amusement Safety Board as defined in Section 2-3 of the Act.

"Carnival" means an enterprise which offers amusement or entertainment to the public by means of one or more amusement attractions or amusement rides. (Section 2-2(5) of the Act)

"Carnival Worker" means a person who is employed (and is therefore not a volunteer) by a carnival or fair to manage, physically operate, or assist in the operation of an amusement ride or amusement attraction when it is open to the public. (Section 2-2(8) of the Act)

"Coaster – Intermediate" means any coaster that is more than 25 feet but less than 50 feet in height at the highest point of the track above grade.

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"Coaster – Large" means any coaster that is 50 feet or more at the highest point of the track above grade.

"Concession Go-kart" means a go-kart specifically designed and manufactured for indoor and/or outdoor use for up to 15 mph.

"Department" means Illinois Department of Labor. (Section 2-2(2) of the Act)

"Director" means the Director of the Illinois Department of Labor or the Director's designee. (Section 2-2(1) of the Act)

"Dry Slides" means an inclined surface with a change in elevation of 20 feet or more upon which people slide or are conveyed.

"Dune Buggy" means a small vehicle generally made from standard compact rear engine chassis and prefabricated, often fiberglass body, originally equipped with wide low-pressure tires for driving on sand.

"Employee", for purposes of this Part, means an individual who is performing services for pay or lodging as an attendant or assistant on an amusement ride or amusement attraction.

"Employed" means to perform services for pay or lodging as an attendant or assistant on an amusement ride or amusement attraction.

"Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with which amusement rides or amusement attractions are operated. (Section 2-2(6) of the Act)

"Inflatable Amusement Attraction" means a device consisting of air-filled structures designed for use, as specified by the manufacturer, that may include but is not limited to bounce, climb, slide or interactive play. They are made of flexible fabric, kept inflated by continuous air flow by one or more blowers, and rely upon air pressure to maintain their shape. This definition shall not include inflatable devices that are used for professional exhibition or stunt work, safety and rescue activities, aerial or aviation structures or devices, exhibit floats or similar inflatable devices.

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"In-line Riding" means one person in front of the other.

"Kiddie Kart" means karts that are designed for 75 pounds or less per passenger and go less than 10 mph.

"Kiddie Rides" are those amusement rides or amusement attractions that are designed for 75 pounds or less per passenger.

"Major Alteration" means a change in the type or capacity of an amusement ride or amusement attraction or a change in the structure or mechanism that materially affects its functions or operation. This includes, but is not limited to changing its mode of transportation from non-wheeled to a truck or flat-bed mount, and changing its mode of assembly or other operational functions from manual to mechanical or hydraulic.

"Major Breakdown" means a stoppage of operation of an amusement ride or amusement attraction occurring from damage of a structural component.

"Major Rides" are those amusement rides or amusement attractions that are designed for more than 75 pounds per passenger unit. The term includes any coaster that is 25 feet or less at the highest point of the track above grade.

"NFPA" is the abbreviation for National Fire Protection Association, Batterymarch Park, Quincy MA, Massachusetts 02269.

"Operator" means a person, or agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or amusement attraction at a carnival or fair. "Operator" includes an agency of the State or any of its political subdivisions. (Section 2-2(7) of the Act) For the purpose of this Part:

Owner means the person, partnership, company, corporation, or any other entity, or agency of the State or any of its political subdivisions, that owns an amusement ride or amusement attraction.

Agent means a person employed by the Owner to carry out the responsibilities of management on the Owner's behalf.

Manager means a person employed by the Owner and who is responsible to the Agent or the Owner for the day-to-day on-site management of the

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amusement rides or amusement attractions.

Attendant means a person employed by the Owner to physically operate an amusement ride or amusement attraction when it is open to the public.

Assistant means a person employed by the Owner to assist the Attendant in operating an amusement ride or amusement attraction when it is open to the public.

"Payment of Fees" ~~as used in this Part~~ shall be deemed made when the Department receives in the Springfield office all fees due as calculated on the application in the form of a check or money order made payable to "Illinois Department of Labor". All fees shall be paid before a permit to operate an amusement ride or amusement attraction is issued.

"Permit" means a permit issued annually by the Department allowing an amusement ride or amusement attraction unit to be operated in the State of Illinois.

"Public Use" means an operator of an amusement ride or amusement attraction does not prohibit or restrict access to the amusement ride or amusement attraction by members of the community, except as permitted under Section 2-19 of the Act and Section 6000.130 of this Part.

"Racing Go-Kart" means a go-kart specifically designed and manufactured for racing at 15 mph or more, for indoor or outdoor use.

"Roll Over Protection System" means a system that supports the combined driver and/or passenger weight capacity, as specified by the manufacturer, and the weight of the vehicle.

"Reinspection" is an inspection, other than the annual inspection made during the year, as a result of any necessary repairs not being completed while the inspector is on site.

"SAE" means the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale PA 15096-0001.

"Serious Injury" means an injury for which treatment by a licensed physician is

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required.

"Snell Foundation" means Snell Memorial Foundation, 3628 Madison Avenue, North Highlands CA 95660.

"Tram" means *any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the Secretary of State, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides.* (Section 2-2(4) of the Act)

"Volunteer" means *a person who operates or assists in the operation of an amusement ride or amusement attraction for an owner or operator without pay or lodging. An individual shall not be considered a volunteer if the individual is otherwise employed by the same owner or operator to perform the same type of service as those for which the individual proposes to volunteer.* (Section 2-2(9) of the Act)

(Source: Amended at 35 Ill. Reg. 195, effective December 20, 2010)

Section 6000.50 Permit, Inspection and Associated Fees

Fees assessed under the Act will be:

a) Effective Through December 31, 2010:

1) Permit Fees

A)1) Kiddie Rides: \$10 each

B)2) Major Rides: \$25 each

C)3) Amusement Attractions: \$25 each

D)4) Ski Lifts, Aerial Tramways, and Rope Tows: \$25 each

E)5) Inflatable Amusement Attractions: \$10 each

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- ~~F)6)~~ Permit ~~Issued~~~~issued~~ upon ~~Resolution~~~~resolution~~ of a Stop Operation Order: \$10 each
- ~~2)6)~~ Inspection Fees
- ~~A)4)~~ Kiddie Rides: \$25 each
- ~~B)2)~~ Major Rides: \$60 each
- ~~C)3)~~ Amusement Attractions: \$60 each
- ~~D)4)~~ Ski Lifts, Aerial Tramways, and Rope Tows: \$60 each
- ~~E)5)~~ Inflatable Amusement Attractions: \$25 each
- ~~F)6)~~ Reinspection to resolve a Stop Operation Order: \$250 each
- ~~G)7)~~ Reinspection: \$30 each
- b) Beginning January 1, 2011:
- 1) Permit Fees
- A) Kiddie Rides: \$10 each
- B) Major Rides: \$25 each
- C) Amusement Attractions: \$25 each
- D) Ski Lifts and Aerial Tramways: \$25 each
- E) Inflatable Amusement Attractions: \$10 each
- F) Permit Issued upon Resolution of a Stop Operation Order: \$10 each
- G) Rope Tows, Conveyors and Surface Lifts: \$25 each
- H) Coasters – Intermediate: \$25 each

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

- I) Coasters – Large: \$25 each
 - 2) Inspection Fees
 - A) Kiddie Rides: \$45 each
 - B) Major Rides: \$105 each
 - C) Amusement Attractions: \$105 each
 - D) Ski Lifts and Aerial Tramways: \$365 each
 - E) Inflatable Amusement Attractions: \$45 each
 - F) Reinspection to Resolve a Stop Operation Order: \$250 each
 - G) Reinspection: \$30 each
 - H) Rope Tows, Conveyors and Surface Lifts: \$105 each
 - I) Coasters – Intermediate: \$235 each
 - J) Coasters – Large: \$365 each
- c) Administrative Hearing Fee: \$250 per hearing.
- ~~d) The fee increases are effective January 1, 2007.~~

(Source: Amended at 35 Ill. Reg. 195, effective December 20, 2010)

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF ADOPTED RULE

- 1) Heading of Part: Surcharge Fund Financial Assistance
- 2) Code Citation: 20 Ill. Admin. Code 1700
- 3) Section Number: 1700.105 Adopted Action:
New Section
- 4) Statutory Authority: Implementing and authorized by the Law Enforcement Camera Grant Act [50 ILCS 707/10]
- 5) Effective Date of Rulemaking: December 16, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rulemaking, 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: June 25, 2010; 34 Ill. Reg. 8136
- 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 agreements issued by JCAR? Changes made were grammatical and a spelling correction.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In 2006, the Illinois Law Enforcement Training and Standards Board was given a statutory mandate to develop eligibility requirements for the distribution of funds to law enforcement agencies for the purpose of installing cameras in police vehicles. Although this statute has been implemented, no administrative rules were adopted to guide implementation. The absence of administrative rules was cited by the Auditor General as a significant deficiency in an agency compliance audit for the two-year period ending June 30, 2008. The adopted

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF ADOPTED RULE

administrative rules were necessary to address the Auditor General's finding and more fully comply with the statutory mandate.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Agency Rules Coordinator
Illinois Law Enforcement Training and Standards Board
4500 South Sixth Street Road, Room 173
Springfield, IL 62703-6617

217/782-4540

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

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF ADOPTED RULE

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER V: ILLINOIS LAW ENFORCEMENT TRAINING STANDARDS BOARDPART 1700
SURCHARGE FUND FINANCIAL ASSISTANCE

Section

1700.105 Law Enforcement Camera Grant Act

AUTHORITY: Implementing and authorized by the Law Enforcement Camera Grant Act [50 ILCS 707/10].

SOURCE: Adopted at 35 Ill. Reg. 206, effective December 16, 2010.

Section 1700.105 Law Enforcement Camera Grant Act

- a) Upon a unit of local government's submission of the prescribed application, the Illinois Law Enforcement Training and Standards Board will award Law Enforcement Camera Grant Act funds (Camera Grant funds) in accordance with the following criteria:
- 1) The State will be divided into three regions: Northern, Central and Southern. Camera Grant funds will be awarded in a manner that equitably disperses funds across these three regions.
 - 2) The number of police officers employed by a unit of local government will be taken into consideration in dispersing Camera Grant funds.
 - 3) The number of vehicle cameras currently available to a unit of local government will be taken into consideration in dispersing Camera Grant funds.
 - 4) The median household Income in the unit of local government's community (as identified by the U.S. Census Bureau) will be taken into consideration in dispersing Camera Grant funds.
 - 5) The crime rate in the unit of local government's community (as identified by the Illinois State Police) will be taken into consideration in dispersing Camera Grant funds.

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- 6) The total number of vehicular accidents/crashes in the unit of local government's community, as well as the number of those accidents/crashes involving alcohol or drugs, will be taken into consideration in dispersing Camera Grant funds.
 - 7) Municipalities with red light enforcement cameras will not receive Camera Grant funds.
 - 8) Municipalities not in compliance with the Illinois Law Enforcement Training and Standards Board's mandatory reporting requirements will not receive Camera Grant funds.
- b) Funds received from the Illinois Law Enforcement Training and Standards Board pursuant to the Law Enforcement Camera Grant Act are to be used in accordance with the following requirements:
- 1) Cameras must be installed in law enforcement vehicles.
 - 2) Installation of cameras must result in recordation of the officer's voice and any voice in the immediate vicinity, even when the officer is outside the vehicle.
 - 3) Only a supervisor may remove any recording from a camera or intentionally disable a camera once the camera has been installed in a vehicle. All other officers shall be prohibited from disabling any installed camera or from removing any recordings made with an installed camera.
 - 4) Once a camera has begun recording, it must record continuously through the completion of the officer's shift.
 - 5) A copy of any recording made with an installed camera must be provided upon request to:
 - A) law enforcement personnel affiliated with the unit of local government that received the Camera Grant;
 - B) the local State's Attorney; or

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

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- C) any persons audibly or visually depicted in the recording.
- 6) Any unit of local government that releases a copy of a recording made with an installed camera to members of the general public or media must first make reasonable efforts to protect the identity and privacy of persons depicted in the recording who were not the subject of, or were merely incidental to, the law enforcement activity recorded.
 - 7) Any recording made with an installed camera must be securely retained for a period of not less than two years. Any recordings not destroyed following this period remain subject to the applicable provisions of this Section until they are destroyed.
- c) Any unit of local government that receives Camera Grant funds must report annually to the Illinois Law Enforcement Training and Standards Board with regard to the use of these funds. This annual report is due on May 1 or the first business day thereafter of each year and must include:
 - 1) the number of cameras received;
 - 2) the number of cameras installed;
 - 3) a brief description of the review process used by supervisors;
 - 4) a list of any criminal, traffic, ordinance and civil cases in which video recordings were used, including party names, case numbers, offenses charged and disposition of the matter (this item applies, but is not limited to, court proceedings, coroner's inquests, grand jury proceedings and plea bargains); and
 - 5) any other information relevant to the administration of this program.
 - d) No applications for Camera Grant funds will be accepted after January 1, 2011.

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

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- 1) Heading of Part: Court Security Basic Training
- 2) Code Citation: 20 Ill. Admin. Code 1780
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1780.101	New Section
1780.102	New Section
1780.103	New Section
1780.104	New Section
1780.105	New Section
1780.106	New Section
1780.201	New Section
1780.202	New Section
1780.203	New Section
1780.204	New Section
1780.205	New Section
- 4) Statutory Authority: Implementing the Illinois Police Training Act [50 ILCS 705] and authorized by Section 10 of that Act
- 5) Effective Date of Rulemaking: December 16, 2010
- 6) Does this rulemaking contain an automatic repeal date: No
- 7) Does this rulemaking contain incorporation by reference: No
- 8) A copy of the adopted rulemaking, 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: June 4, 2010; 34 Ill. Reg. 7581
- 10) Has JCAR issued a Statement of Objection to this rulemaking: No
- 11) Differences between proposal and final version: The terms "Court Security Officer," "Permanent Court Security Officer," and "Probationary Court Security Officer" were added, along with respective definitions, in Section 102.

The effective date was also changed (Section 105).

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF ADOPTED RULES

The parenthetical phrase "(life threatening conditions)" was added to Section 202(b)(2) to further specify the type of "First Aid or emergency care" training that is to be offered to prospective Court Security Officers.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR: Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 14) Are there any other proposed rulemakings pending on this Part: No
- 15) Summary and Purpose of Rulemaking: In 1997, the Illinois Law Enforcement Training and Standards Board was given a statutory mandate to develop and offer a basic course of training to be completed by all court security officers in the State of Illinois. Although this statute has been implemented, no administrative rules were adopted to guide implementation. The absence of administrative rules was cited by the Auditor General as a Significant Deficiency in an agency compliance audit for the two-year period ending June 30, 2008. The proposed administrative rules are necessary to address the Auditor General's finding and more fully comply with the statutory mandate.
- 16) Information and questions regarding these adopted rules shall be directed to:

Agency Rules Coordinator
Illinois Law Enforcement Training and Standards Board
4500 South Sixth Street Road, Room 173
Springfield, IL 62703-6617

217/782-4540

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

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER V: ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARDPART 1780
COURT SECURITY BASIC TRAINING

SUBPART A: GENERAL PROVISIONS

Section

1780.101	Purpose and Scope
1780.102	Definitions
1780.103	Veracity of Information
1780.104	Confidentiality of Information
1780.105	Date of Compliance
1780.106	Board Review

SUBPART B: TRAINING STANDARDS

Section

1780.201	Training Standards
1780.202	Minimum Curriculum Requirements
1780.203	Course Standards and Requirements
1780.204	Approval of Instructors
1780.205	Minimum Requirements of the Trainee

AUTHORITY: Implementing the Illinois Police Training Act [50 ILCS 705] and authorized by Section 10 of that Act.

SOURCE: Adopted at 35 Ill. Reg. 211, effective December 16, 2010.

SUBPART A: GENERAL PROVISIONS

Section 1780.101 Purpose and Scope

Unless otherwise indicated, the rules set forth in this Part provide for training requirements and procedures applicable to all probationary and permanent Court Security Officers covered under the Illinois Police Training Act [50 ILCS 705].

Section 1780.102 Definitions

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

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The terms used in this Part are defined in Section 2 of the Illinois Police Training Act. Additionally, the following terms are defined for purposes of this Part:

"Act" means the Illinois Police Training Act [50 ILCS 705].

"Board" means the Illinois Law Enforcement Training and Standards Board.

"Course" means the course of study identified by the Board pursuant to Section 1780.203 as the Basic Court Security Course for Court Security Officers.

"Course Coordinator" means the person or entity responsible for offering the Basic Court Security Course for Court Security Officers.

"Course Roster" means the form listing the names of all probationary and permanent Court Security Officers completing the requirements of a course approved by the Board under this Part. The information required on a course roster form is the Court Security Officer's name, date of appointment, department, employment status and social security number and the name of the course and the date of course completion.

"Court Security Officer" is a person hired under the following statute: *The sheriff of any county in Illinois with less than 3,000,000 inhabitants may hire court security officers in such number as the county board shall from time to time deem necessary. Court security officers may be designated by the Sheriff to attend courts and perform the functions set forth in Section 3-6023. Court security officers shall have the authority to arrest; however, such arrest powers shall be limited to performance of their official duties as court security officers. Court security officers may carry weapons, upon which they have been trained and qualified as permitted by law, at their place of employment and to and from their place of employment with the consent of the Sheriff. The court security officers shall be sworn officers of the Sheriff and shall be primarily responsible for the security of the courthouse and its courtrooms. The court security officers shall be under the sole control of the sheriff of the county in which they are hired. If a county has a Sheriff's Merit Commission, court security officers shall be subject to its jurisdiction for disciplinary purposes. They are not regular appointed deputies under Section 3-6008. The position of court security officer shall not be considered a rank when seeking initial appointment as deputy sheriff under Section 3-8011. Every court security officer hired on or after June 1, 1997 shall*

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serve a probationary period of 12 months during which time they may be discharged at the will of the Sheriff. [55 ILCS 5/3-6012.1]

"Executive Director" means the Executive Director of the Board.

"Full-time Court Security Officer" means one who is employed at least 35 hours a week as a Court Security Officer on a regular basis.

"Permanent Court Security Officer" means a court security officer who has completed his or her probationary period and is employed as a court security officer by a participating local governmental unit.

"Probationary Court Security Officer" means a recruit court security officer required to successfully complete initial minimum basic training requirements at a designated training school to be eligible for employment as a court security officer.

"Trainee" means a probationary Court Security Officer who is receiving the training prescribed by Subpart B.

Section 1780.103 Veracity of Information

No person shall make any false or misleading statement, representation or certification of any record, report, application or any other documents filed with the Board or required by the Board. Submission to the Board of any information including or constituting a material misrepresentation by a probationary or permanent Court Security Officer will render any subsequent certification granted to that Court Security Officer by the Board void at the Board's election.

Section 1780.104 Confidentiality of Information

Personal information submitted to the Board by probationary and permanent Court Security Officers will be treated as confidential and only released if necessary to comply with the Illinois Freedom of Information Act [5 ILCS 140], a subpoena or other State or federal laws.

Section 1780.105 Date of Compliance

Compliance with this Part is required on and after December 15, 2010.

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Section 1780.106 Board Review

The Curriculum and School Standards Committee shall be responsible for monitoring the curriculum of the Basic Court Security Course. The committee shall, as changes in the law or training techniques occur, recommend modifications in the Basic Court Security Course to the Board.

SUBPART B: TRAINING STANDARDS

Section 1780.201 Training Standards

- a) The Board shall establish training standards and a curriculum for the implementation of the Basic Court Security Course.
- b) Every probationary Court Security Officer must successfully complete the Basic Court Security Course to be certified a Court Security Officer.
- c) Notwithstanding the provisions of subsection (b), any individual who has successfully completed either the Basic Law Enforcement Course or the Basic Correctional Course may seek from the Board a waiver from the requirement for completion of the Basic Court Security Course.

Section 1780.202 Minimum Curriculum Requirements

- a) In no event will the Basic Court Security Course be less than 158 hours of full-time study, nor more than 240 hours.
- b) The Board's mandated training course may be reviewed and modified at any time by the Board. Nevertheless, the approved curriculum will include, but not be limited to, the following:
 - 1) The Peace Officer Firearm Training Act [50 ILCS 710];
 - 2) A course in cardio-pulmonary resuscitation consistent with American Heart Association standards;
 - 3) Instruction on first aid or emergency care (life threatening conditions);
 - 4) Instruction on basic court security principles;

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- 5) Instruction on the legal rights of visitors and prisoners;
- 6) Instruction on self defense tactics;
- 7) Instruction on human behavior; and
- 8) Instruction on physical search procedures.

Section 1780.203 Course Standards and Requirements

- a) Each Basic Court Security Course offering shall be overseen by a Course Coordinator.
- b) The Course Coordinator will be responsible for the supervision and administration of the Basic Court Security Course, including, but not limited to, arranging for qualified instructors, arranging for adequate training props and adequate training facilities such as classrooms and firearms ranges, and the conduct and discipline of the trainees.
- c) The Course Coordinator shall maintain complete records on each trainee. The records shall include, but not be limited to, the attendance and performance ratings of the trainee, including test scores for every written or oral test during the Basic Court Security Course. All records gathered by the Course Coordinator under this Part shall be maintained in accordance with the Illinois Freedom of Information Act [5 ILCS 140].
- d) The Course Coordinator shall be responsible for submitting a course and class roster to the Executive Director of the Board. Every class roster must be verified by the Course Coordinator to certify the attendance and final grade of all trainees.
- e) The Course Coordinator shall make final determination as to whether a trainee has satisfactorily passed all reasonable standards and requirements of a particular course of training. The Course Coordinator shall also have the authority to dismiss any trainee from the school prior to the completion of the course if the Course Coordinator determines that the trainee is being disruptive or non-compliant, or cannot meet the minimum training requirements set forth in this Subpart B. Upon such dismissal action, the Course Coordinator shall submit a

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written report within seven calendar days to the Executive Director and the appointing authority.

- f) The Course Coordinator shall also have the responsibility of fixing reasonable fees to be charged for any training course. Reasonable fees will be based on the costs of developing and implementing the course, including but not limited to the cost of instructors, facilities for training, training supplies, and general administrative costs. The Board shall annually review the training fees established by the Course Coordinator to determine if the fees are reasonable.

Section 1780.204 Approval of Instructors

- a) The Board shall approve instructors on the basis of education, training and experience; for example, as a result of the successful completion of a comparable training course or extensive prior law enforcement or correctional employment. The instructor will be eligible to instruct Board-certified courses in the specialized field relating to his or her qualifications. It shall be the continuing responsibility of the Course Coordinator to see that instructors are assigned only topics that they are qualified to teach and are supervised on a regular basis to ensure that instructional excellence is maintained.
- b) The actual evaluation and selection of instructors is the responsibility of the Course Coordinator. Review and evaluation of the instructors may also be initiated by the Board.

Section 1780.205 Minimum Requirements of the Trainee

- a) Regular attendance at all sessions is required. However, excused absences may be granted by the Course Coordinator under certain limited circumstances beyond the trainee's control, which may include, but are not be limited to, a death in the family, illness, response to a court subpoena, disability or transportation breakdown. In order to successfully complete the course, absences must not exceed 10 percent of the total hours of instruction for any Board-certified course of instruction.
- b) Qualification in the use of firearms as required by the Peace Officer Firearm Training Act [50 ILCS 710] is required.

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

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- c) An overall average of 70 percent must be achieved on all written examinations given during any course of training. Separate evaluation of any skill-oriented performance requirements shall be made by the instructor on a satisfactory/unsatisfactory basis.
- d) The Course Coordinator shall establish standards of conduct for the trainee while enrolled in the Basic Court Security Course. These shall include demeanor, deportment and compliance with the discipline and regulations of the course. Receipt of certification of the successful completion of the course from the Course Coordinator shall be deemed proof that the trainee has complied with the requirements of this Section.
- e) Each trainee who has not been awarded a certificate attesting to his or her successful completion of the Basic Court Security Course as prescribed by the Board within 12 months after his or her initial full-time employment must forfeit his or her position, or the employing agency must obtain a waiver from the Board extending the period of compliance. Waivers shall be issued only for good and justifiable reasons, and shall extend for 90 days beyond the initial 12 months. Good and justifiable reasons for waiver include, but are not limited to, unavailability of academy space for training, illness or disability, and the need for the trainee to serve his or her department during the initial 12-month period.
- f) Each trainee shall bring to training session any necessary equipment issued by the sponsoring agency.

OFFICE OF THE STATE APPELLATE DEFENDER

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Organization, Rulemaking and Public Information
- 2) Code Citation: 2 Ill. Adm. Code 500
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
500.10	New
500.20	New
500.30	New
500.40	New
500.50	New
500.100	New
500.200	New
500.205	New
500.210	New
500.215	New
500.220	New
500.225	New
500.230	New
500.235	New
500.240	New
500.245	New
500.250	New
500.255	New
500.260	New
500.265	New
500.270	New
500.275	New
500.280	New
500.285	New
500.300	New
500.310	New
500.400	New
500.APPENDIX A	New
500.APPENDIX B	New
- 4) Statutory Authority: 625 ILCS 5/6-402 and 625 ILCS 5/6-419
- 5) Effective Date of Rulemaking: January 1, 2011

OFFICE OF THE STATE APPELLATE DEFENDER

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- 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 rulemaking, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notices of Proposed Published in Illinois Register: Because this rulemaking is not subject to Section 5-35 of the Illinois Administrative Procedures Act (IAPA) [415 ILCS 100/5-35], the Agency was not required to publish Proposed Amendments
- 10) Has JCAR issued a Statement of Objections 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 agreements issued by JCAR? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose Rules: Required rulemaking for the Office of the State Appellate Defender
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

David P. Bergschneider
P O Box 5240
Springfield, IL. 62704

217/782-7203

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

OFFICE OF THE STATE APPELLATE DEFENDER

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE B: COURTS AND THE JUDICIARY
CHAPTER IV: OFFICE OF THE STATE APPELLATE DEFENDERPART 500
ORGANIZATION, RULEMAKING AND PUBLIC INFORMATION

SUBPART A: ORGANIZATION OF THE OFFICE

Section	
500.10	Definitions
500.20	Office of the State Appellate Defender
500.30	State Appellate Defender Commission
500.40	Powers and Duties of the State Appellate Defender
500.50	State Appellate Defender Addresses

SUBPART B: RULEMAKING

Section	
500.100	Rulemaking Authority and Procedure

SUBPART C: ACCESS TO INFORMATION OF THE OFFICE
OF THE STATE APPELLATE DEFENDER

500.200	Summary and Purpose
500.205	Definitions
500.210	Records that Will Be Disclosed
500.215	Records that Will Be Withheld from Disclosure
500.220	Statutory Exemptions
500.225	Submittal of Requests for Records
500.230	Information To Be Provided in Requests for Records
500.235	Requests for Records for Commercial Purposes
500.240	Timeline for OSAD Response
500.245	Requests for Records that OSAD Considers Unduly Burdensome
500.250	Requests for Records that Require Electronic Retrieval
500.255	Denials of Requests for Records
500.260	Requests for Review of Denials – Public Access Counselor
500.265	Circuit Court Review
500.270	Administrative Review

OFFICE OF THE STATE APPELLATE DEFENDER

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- 500.275 Inspection of Records
500.280 Copying of Records; Fees
500.285 Reduction and Waiver of Fees

SUBPART D: PUBLIC INFORMATION – EXPUNGEMENT OF CRIMINAL RECORDS

- 500.300 Special Public Information Responsibilities for Expungement
500.310 Availability of Expungement Forms

SUBPART E: CAPITAL LITIGATION UNITS

- 500.400 Death Penalty Litigation

APPENDIX A Organizational Chart

APPENDIX B Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by the State Appellate Defender Act [725 ILCS 105] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 35 Ill. Reg. 220, effective January 1, 2011.

SUBPART A: ORGANIZATION OF THE OFFICE

Section 500.10 Definitions

"Act" – State Appellate Defender Act [725 ILCS 105].

"Commission" – State Appellate Defender Commission.

"Expungement" – A court order issued pursuant to Section 5 of the Criminal Identification Act [20 ILCS 2630].

"Expungement Unit" – The division of the Office of the State Appellate Defender delegated responsibilities for the expungement program authorized by Section 11 of the Criminal Identification Act and Section 10.6 of the Act.

"Office of the State Appellate Defender" or "Office" – The State agency created under Section 3 of the Act.

OFFICE OF THE STATE APPELLATE DEFENDER

NOTICE OF ADOPTED RULES

"State Appellate Defender" – The officer appointed by the Supreme Court under Section 5 of the Act. This individual is the chief administrative officer of the Office. When responsibilities are delegated by the State Appellate Defender to the Deputy Defender or Assistant Appellate Defender or any other employee of the Office, the term "State Appellate Defender" includes those individuals, with respect to their delegated authorities.

"Supreme Court" – Illinois State Supreme Court.

Section 500.20 Office of the State Appellate Defender

- a) Creation of the Office
The Office of the State Appellate Defender is created by Section 3 of the State Appellate Defender Act.
- b) The State Appellate Defender
 - 1) Appointment of the State Appellate Defender
 - A) *The Illinois Supreme Court, by a majority vote, shall appoint the State Appellate Defender to serve a term of four years and until his or her successor is appointed and qualified. (Section 5(a) of the Act)*
 - B) *The State Appellate Defender must be an attorney licensed to practice law in Illinois and shall devote full time to the duties of the office. The person appointed as State Appellate Defender shall not engage in the private practice of law while holding that position. (Section 5(a) of the Act)*
 - 2) Removal of the State Appellate Defender
The Supreme Court may remove the State Appellate Defender only for cause and after a hearing. The Supreme Court may hold a hearing for this purpose on its own motion or upon a motion by the Commission and may adopt rules establishing other procedures for the hearing. (Section 5(b) of the Act)
- c) Organization of the Office of the State Appellate Defender

OFFICE OF THE STATE APPELLATE DEFENDER

NOTICE OF ADOPTED RULES

- 1) District Offices

The State Appellate Defender shall establish an office in each judicial district. (Section 9(a) of the Act) The State Appellate Defender may establish other offices to aid in the discharge of his or her duties.
- 2) Deputy Defenders
 - A) *The State Appellate Defender shall appoint a Deputy Defender for each district. Deputy Defenders shall serve at the pleasure of the State Appellate Defender.*
 - B) *The District Deputy Defender shall serve as the administrator of the district office. Each appointment of a Deputy Defender must be approved by a majority of the appellate court judges of the judicial district and must be an attorney licensed to practice law in Illinois.*
 - C) *Deputy Defenders shall employ, with the approval of the State Appellate Defender, Assistant Appellate Defenders, investigators, clerical and other employees under their direct supervision. District Office personnel include Supreme Court Unit, Capital Post Conviction Unit and Capital Trial Assistance Unit employees.*
 - D) *Attorneys employed by a Deputy Defender shall devote full time to their duties and may not engage in the private practice of law. (Section 9(b), (d) and (e) of the Act)*
- 3) Staff of the Office of the State Appellate Defender
 - A) *The staff of the State Appellate Defender may consist of additional attorneys licensed to practice law in Illinois who serve as Assistant Appellate Defenders. Attorneys employed by the State Appellate Defender shall devote full time to their duties and may not engage in the private practice of law.*
 - B) *The State Appellate Defender may appoint administrative, investigative and clerical employees necessary to discharge the duties of the Office. (Section 9(c) of the Act) These Office personnel may include Deputy State Appellate Defenders, Deputy*

OFFICE OF THE STATE APPELLATE DEFENDER

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Defenders and Assistant Defenders in non-District offices, and the Chief Fiscal Officer/Human Resources Director, Legislative Liaison, Information Technology Directory, Director of Support Services, Senior Administrative Assistant and Expungement Staff (see Subpart D).

Section 500.30 State Appellate Defender Commission

- a) Purpose
Section 4 of the Act creates the State Appellate Defender Commission to advise the State Appellate Defender. Subject to the rules of the Supreme Court, the Commission may recommend policies for the operation of the Office.
- b) Composition
 - a) *The Commission is comprised of 9 uncompensated members. (Section 4(a) and (d) of the Act)*
 - b) *The 9 members shall be appointed as follows:*
 - 1) *The Governor shall appoint one member who shall be designated by the Governor to serve as the Commission Chair.*
 - 2) *The Supreme Court shall appoint one member.*
 - 3) *Each of the 5 Appellate Courts shall each appoint one member.*
 - 4) *The Supreme Court shall appoint one member from a panel of 3 persons nominated by the Illinois State Bar Association.*
 - 5) *The Governor shall appoint one member from a panel of 3 persons nominated by the Illinois Public Defender Association. (Section 4(a) of the Act)*
 - c) Terms of Office
Commission members serve a term of 6 years and until a successor is appointed and qualified. (Section 4(a) of the Act)
 - d) Other Officers

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Members of the Commission elect a Vice-Chair and Secretary from among their membership. (Section 4(c) of the Act)

- e) Meetings
The Commission shall meet once every six months. Four members constitute a quorum. (Section 4(c) and (e) of the Act)
- f) Powers and Duties of the Commission
The Commission:
 - 1) *Shall approve or modify an operational budget submitted to it by the State Appellate Defender and set the number of employees each year.*
 - 2) *May, for reasonable grounds, recommend to the Supreme Court the removal of the State Appellate Defender.*
 - 3) *Shall exercise other powers and duties as the Supreme Court by rule may provide.*
 - 4) *Shall receive from the State Appellate Defender:*
 - A) *at each semiannual meeting, a report on the operation of the Office;*
 - B) *at the end of the fiscal year, a comprehensive report; and*
 - C) *any other additional or amended report on any phase of the operation of the Office that the Commission requires.*
(Section 6 of the Act)

Section 500.40 Powers and Duties of the State Appellate Defender

- a) *The State Appellate Defender shall represent indigent persons on appeal in criminal and delinquent minor proceedings when appointed to do so by a court under a Supreme Court Rule or law of Illinois. (Section 10(a) of the Act)*
- b) *The State Appellate Defender shall submit a budget for approval by the State Appellate Defender Commission. (Section 10(b) of the Act)*

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- c) *The State Appellate Defender may:*
- 1) *Maintain a panel of private attorneys to serve as counsel on a case basis. The State Appellate Defender may also, by competitive bid, contract for the services of attorneys in non-death penalty criminal appeals.*
 - 2) *Establish programs, alone or in conjunction with law schools, to utilize volunteer law students as legal assistants.*
 - 3) *Cooperate and consult with State agencies, professional associations and other groups concerning the causes of criminal conduct, the rehabilitation and correction of persons charged with and convicted of crime, the administration of criminal justice and, in counties of less than 1,000,000 population, study, design, develop and implement model systems for the delivery of trial level defender services, and make an annual report to the General Assembly.*
 - 4) *Hire investigators to provide investigative services to appointed counsel and county public defenders.*
 - 5) *In cases in which a death sentence is an authorized disposition, provide trial counsel with the assistance of expert witnesses, investigators and mitigation specialists from funds appropriated to the State Appellate Defender specifically for that purpose. The Office shall not be appointed to serve as trial counsel in capital cases.*
 - 6) *Develop a Juvenile Defender Resource Center to:*
 - A) *study, design, develop and implement model systems for the delivery of trial level defender services for juveniles in the justice system;*
 - B) *in cases in which a sentence of incarceration or an adult sentence, or both, is an authorized disposition, provide trial counsel with legal advice and the assistance of expert witnesses and investigators from funds appropriated specifically for that purpose;*

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- C) *develop and provide training to public defenders on juvenile justice issues, utilizing resources including the State and local bar associations, the Illinois Public Defender Association, law schools, the Midwest Juvenile Defender Center, and pro bono efforts by law firms. (Sections 10(c) and 10.5(a) of the Act)*

Section 500.50 State Appellate Defender Addresses

- a) The State Appellate Defender maintains an administrative office at:

Office of the State Appellate Defender
400 West Monroe St., Suite 202
P.O. Box 5240
Springfield IL 62705-5240
217/782-7203
Email: osad@osad.state.il.us
Website: www.state.il.us/defender/

- b) The State Appellate Defender maintains the following District Offices:

First Judicial District:

203 N. LaSalle St., 24th Fl.
Chicago IL 60601
312/814-5472
Email: 1stDistrict@osad.state.il.us

Second Judicial District:

One Douglas Ave.
2nd Floor
Elgin IL 60120
847/695-8822
Email: 2ndDistrict@osad.state.il.us

Third Judicial District:

1100 Columbus St.
Ottawa IL 61350

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815/434-5531
Email: 3rdDistrict@osad.state.il.us

Fourth Judicial District

400 West Monroe St., 3rd Fl.
Springfield IL 62704
217/782-3654
Email: 4thDistrict@osad.state.il.us

Fifth Judicial District

909 Water Tower Circle
Mt. Vernon IL 62864
618/244-8471
Email: 5thDistrict@osad.state.il.us

- c) The Office's Supreme Court Unit is located at:

400 West Monroe St., 3rd Fl.
Springfield IL 62704
217/782-1989
Email: scu@osad.state.il.us

- d) The Office's Capital Trial Assistance Unit is located at:

20 North Clark St., 28th Fl.
Chicago IL 60602
312/793-2056
Email: ctau@osad.state.il.us

- e) The Office's Capital Post-Conviction Unit is located at:

20 North Clark St., 28th Fl.
Chicago IL 60602
312/814-5100
cpc@osad.state.il.us

- f) The Office's Expungement Unit can be reached at:

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P.O. Box 5240
Springfield IL 62705-5240
Toll-Free: 866/431-4907
Fax: 217/782-5385
Email: Expungement.Springfield@osad.state.il.us

or:

P.O. Box 64895
Chicago IL 60664-0895
Toll-Free: 866/787-1776
Fax: 312/793-2278
Email: Expungement.Chicago@osad.state.il.us

SUBPART B: RULEMAKING

Section 500.100 Rulemaking Authority and Procedures – FOIA

The Illinois Administrative Procedure Act (IAPA) [5 ILCS 100] requires that every State agency adopt rules describing its organization and the procedures by which the public can obtain information or make submissions or requests on subjects, programs and activities of the agency. Agencies are also to adopt through IAPA rulemaking procedures every policy of the agency that affects any person outside the agency. The State Appellate Defender will, when necessary, adopt rules in accordance with the IAPA.

SUBPART C: ACCESS TO RECORDS OF THE
OFFICE OF THE STATE APPELLATE DEFENDER**Section 500.200 Summary and Purpose**

- a) This Part states the policy of the Office of the State Appellate Defender (OSAD) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in OSAD's possession:

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- A) Records that shall be disclosed; and
 - B) Records that shall be withheld from disclosure.
- 2) Contains the procedures by which requesters may obtain records in OSAD's possession; and
 - 3) Contains the procedures for claiming and determining that records submitted to OSAD are exempt from disclosure.

Section 500.205 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Act" means the State Appellate Defender Act [725 ILCS 105].

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles of opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to OSAD. (Section 2(d) of FOIA)

"Director" means the State Appellate Defender.

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"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"OSAD" means the Office of the State Appellate Defender.

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all

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other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of OSAD. (Section 2(c) of FOIA)

"Requester" is any person who has submitted to OSAD a written request, electronically or on paper, for records.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

Section 500.210 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, OSAD will disclose to the requester all records requested except that it will not disclose certain records as provided in Section 500.215 or 500.220. Records covered under this Section shall include, but are not limited to:

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of OSAD are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to OSAD under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by OSAD prior to disclosure. (Section 2.10 of FOIA)*
- c) *Criminal history records.*
 - 1) *The following documents maintained by OSAD pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*
 - A) *Court records that are public;*
 - B) *Records that are otherwise available under State or local law; and*

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- C) *Records in which the requesting party is the individual identified, except as provided under Section 500.215(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)*
- 2) *Arrest records that are confidential under the Juvenile Court Act of 1987 are exempt from disclosure. (Section 2.15(b) of FOIA)*
- d) *Settlement agreements. All settlement agreements entered into by or on behalf of OSAD are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 500.215 or 500.220 of this Part may be redacted. (Section 2.20 of FOIA)*

Section 500.215 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, OSAD will make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

- a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*
 - 1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; (Section 7(1)(a) of FOIA)*
 - 2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order; (Section 7(1)(b) of FOIA)*
 - 3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects; (Section 7(1)(b-5) of FOIA)*
 - 4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means*

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the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy; (Section 7(1)(c) of FOIA)

- 5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*
- A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*
 - B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*
 - C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*
 - D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that OSAD will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*
 - E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to OSAD;*
 - F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

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- G) *Obstruct an ongoing criminal investigation by OSAD; (Section 7(1)(d) of FOIA)*
- 6) *Records that relate to or affect the security of correctional institutions and detention facilities; (Section 7(1)(e) of FOIA)*
- 7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of OSAD. The exemption provided in this subsection (a)(7) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents; (Section 7(1)(f) of FOIA)*
- 8) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this subsection (a)(8) does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this subsection (a)(8) does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this subsection (a)(8) shall be construed to prevent a person or business from consenting to disclosure; (Section 7(1)(g) of FOIA)*
- 9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give*

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an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made; (Section 7(1)(h) of FOIA)

- 10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by OSAD when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this subsection (a)(10) does not extend to requests made by news media as defined in Section 500.205 when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public; (Section 7(1)(i) of FOIA)*
- 11) *The following information pertaining to educational matters:*
 - A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*
 - B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*
 - C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*
 - D) *Course materials or research materials used by faculty members; (Section 7(1)(j) of FOIA)*
- 12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or*

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occupied buildings, but only to the extent that disclosure would compromise security; (Section 7(1)(k) of FOIA)

- 13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act [5 ILCS 120] until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act; (Section 7(1)(l) of FOIA)*
- 14) *Communications between OSAD and an attorney or auditor representing OSAD that would not be subject to discovery in litigation, and materials prepared or compiled by or for OSAD in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising OSAD, and materials prepared or compiled with respect to internal audits of OSAD; (Section 7(1)(m) of FOIA)*
- 15) *Records relating to OSAD's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed; (Section 7(1)(n) of FOIA)*
- 16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section; (Section 7(1)(o) of FOIA)*
- 17) *Records relating to collective negotiating matters between OSAD and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying; (Section 7(1)(p) of FOIA)*
- 18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment; (Section 7(1)(q) of FOIA)*
- 19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise*

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terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act [735 ILCS 30], records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated; (Section 7(1)(r) of FOIA)

- 20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications; (Section 7(1)(s) of FOIA)*
- 21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law; (Section 7(1)(t) of FOIA)*
- 22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act [5 ILCS 175]; (Section 7(1)(u) of FOIA)*
- 23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this subsection (a)(23) may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations; (Section 7(1)(v) of FOIA)*

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- 24) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency; (Section 7(1)(x) of FOIA)*
- 25) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act [20 ILCS 3855] and Section 16-111.5 of the Public Utilities Act [220 ILCS 5] that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission; (Section 7(1)(y) of FOIA)*
- 26) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009 [110 ILCS 26]; (Section 7(1)(z) of FOIA)*
- 27) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009 [215 ILCS 158]; (Section 7(1)(aa) of FOIA)*
- 28) *Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act [760 ILCS 100] or the Cemetery Oversight Act [225 ILCS 411], whichever is applicable. (Section 7(1)(bb) of FOIA)*
- b) *A record that is not in the possession of OSAD but is in the possession of a party with whom OSAD has contracted to perform a governmental function on behalf of OSAD, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of OSAD for purposes of Sections 500.225, 500.230 and 500.235. (Section 7(2) of FOIA)*

Section 500.220 Statutory Exemptions

To the extent provided for by the following statutes, the following shall be exempt from inspection and copying:

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- a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [20 ILCS 700].*
- b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [75 ILCS 70].*
- c) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*
- d) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325].*
- e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [420 ILCS 44].*
- f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].*
- g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [110 ILCS 979].*
- h) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [5 ILCS 430] and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.*
- i) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code [65 ILCS 5].*
- j) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act [20 ILCS 2605].*

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- k) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code [625 ILCS 5].*
- l) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act [210 ILCS 28].*
- m) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act [765 ILCS 77], except to the extent authorized under that Article.*
- n) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act [725 ILCS 124]. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*
- o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525].*
- p) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act [70 ILCS 3615] or the St. Clair County Transit District under the Bi-State Transit Safety Act [45 ILCS 111].*
- q) *Information prohibited from being disclosed by the Personnel Records Review Act [820 ILCS 40].*
- r) *Information prohibited from being disclosed by the Illinois School Student Records Act [105 ILCS 10].*
- s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act [220 ILCS 5]. (Section 7.5 of FOIA)*

Section 500.225 Submittal of Requests for Records

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- a) Any request for public records should be submitted in writing to the FOI Officer at OSAD.
- b) OSAD has one FOI Officer, located at the administrative office.
- c) Contact information for the FOI Officer can be found online at www.OSAD@osad.state.il.us/.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

OSAD Administrative Office
400 West Monroe St., Suite 202
PO Box 5240
Springfield IL 62705-5240
Attn: FOI Officer

- e) E-mailed requests should be sent to OSAD@osad.state.il.us/, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 217/782-5385, Attn: FOI Officer.

Section 500.230 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that OSAD considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 500.245.);
- c) A statement as to the requested medium and format for OSAD to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for OSAD to use in providing the records sought: for example, inspection at OSAD headquarters or providing paper or electronic copies;

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- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 500.235 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by OSAD. (Section 3.1(c) of FOIA)*
- b) *OSAD shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by OSAD to provide the records requested and an estimate of the fees to be charged, which OSAD may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 500.215 or 500.220;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, OSAD shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. (Section 3.1(b) of FOIA)*

Section 500.240 Timeline for OSAD Response

- a) Except as stated in subsection (b) or (c), OSAD will respond to any written request for records within 5 business days after its receipt of the request. Failure

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to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If OSAD fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If OSAD fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 500.245. (Section 3(d) of FOIA) A written request from OSAD to provide additional information shall be considered a response to the FOIA request.

- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
- 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*
 - 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*
 - 6) *The request for records cannot be complied with by OSAD within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of OSAD; or*
 - 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*

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- c) *The person making a request and OSAD may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and OSAD agree to extend the period for compliance, a failure by OSAD to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), OSAD will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If OSAD fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If OSAD issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 500.245. (Section 3(f) of FOIA)*

Section 500.245 Requests for Records that OSAD Considers Unduly Burdensome

- a) *OSAD will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden OSAD, there is no way to narrow the request, and the burden on OSAD outweighs the public interest in the information. Before invoking this exemption, OSAD will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA)*
- b) *If OSAD determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of OSAD. Such a response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*
- c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 500.250 Requests for Records that Require Electronic Retrieval

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- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Agency will retrieve and provide electronic records only in a format and medium that is available to OSAD.

Section 500.255 Denials of Requests for Records

- a) OSAD will deny requests for records when:
 - 1) Compliance with the request would unduly burden OSAD, as determined pursuant to Section 500.245, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 500.215 or 500.220.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);
 - 2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).
- c) A requester may treat OSAD's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

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- d) If OSAD has given written notice pursuant to Section 500.240(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if OSAD fails to act within the time periods provided in Section 500.240. (Section 9(c) of FOIA)*

Section 500.260 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by OSAD may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. (Section 9.5(a) of FOIA)*
- b) *If OSAD asserts that the records are exempt under Section 500.215(a)(4) or (a)(7), it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*
 - 1) *A copy of the request for access to records;*
 - 2) *The proposed response from OSAD; and*
 - 3) *A detailed summary of OSAD's basis for asserting the exemption. (Section 9.5(b) of FOIA)*
- c) *Upon receipt of a notice of intent to deny from OSAD, the Public Access Counselor shall determine whether further inquiry is warranted. The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. Times for response or compliance by OSAD under Section 500.240 will be tolled until the Public Access Counselor concludes his or her inquiry. (Section 9.5(b) of FOIA)*
- d) *Within 7 working days after OSAD receives a request for review from the Public Access Counselor, OSAD shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*

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- e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, OSAD may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*
- f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to OSAD. (Section 9.5(d) of FOIA)*
- g) *In addition to the request for review, and the answer and response thereto, if any, a requester or OSAD may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*
- h) *A binding opinion from the Attorney General shall be binding upon both the requester and OSAD, subject to administrative review under Section 500.270. (Section 9.5(f) of FOIA)*
- i) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- j) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, OSAD shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 500.270. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 500.270. (Section 9.5(f) of FOIA)*
- k) *If OSAD discloses records in accordance with an opinion of the Attorney General, OSAD is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- l) *If the requester files suit under Section 500.265 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the*

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Public Access Counselor, and the Public Access Counselor shall so notify OSAD.
(Section 9.5(g) of FOIA)

- m) *The Attorney General may also issue advisory opinions to OSAD regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the State Appellate Defender or Deputy State Appellate Defender, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from OSAD in order to assist in the review. If OSAD relies in good faith on an advisory opinion of the Attorney General in responding to a request, OSAD is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.*
(Section 9.5(h) of FOIA)

Section 500.265 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 500.270 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to OSAD shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

Section 500.275 Inspection of Records

- a) OSAD may make available records for personal inspection at OSAD's headquarters office located at 400 W. Monroe St., Suite 202, Springfield IL 62705-5240, or at another location agreed to by both OSAD and the requester. No original record shall be removed from State-controlled premises except under constant supervision of OSAD responsible for maintaining the record. OSAD may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

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- b) *When a person requests a copy of a record maintained in an electronic format, OSAD shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then OSAD shall furnish it in the format in which it is maintained by OSAD, or in paper format at the option of the requester. (Section 6(a) of FOIA)*
- c) A requester may inspect records by appointment only, scheduled subject to space availability. OSAD will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 4:30 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform OSAD as soon as possible before the appointment.
- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 500.280 Copying of Records; Fees

- a) In accordance with Section 500.285, unless a fee is otherwise fixed by statute, OSAD will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of OSAD to reproduce records, OSAD will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*
- c) In order to expedite the copying of records that OSAD cannot copy, due to the volume of the request or the operational needs of OSAD, in the timelines established in Section 500.240, the requester may provide, at the requester's

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expense, the copy machine, all necessary materials, and the labor to copy the public records at OSAD headquarters in Section 500.275, or at another location agreed to by both OSAD and the requester. No original record shall be removed from State-controlled premises except under constant supervision of OSAD.

- d) Copies of records will be provided to the requester only upon payment of any fees due. *OSAD may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but OSAD will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to OSAD, payable to "Treasurer, State of Illinois".
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
- 1) The requester, rather than OSAD, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify OSAD of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only OSAD personnel may provide records to the contractor;
 - 5) OSAD must have verification that the requester has paid OSAD, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to OSAD the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

Section 500.285 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by OSAD if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, OSAD will consider the following:*

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- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*
- b) OSAD will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
- c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format. (Section 6(a) of FOIA)*

SUBPART D: PUBLIC INFORMATION – EXPUNGEMENT OF CRIMINAL RECORDS

Section 500.300 Special Public Information Responsibilities for Expungement

- a) Authority of the Office
- 1) The State Appellate Defender Act is directed by statute *to establish, maintain and carry out an expungement program to provide information to persons eligible to have their arrest or criminal history record information ordered expunged, sealed or impounded. (Section 10.6(a) of the Act)*
 - 2) *The Office shall disseminate printed materials and provide information through its website explaining the State's expungement process, circumstances under which expungement may occur, the criminal offenses that may be expunged and steps necessary to complete the expungement process. The Office shall also maintain a toll free telephone number that may be used to receive information or assistance concerning the*

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expungement or sealing of arrest or criminal history record information and shall develop an expungement information packet. (Section 10.6(b) and (c) of the Act)

Section 500.310 Availability of Expungement Forms

As part of its expungement information program, the Office will make expungement request forms and model enforcement orders available to the public. Different forms are used inside and outside of Cook County.

- a) Cook County
For criminal convictions that occurred in courts located in Cook County, forms and procedures are available from:
 - 1) the Office's Expungement Unit in Chicago at:
 - A) telephone: 866/787-1776 (toll-free); or
 - B) email: Expungement.chicago@osad.state.il.us; or
 - 2) the Cook County Circuit Clerk at:
 - A) any of the six Cook County Municipal District Courthouses; or
 - B) www.cookcountyclerkofcourt.org.
- b) Outside Cook County
For criminal convictions that occurred in courts other than those located in Cook County, forms are available on the Office's website at Expungement.springfield@osad.state.il.us.

SUBPART E: CAPITAL LITIGATION UNITS

Section 500.400 Death Penalty Litigation

The Office of the State Appellate Defender has established three units for capital litigation:

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- a) The Capital Trial Assistance Unit provides assistance to attorneys appointed under the Capital Crimes Litigation Act [725 ILCS 124/50] (see 725 ILCS 105/10(c)(5)).
- b) The Capital Post-Conviction Unit represents capital defendants in post-conviction and collateral proceedings under Article 122 of the Code of Criminal Procedure of 1963 [725 ILCS 5/Art. 122] (post conviction hearings).
- c) The Supreme Court Unit represents capital defendants on appeal.

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Section 500.APPENDIX A Organizational Chart

**OFFICE OF THE STATE APPELLATE DEFENDER
ORGANIZATIONAL CHART**

Board of Commissioners
(Budget and Number of Employees)

Illinois Supreme Court
(Appointment of State Appellate Defender)

STATE APPELLATE DEFENDER

ADMINISTRATIVE OFFICE

Deputy State Appellate Defender	Chief Fiscal Officer/ Human Resource Director
Legislative Liaison	Senior Fiscal Assistant
Senior Administrative Assistant	Fiscal Assistant
Administrative Assistant	Human Resource Associate
	Human Resource Assistant
	Docket Clerk
	Legal Secretary

DEPARTMENTS

Director of Support Services	IT Director	District Office/Units*
	Network Application Manager	Deputy Defender
	Support Specialist	Assistant Deputy Defender
		Supervisor
		Assistant Appellate Defender/Staff Attorney
		Chief Mitigation Specialist
		Mitigation Specialist
		Investigator
		Administrative Secretary
		Legal Secretary
		Director of Paralegal Department
		Senior Paralegal
		Paralegal
		Docket Clerk
		Office Clerk

*Appellate Offices
 *Capital Post-Conviction Unit
 *Capital Trial Assistant Unit
 *Expungement Program

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Section 500.APPENDIX B Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

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- 1) Heading of the Part: Sexual Assault Evidence Submission Act
- 2) Code Citation: 20 Ill. Adm. Code 1255
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1255.10	New Section
1255.20	New Section
1255.30	New Section
1255.40	New Section
1255.50	New Section
- 4) Statutory Authority: Implementing and authorized by Section 45 of the Sexual Assault Evidence Submission Act [725 ILCS 202/45] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]
- 5) Effective Date of Rules: December 15, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the rules, 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: 34 Ill. Reg. 12130; August 20, 2010
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: In Section 1255.40(c), changed "the most probative evidence plus standards in each case" to "only the most probative evidence collected in the case, as well as any known DNA standards required for the laboratory to properly interpret DNA results. For example, such known DNA standards could be those from the victim, the suspect, and a husband/consensual partner, depending on the specific case circumstances."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes, language was changed as stated in number 11 above.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The purpose of this Part is to provide procedures and define responsibilities for the submission of sexual assault evidence in connection with the investigation of a criminal case to a Department of State Police laboratory or a laboratory approved and designated by the Director of the State Police.
- 16) Information and questions regarding these adopted rules shall be directed to:

Mr. John M. Hosteny
Interim Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield, Illinois 62794-9461

217/782-7658

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

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1255
SEXUAL ASSAULT EVIDENCE SUBMISSION ACT

SUBPART A: PROMULGATION

Section	
1255.10	Purpose
1255.20	Definitions

SUBPART B: OPERATIONS

Section	
1255.30	Responsibilities
1255.40	Procedures for Submission
1255.50	Expungement of Records

AUTHORITY: Implementing and authorized by Section 45 of the Sexual Assault Evidence Submission Act [725 ILCS 202/45] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 35 Ill. Reg. 259, effective December 15, 2010.

SUBPART A: PROMULGATION

Section 1255.10 Purpose

The purpose of this Part is to provide procedures and define responsibilities for the submission of sexual assault evidence in connection with the investigation of a criminal case to a Department of State Police laboratory or a laboratory approved and designated by the Director of the State Police.

Section 1255.20 Definitions

Unless otherwise specified, all terms shall have the meanings set forth in Section 5 of the Act.

"Act" means the Sexual Assault Evidence Submission Act [725 ILCS 202].

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"Approved Laboratories" means all laboratories within Illinois that are designated as National DNA Index System (NDIS) Participating by the Federal Bureau of Investigation and that are approved by the Director of the Department of State Police under this statute. For example, all Illinois State Police laboratories that conduct DNA casework, the DuPage County Forensic Science Center, and the Northeastern Illinois Regional Crime Laboratory are approved laboratories, provided the individual laboratories maintain their respective status as NDIS Participating laboratories.

"CODIS" means the Combined DNA Index System.

"Department" means the Department of State Police.

"DNA Record" means the DNA profile or genetic marker grouping.

"Law Enforcement Agency" means local, county, state or federal law enforcement agencies involved in the investigation of sexual assault cases in Illinois.

SUBPART B: OPERATIONS

Section 1255.30 Responsibilities

- a) Law Enforcement Agencies
 - 1) By October 15, 2010, each law enforcement agency is required to complete and submit to the Department an inventory of sexual assault cases that have not previously been submitted to a laboratory as described in Section 20 of the Act, per the instructions provided by the Department.
 - 2) Each law enforcement agency must confirm the submitted inventory form is a complete listing of all previously unsubmitted sexual assault cases in its possession.
- b) Illinois State Police
 - 1) The Department will provide, by mail, to each law enforcement agency instructions for completing the inventory of cases required by Section 20 of the Act.

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- 2) By February 15, 2011, the Department will submit a plan for analyzing cases submitted pursuant to this Act to the Governor, the Attorney General, and both houses of the General Assembly.

Section 1255.40 Procedures for Submission

a) Certification

- 1) All sexual assault cases submitted to the laboratory pursuant to any Section of the Act must include a certification that the evidence is submitted in connection with a criminal investigation, as required by Section 30 of the Act. The submitting law enforcement agency must sign the certification required by this subsection (a)(1), stating the evidence is part of a prior or current criminal investigation, for each submission of evidence. This certification relates to the status of the investigation (whether it is criminal or non-criminal) at the time of submission. Evidence from cases that subsequent to collection have been determined to be non-criminal cannot be submitted for analysis since DNA profiles from non-criminal cases are prohibited from being entered into the CODIS database. This certification, to accompany each case submission, is required to ensure that the laboratories are able to comply with all federal and State laws for entering and searching DNA profiles, at the State level, of CODIS. The certification shall read as follows:

This evidence is being submitted by (name of investigating law enforcement agency) in connection with a prior or current criminal investigation. (Section 30 of the Act)

- 2) With approval of the Department's Forensic Sciences Commander or designee, the statutory certification described in subsection (a)(1) may be incorporated into other documentation in lieu of a separate certification form.

b) Required Signatures

- 1) Prior to submission, the law enforcement agency must ensure that all required signatures are obtained for the Patient Consent/Authorization to Release Information and Evidence to Law Enforcement Agency form

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within the Illinois State Police Sexual Assault Evidence Kit. This includes:

- A) the patient, parent or guardian signing the consent authorizing evidence preservation and collection; and
 - B) the patient, parent or guardian, investigating officer or DCFS representative signing the release portion of the form, authorizing release of information.
- 2) A case cannot be accepted for laboratory analysis without the required signatures.
- c) Sexual assault evidence submitted to the laboratory pursuant to any Section of the Act must adhere to the laboratory's case acceptance policy. The law enforcement agency and the laboratory will work together to determine which items of evidence in each case will be submitted. Submissions may be limited to only the most probative evidence collected in the case, as well as any known DNA standards required for the laboratory to properly interpret DNA results. For example, such known DNA standards could be those from the victim, the suspect and a husband/consensual partner, depending on the specific case circumstances.
- d) A complete inventory of all previously unsubmitted sexual assault cases, as described by Section 20 of the Act, regardless of statute of limitations or current prosecutorial/investigative status, must be submitted electronically to the Illinois State Police by October 15, 2010, as per the instructions provided by the Department, unless an alternate submission method is approved by the Department's Forensic Sciences Commander or designee.

Section 1255.50 Expungement of Records

Upon receipt of notification from the investigating law enforcement agency or State's Attorney's Office by the approved laboratory that analyzed the case that a DNA record, uploaded into CODIS pursuant to the Act, was not connected to a criminal investigation, the DNA record will be removed from the local, State and national CODIS databases. Written confirmation will be sent to the submitting law enforcement agency by the approved laboratory verifying the expungement is completed.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
603.60	Amendment
603.75	Amendment
603.160	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Emergency Amendments: December 17, 2010
- 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: The emergency rulemaking 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: December 15, 2010
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Illinois Racing Board's central office and is available for public inspection.
- 9) Reason for Emergency: Update the Board's medication rules to accurately reflect the most recent version of ARCI's Uniform Classification Guidelines.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the Board's medication rules to accurately reflect the most recent version of ARCI's Uniform Classification Guidelines.
- 11) Are there any proposed rulemakings pending on this Part: No
- 12) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 13) Information and questions regarding these emergency amendments shall be directed to:

Mickey Ezzo

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

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

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

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 603
MEDICATION

Section

- 603.10 Pre-Race Saliva Tests
- 603.20 Racing Soundness Exam
- 603.30 Foreign Substances and Pharmaceutical Aids Banned
- 603.40 Twenty-four Hour Ban
- 603.50 Trainer Responsibility
- 603.55 Prima Facie Evidence
- 603.60 Permitted Use of Foreign Substances and Threshold Levels

EMERGENCY

- 603.70 Furosemide
- 603.75 Environmental Contaminants

EMERGENCY

- 603.80 Needles, Syringes and Injectables
- 603.90 Drugs, Chemicals and Prescription Items
- 603.100 Detention Barn
- 603.110 Test Samples
- 603.120 Referee Samples
- 603.130 Laboratory Findings and Reports
- 603.140 Distribution of Purses
- 603.150 Post Mortems
- 603.160 Penalties

EMERGENCY

- 603.170 Veterinarian's Records
- 603.180 Carbon Dioxide Tests
- 603.190 Erythropoietin and Darbepoietin Antibody Testing Program
- 603.200 Out of Competition Testing
- 603.210 Anabolic Steroids

AUTHORITY: Implementing and authorized by Section 26(g) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/26(g)].

ILLINOIS RACING BOARD

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SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007; amended at 32 Ill. Reg. 7397, effective May 1, 2008; amended at 33 Ill. Reg. 12571, effective August 25, 2009; expedited correction at 34 Ill. Reg. 9551, effective August 25, 2009; emergency amendment at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels**EMERGENCY**

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
 - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone (or its metabolite oxyphenylbutazone), flunixin, pyrilamine, isoxsuprine and ketoprofen.
 - 3) The threshold level of phenylbutazone shall be less than 5.0 micrograms (mcg) per milliliter (ml) of serum or plasma. The threshold level for oxyphenylbutazone shall be less than 5.0 mcg/ml of serum or plasma.

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- A) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- B) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 4) The threshold level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:
- A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:

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- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
 - i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).
- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, pyrilamine, isoxsuprine and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.
- 7) Penalties for violations of this Section shall be based on the following criteria:
 - A) previous warnings and rulings for violations of this Section;
 - B) the age and experience of the violator;

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- C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - D) what action, if any, was taken to avoid the violation;
 - E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment that do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.
- 1) Anti-Bacterials
 - Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline
 - Enrofloxacin (Baytril)
 - Erythromycin sulfate
 - Gentamicin sulfate
 - Kanamycin sulfate
 - Methenamine
 - Levamisole (tetramisole)
 - Metronidazole
 - Neomycin sulfate
 - Nitrofurantoin
 - Oxytetracycline
 - Penicillin G. Benzathine
 - Penicillin G. Potassium
 - Sulfadimethazine

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Sulfadimethoxine
Sulfamethoxazole
Sulfamethanidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecylenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

4) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

- d) This listing of anti-bacterial, anti-fungal, anti-protozoal and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drug.
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines, [when making additions to the permitted list](#), that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International ([ARCI, 2343 Alexandria Drive, Suite 200, Lexington KY 40504; January 2010; this incorporation includes no later amendments or editions](#))~~when~~

ILLINOIS RACING BOARD

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~~making additions to the permitted list.~~

- f) Official test samples may contain the following drug substance, or its metabolites, in an amount that does not exceed the threshold level:
- 1) The threshold level of isoxsuprine shall be less than 1,000.0 ng/ml in urine.
 - 2) The threshold level of pyrilamine shall be less than 50.0 ng/ml in urine.
- g) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days)

Section 603.75 Environmental Contaminants**EMERGENCY**

The following drugs are recognized as substances that unavoidably become part of the food supply or environment of the horse.

- a) Benzoylcegonine (a metabolite of cocaine):
- 1) Each time the laboratory reports benzoylcegonine less than 150.0 ng/ml, the Stewards shall conduct an inquiry. The presence of benzoylcegonine in the horse shall be considered reasonable cause to order a drug screen on the trainer, groom or any other licensed person who cares for the horse pursuant to Section 508.50.
 - 2) Laboratory reports of benzoylcegonine, greater than or equal to 150.0 ng/ml, shall be treated as a Class 1 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, ~~2004~~, 2343 Alexandria Dr., Suite 200, Lexington KY 40504; ~~January 2010; this~~). ~~This~~ incorporation includes ~~nodees not include any~~ later amendments or editions.

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- b) Dimethyl Sulfoxide (DMSO):
The test level of DMSO, greater than or equal to 500 mcg/ml, in urine shall be considered a violation of Section 603.50 and the trainer shall receive a fine of not less than \$500 and the purse shall be redistributed.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days)

Section 603.160 Penalties**EMERGENCY**

- a) Any person who administers or conspires to administer any foreign substance to any horse in violation of this Part shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed.
- b) Penalties for violations of this Part shall be based on the following criteria:
- 1) the nature of the foreign substance; e.g., cough medicine, steroid, narcotic, stimulant, depressant, etc.;
 - 2) the accessibility of the drug; e.g., can be purchased over the counter, only with a prescription, only with a license for controlled substances, cannot be purchased in this country;
 - 3) the age and experience of the violator;
 - 4) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - 5) what action, if any, was taken by the violator to avoid the violation;
 - 6) the purse of the race.
- c) Any person who violates any provision of this Part for which no specific penalty is provided may be penalized by the stewards or the Board in accordance with the provisions for penalties contained elsewhere in this Chapter or in the Illinois Horse Racing Act of 1975. When imposing penalties, the stewards or the Board shall consider all relevant factors including, but not limited to those specified in this Part.

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- d) In harness racing, any trainer suspended for a violation of this Part shall, upon notice of the violation, submit to the Stewards a current stable list on a form provided by the Board.
- 1) The horses on the stable list shall be placed on the Steward's List unless:
 - A) The owner of each horse on the stable list secures the services of a trainer approved by the Stewards; and
 - B) The approved trainer stables the horses on the stable list on the grounds of an organization licensee for the full term of the penalized trainer's suspension;
 - 2) Horses on the stable list shall be permitted to leave to race in other racing jurisdictions or for medical reasons.
- e) Penalties for Class 4 and 5 drug violations:
- 1) Class 4 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 2343 Alexandria Drive, Suite 200, Lexington KY 40504; [January 2010](#)~~April 2005~~; this incorporation includes no later amendments or editions). Except as provided in Sections 603.60 and 603.70 of this Part, upon finding of a Class 4 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (e)(3).
 - 2) Class 5 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. Except as provided in Sections 603.75 and 603.60(c) of this Part, upon finding of a Class 5 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (e)(3).
 - 3) In determining a disqualification and purse redistribution under this subsection (e), the Stewards shall use the following criteria:

ILLINOIS RACING BOARD

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- A) A recommendation by the Board veterinarian and/or Board chemist regarding the significance of the concentration of the drug or metabolite present and the estimated withdrawal time.
 - B) A recommendation by industry experts, including equine pharmacologists and equine physiologists, regarding the effect of the drug on the horse in the concentration found and/or estimated withdrawal times.
 - C) Repeat violations of these medication and prohibited substance rules by the same trainer or with respect to the same horse.
 - D) Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse.
 - E) The criteria set forth in subsection (b).
- 4) The provisions of this subsection (e) shall be applied retroactively when substantively applicable, including all actions pending before the Board, without regard to when the cause of action accrued; provided, however, that this subsection (e)(4) shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

ILLINOIS STUDENT ASSISTANCE COMMISSION

Heading of the Part: Illinois Prepaid Tuition Program

Code Citation: 23 Ill. Adm. Code 2775

Section Numbers: 2775.10
2775.20
2775.40
2775.50
2775.70

Date Originally Published in the Illinois Register: 9/24/10
34 Ill. Reg. 13634

At its meeting on December 14, 2010, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that the Commission be more timely in proposing and adopting changes to its rules to avoid enforcement of policy not in rule.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF HEATHCARE AND FAMILY SERVICES

Heading of the Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

Section Numbers: 140.2
140.10

Date Originally Published in the Illinois Register: 2/19/10
34 Ill. Reg. 2646

At its meeting on December 14, 2010, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that HFS be more timely in proposing rulemakings implementing statutory changes.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2011 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Public Use of State Parks and Other Properties of the Department of Natural Resources (17 Ill. Adm. Code 110)
- 1) Rulemaking:
- A) Description: This Part amended to update regulations.
- B) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-520, 805-525, 805-330, 805-335 and 805-515].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Camping on Department of Natural Resources Properties (17 Ill. Adm. Code 130)
- 1) Rulemaking:
- A) Description: Amendments are necessary to update the regulations for the 2011 camping season.

DEPARTMENT OF NATURAL RESOURCES

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- B) Statutory Authority: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835/1 and 4(1) and (5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): General Hunting and Trapping on Department-Owned and –Managed Sites (17 Ill. Adm. Code 510)
- 1) Rulemaking:
- A) Description: This Part contains rules and regulations for hunting in Illinois. This Part will be updated to be consistent with the Department's hunting regulations for 2011.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515].
- C) Scheduled meeting/hearing dates: None

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2011 REGULATORY AGENDA

- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Scientific Permits (17 Ill. Adm. Code 520)
- 1) Rulemaking:
- A) Description: These amendments are being proposed to update statutory citations, regulations and the Department's address.
- B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-135 and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-135, 20-100] and Sections 1.2, 1.3, 2.1, 2.4, 3.22 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.1, 2.4, 3.22 and 3.26].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809

DEPARTMENT OF NATURAL RESOURCES

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G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Nuisance Wildlife Control Permits (17 Ill. Adm. Code 525)

1) Rulemaking:

A) Description: This Part will be amended to update approved methods and regulations for issuance of permits.

B) Statutory Authority: Implementing and authorized by Section 2.37 of the Wildlife Code [520 ILCS 5/2.37].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: February 2011

E) Effect on small businesses, small municipalities or not for profit corporations: Persons licensed to take nuisance wildlife will need to comply with new requirements.

F) Agency contact person for information:

George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting (17 Ill. Adm. Code 530)

1) Rulemaking:

A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.

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- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.26, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- g) Part(s) (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)
- 1) Rulemaking:
- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011

DEPARTMENT OF NATURAL RESOURCES

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- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

George Sisk, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)
- 1) Rulemaking:
- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

George Sisk, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2011 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- i) Part(s) (Heading and Code Citation): Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)
- 1) Rulemaking:
- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8 and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5 3.6, 3.7, 3.8 and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- j) Part(s) (Heading and Code Citation): Disease Free Certification and Quarantine Provisions for Propagation, Release, Importation, Exportation and Transportation of Game Mammals, Game Birds or Exotic Wildlife (17 Ill. Adm. Code 630)
- 1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2011 REGULATORY AGENDA

- A) Description: These amendments are being proposed to update statutory citations.
- B) Statutory Authority: Implementing and authorized by Sections 1.10, 3.23, 3.25, 3.27, 3.34, and 3.36 of the Wildlife Code 520 ILCS 5/1.10, 3.23, 3.25, 3.27, 3.34 and 3.36].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: April 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citation): Outfitter Regulations – 17 Ill. Adm. Code 640
- 1) Rulemaking:
- A) Description: Amendments are planned to incorporate permit changes and clarify Outfitter's and Guide's responsibilities.
- B) Statutory Authority: Implementing and authorized by Sections 2.9, 2.10, 2.11, 2.24, 2.25, 2.26 and 3.1-3 of the Wildlife Code [520 ILCS 5/2.9, 2.10, 2.11, 2.24, 2.25, 2.26 and 3.1-3].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011

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E) Effect on small businesses, small municipalities or not for profit corporations: Will affect persons who apply for/are issued permits by the Department to provide Outfitting/Guide services

F) Agency contact person for information:

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217/782-1809

G) Related rulemakings and other pertinent information: None

l) Part(s) (Heading and Code Citation): Outfitter Regulations – 17 Ill. Adm. Code 640

1) Rulemaking:

A) Description: Amendments are planned to incorporate permit changes and clarify Outfitter's and Guide's responsibilities.

B) Statutory Authority: Implementing and authorized by Sections 2.9, 2.10, 2.11, 2.24, 2.25, 2.26 and 3.1-3 of the Wildlife Code [520 ILCS 5/2.9, 2.10, 2.11, 2.24, 2.25, 2.26 and 3.1-3].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: March 2011

E) Effect on small businesses, small municipalities or not for profit corporations: Will affect persons who apply for/are issued permits by the Department to provide Outfitting/Guide services

F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting By Use of Firearms (17 Ill. Adm. Code 650)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the rule for the 2011 hunting season. Amendments include updating application/permit requirements, firearm requirements, Statewide regulations, sites open to hunting and site-specific information.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
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217/782-1809
- G) Related rulemakings and other pertinent information: None
- n) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the rule for the 2011 hunting season. Amendments include updating application/permit

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requirements, muzzleloading rifle requirements, Statewide regulations, sites open to hunting and site-specific information.

- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None
- o) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill. Adm. Code 670)

- 1) Rulemaking:

- A) Description: This Part will be amended to update the rule for the 2011 hunting season. Amendments include updating open seasons and counties, sites and site-specific information, hunting regulations, permit requirements and harvest reporting requirements.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].
- C) Scheduled meeting/hearing dates: None

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- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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217/782-1809
- G) Related rulemakings and other pertinent information: None
- p) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Handguns (17 Ill. Adm. Code 680)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the rule for the 2011 hunting season. Amendments include updating Statewide requirements, permit requirements and hunting regulations.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Noneq) Part(s) (Heading and Code Citation): Squirrel Hunting (17 Ill. Adm. Code 690)1) Rulemaking:A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5].C) Scheduled meeting/hearing dates: NoneD) Date agency anticipates First Notice: March 2011E) Effect on small businesses, small municipalities or not for profit corporations: NoneF) Agency contact person for information:

George Sisk, Legal Counsel
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217/782-1809

G) Related rulemakings and other pertinent information: Noner) Part(s) (Heading and Code Citation): The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)1) Rulemaking:

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- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk
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- G) Related rulemakings and other pertinent information: None
- s) Part(s) (Heading and Code Citation): The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)
- 1) Rulemaking:
- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].
- C) Scheduled meeting/hearing dates: None

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- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
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217/782-1809
- G) Related rulemakings and other pertinent information: None
- t) Part(s) (Heading and Code Citation): Dove Hunting (17 Ill. Adm. Code 730)
- 1) Rulemaking:
- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- u) Part(s) (Heading and Code Citation): Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)
- 1) Rulemaking:
- A) Description: Amendments will be made to this Part for the 2011 hunting season and include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
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217/782-1809
- v) Part(s) (Heading and Code Citation): Hunting Season for Game Breeding and Hunting Preserve Areas (17 Ill. Adm. Code 745)
- 1) Rulemaking:
- A) Description: This Part will be amended to update statutory citations and outdated language.

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- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.1, 2.2, 3.27, 3.28, 3.29 and 3.30 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.1, 2.2, 3.27, 3.28 and 3.29].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

w) Part(s) (Heading and Code Citation): Disposition of Deer Accidentally Killed by a Motor Vehicle or Other Non-Hunting Methods (17 Ill. Adm. Code 750)

- 1) Rulemaking:
- A) Description: The Department plans to amend this Part to update reporting requirements.
- B) Statutory Authority: Implementing and authorized by Sections 1.4, 2.24 and 2.26 of the Wildlife Code [520 ILCS 5/1.4, 2.24 and 2.26].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: January 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

x) Part(s) (Heading and Code Citation): Crossbow and Standing Vehicle Hunting Authorizations (17 Ill. Adm. Code 760)

1) Rulemaking:

A) Description: The Department plans to amend this Part to amend crossbow equipment requirements.

B) Statutory Authority: Implementing and authorized by Sections 2.25, 2.26 and 2.33 of the Wildlife Code [520 ILCS 5/2.25, 2.26 and 2.33].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2011

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

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

y) Part(s) (Heading and Code Citation): Fish Salvage (17 Ill. Adm. Code 860)

1) Rulemaking:

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- A) Description: These amendments are being proposed to update the statutory citations and outdated language.
- B) Statutory Authority: Implementing and authorized by Sections 1-15, 1-20, 1-150, 5-5 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-15, 1-20, 1-150, 5-5 and 25-5].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- z) Part(s) (Heading and Code Citation – The Taking of Reptiles and Amphibians (17 Ill. Adm. Code 880)
- 1) Rulemaking:
- A) Description: These amendments are being proposed to update the statutory citations and outdated language.
- B) Statutory Authority: Implementing and authorized by Sections 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90] and the Aquaculture Development Act [20 ILCS 215]
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011

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

F) Agency contact person for information:

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217/782-1809

G) Related rulemakings and other pertinent information: None

aa) Part(s) (Heading and Code Citation): Fish Removal With Chemicals (17 Ill. Adm. Code 890)

1) Rulemaking:

A) Description: These amendments are being proposed to update statutory citations and regulations.

B) Statutory Authority: Implementing and authorized by Sections 1-135, 1-150 and 5-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-135, 1-150 and 5-5].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: March 2011

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

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

bb) Part(s) (Heading and Code Citation): Hound Running Areas (17 Ill. Adm. Code 970)

1) Rulemaking:

A) Description: This new rule provides definitions; establishes permits, fees and required records; establishes posting, fencing, acreage and escape proof area requirements; establishes pursued species marking requirements; establishes capture procedures and sources for acquiring pursued animals; establishes procedures for disposing of animals; establishes penalties, future rights and appeal procedures.

B) Statutory Authority: Implementing and authorized by Sections 1.2y, 1.2z, 2.30, 2.33, 2.36, 3.5, 3.25, 3.33, and 3.35 of the Wildlife Code [520 ILCS 5/1.2y, 1.2z, 2.30, 2.33, 2.36, 3.5, 3.25, 3.33, and 3.35].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2011

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

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

cc) Part(s) (Heading and Code Citation): Consultation Procedures for Assessing Impacts of Agency Actions on Endangered and Threatened Species and Natural Areas (17 Ill. Adm. Code 1075)

1) Rulemaking:

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- A) Description: These amendments are being proposed to update statutory citations and regulations.
- B) Statutory Authority: Implementing and authorized by Section 11(b) of the Illinois Endangered Species Protection Act [520 ILCS 10/11] and Section 17 of the Illinois Natural Areas Preservation Act [525 ILCS 30/17].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: May 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
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- G) Related rulemakings and other pertinent information: None

dd) Part(s) (Heading and Code Citation): Forestry Cost-Share Program (17 Ill. Adm. Code 1536)

1) Rulemaking:

- A) Description: These amendments are being proposed to modify regulations and documentation requirements; provide for additional cost-sharing opportunities to address control of invasive and exotic species; forestry best management practices; and increased costs of existing practices.
- B) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011

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- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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217/782-1809
- G) Related rulemakings and other pertinent information: None
- ee) Part(s) (Heading and Code Citation): Forest Management Plan (17 Ill. Adm. Code 1537)
- 1) Rulemaking:
- A) Description: These amendments are being proposed to modify regulations and documentation requirements; provide for additional emphasis to be placed on soils, wetlands, threatened and endangered species, and special sites during the Forest Management Plan Development; and provide for an outlined criteria for plan review and decertification..
- B) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

ff) Part(s) (Heading and Code Citation): Distribution and Sale of Plant and Plant Materials (17 Ill. Adm. Code 1540)

1) Rulemaking:

A) Description: These amendments are being proposed to update regulations and statutory citations.

B) Statutory Authority: Implementing and authorized by the State Forest Act [525 ILCS 40]; Section 1.12 of the Wildlife Code [520 ILCS 5/1.12]; and Sections 805-105 and 805-130 of the Civil Administrative Code of Illinois [20 ILCS 805/805-105 and 805/130]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: May 2011

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

F) Agency contact person for information:

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One Natural Resources Way
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217/782-1809

G) Related rulemakings and other pertinent information: None

gg) Part(s) (Heading and Code Citation): Sale of Forest Products (17 Ill. Adm. Code 1545)

1) Rulemaking:

A) Description: These amendments are being proposed to update regulations and statutory citations.

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- B) Statutory Authority: Implementing and authorized by the State Forest Act [525 ILCS 40].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: May 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- hh) Part(s) (Heading and Code Citation): Forest Fire Protection Districts Act (17 Ill. Adm. Code 1560)
- 1) Rulemaking:
- A) Description: These amendments are being proposed to update regulations and statutory citations.
- B) Statutory Authority: Implementing and authorized by the Forest Fire Protection District Act [425 ILCS 40].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: May 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

ii) Part(s) (Heading and Code Citation): Illinois Prescribed Burning Act – 17 Ill. Adm. Code 1565

1) Rulemaking:

A) Description: This Part will be amended to update certification requirements.

B) Statutory Authority: Implementing and authorized by the Illinois Prescribed Burning Act [525 ILCS 37].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2011

E) Effect on small businesses, small municipalities or not for profit corporations: Paid persons and volunteers involved in conducting prescribed burning will be affected by certification procedures.

F) Agency contact person for information:

George Sisk, Legal Counsel
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Springfield IL 62702-1271
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G) Related rulemakings and other pertinent information: None

jj) Part(s) (Heading and Code Citation): Falconry and the Captive Propagation of Raptors (17 Ill. Adm. Code 1590)

1) Rulemaking:

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- A) Description: These amendments are being proposed to update regulations and citations.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.6 of the Wildlife Code [520 ILCS 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.6] and Section 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: April 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- George Sisk, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
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- G) Related rulemakings and other pertinent information: None
- kk) Part(s) (Heading and Code Citation): Designation of Restricted Waters in the State of Illinois - 17 Ill. Adm. Code 2030
- 1) Rulemaking:
- A) Description: Proposed amendments will update list of designated waters for 2011 boating season.
- B) Statutory Authority: Implementing and authorized by Section 5-7 and 5-12 of the boar Registration and Safety Act [625 ILCS 45/5-7 and 5-12].
- C) Scheduled meeting/hearing dates: None

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- D) Date agency anticipates First Notice: January 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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217/782-1809

- G) Related rulemakings and other pertinent information: None

II) Part(s) (Heading and Code Citation): Allocation of Water From Lake Michigan (17 Ill. Adm. Code 3730)

- 1) Rulemaking:
 - A) Description: This rulemaking requires changes to regulations regarding water allocation conditions.
 - B) Statutory Authority: Implementing and authorized by the Level of Lake Michigan Act [615 ILCS 50].
 - C) Scheduled meeting/hearing dates: None
 - D) Date agency anticipates First Notice: June 2011
 - E) Effect on small businesses, small municipalities or not for profit corporations: Permittees will be required to comply with regulations.
 - F) Agency contact person for information:

Robert Mool, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271
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G) Related rulemakings and other pertinent information: None

mm) Part(s) (Heading and Code Citation): The Illinois Explosives Act (62 Ill. Adm. Code 200)

1) Rulemaking:

A) Description: This Part will be amended to incorporate amendments to the Act pursuant to Public Act 096-1194.

B) Statutory Authority: Implementing and authorized by the Illinois Explosives Act [225 ILCS 210].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: March 2011

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will require compliance by persons licensed under the Act

F) Agency contact person for information:

Mitchell Cohen, General Counsel
One Natural Resources Way
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217/782-1809

G) Related rulemakings and other pertinent information: None

mn) Part(s) (Heading and Code Citation): The Illinois Oil and Gas Act (62 Ill. Adm. Code 240)

1) Rulemaking:

A) Description: These amendments are being proposed as a general update to the Oil and Gas Rule, including clarifying administrative hearing procedures, addressing new industry technologies and safety issues and increasing the amount for civil penalties.

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- B) Statutory Authority: Implementing and authorized by Sections 6 and 8a of "The Illinois Oil and Gas Act" [225 ILCS 725/6 and 8a].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: Yes-will impact oil and gas operators.
- F) Agency contact person for information:
- Robert Mool, Legal Counsel
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- G) Related rulemakings and other pertinent information: None

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- a) Part(s) (Heading and Code Citation): Voluntary Self-Exclusion Program, 11 Ill. Adm. Code 453
- 1) Rulemaking:
- A) Description: This rulemaking authorizes problem gamblers to voluntarily request that their names be placed on a list of self-excluded persons to be maintained by the Illinois Racing Board. As a result of the entry of a person's name on such list, that person would be prohibited from wagering on horse races and entering racetracks and off-track wagering facilities licensed by the Illinois Racing Board. The proposed rulemaking establishes procedures for an individual's inclusion on, and removal from, the list of self-excluded persons. Racetracks and off-track wagering facilities are required to remove persons on the self-excluded list mailings or other forms of advertising or promotions.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mickey Ezzo
Illinois Racing Board
100 W. Randolph Street
Suite 7-701
Chicago, IL 60601
312/814-5017
Fax: 312/814-5062
mickey.ezzo@illinois.gov

ILLINOIS RACING BOARD

JANUARY 2011 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Medication, 11 Ill. Adm. Code 603

1) Rulemaking:

A) Description: This rulemaking is being promulgated to provide threshold levels in plasma for anabolic steroids.

B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.

D) Date agency anticipates First Notice: Undetermined

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

F) Agency contact person for information:

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mickey.ezzo@illinois.gov

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Approval of Racing Officials, 11 Ill. Adm. Code 422

1) Rulemaking:

ILLINOIS RACING BOARD

JANUARY 2011 REGULATORY AGENDA

- A) Description: This rulemaking eliminates the references to 48 hour and 72 hour entry boxes because the receipt of entries close at a time prescribed by the Organization Licensee and approved by the Stewards.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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312/814-5017
Fax: 312/814-5062
mickey.ezzo@illinois.gov
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Approval of Racing Officials, 11 Ill. Adm. Code 422
- 1) Rulemaking:
- A) Description: This rulemaking will eliminate the requirement that organization licensees must submit a list of racing officials to the Board in writing at least 60 days prior to the opening of any race meeting.

ILLINOIS RACING BOARD

JANUARY 2011 REGULATORY AGENDA

- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mickey Ezzo
Illinois Racing Board
100 W. Randolph Street
Suite 7-701
Chicago, IL 60601
312/814-5017
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mickey.ezzo@illinois.gov
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Advance Deposit Wagering, 11 Ill. Adm. Code 325
- 1) Rulemaking:
- A) Description: Due to the growing popularity of on-line and phone betting, Part 325 may periodically need updating.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined

ILLINOIS RACING BOARD

JANUARY 2011 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: None
- G) Agency contact person for information:
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mickey.ezzo@illinois.gov
- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Hearings and Enforcement Proceedings, 11 Ill. Adm. Code 204
- 1) Rulemaking:
- A) Description: This proposed rulemaking will define the term "frivolous" as it pertains to administrative appeals filed by licensees. This rulemaking is necessary to define the circumstances under which an appeal will be deemed to be frivolous by the Board.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

ILLINOIS RACING BOARD

JANUARY 2011 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Security and Admissions, 11 Ill. Adm. Code 1325

1) Rulemaking:

- A) Description: This proposed rulemaking creates rules to govern the distribution of moneys collected from admission fees imposed upon an inter-track wagering location (OTB) by a county or municipality.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

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ILLINOIS RACING BOARD

JANUARY 2011 REGULATORY AGENDA

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- G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2011 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Participation Requirements (80 Ill. Adm. Code 1600.200)
- 1) Rulemaking: No docket number presently assigned.
- A) Description: A Section clarifying the definition of "employee" under Section 15-107 of the Illinois Pension Code, 40 ILCS 5/15-107.
- B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.
- D) Date agency anticipates First Notice: January 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:

Bryan M. Perrero, Assistant General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign, IL 61820
(217) 378-7516
- G) Related rulemakings and other pertinent information:
- b) Part(s) (Heading and Code Citation): Making Preliminary Estimated Payments (80 Ill. Adm. Code 1600.420)
- 1) Rulemaking: No docket number presently assigned.
- A) Description: Revise the current rule on Making Preliminary Estimated Payments to include procedures for holding payments when the member has not responded to informational requests, and to terminate the benefit after a period of non-compliance with the request.

STATE UNIVERSITIES RETIREMENT SYSTEM

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- B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.
- D) Date agency anticipates First Notice: January 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:

Bryan M. Perrero, Assistant General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign, IL 61820
(217) 378-7516
- G) Related rulemakings and other pertinent information:
- c) Part(s) (Heading and Code Citation): Trustee Election Procedures (80 Ill. Adm. Code 1600.700)
- 1) Rulemaking: No docket number presently assigned.
- A) Description: Promulgate procedures for nomination and election of elected SURS Board Trustees.
- B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-159.
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.
- D) Date agency anticipates First Notice: January 2011

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2011 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:

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1901 Fox Drive
Champaign, IL 61820
(217) 378-7516
- G) Related rulemakings and other pertinent information:
- d) Part(s) (Heading and Code Citation): Tier II (80 Ill. Adm. Code 1600.800)
- 1) Rulemaking: No docket number presently assigned.
- A) Description: Promulgate rules for implementation of P.A. 96-889.
- B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.
- D) Date agency anticipates First Notice: January 2011
- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:

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Champaign, IL 61820
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STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2011 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information:

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 14, 2010 through December 20, 2010 and have been scheduled for review by the Committee at its January 11, 2011 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>
1/28/11	<u>Environmental Protection Agency</u> , Procedures and Criteria for Reviewing Applications for Provisional Variances (35 Ill. Adm. Code 180)	7/30/10 34 Ill. Reg. 10599	1/11/11
1/29/11	<u>Department of Healthcare and Family Services</u> , Practice in Administrative Hearings (89 Ill. Adm. Code 104)	11/5/10 34 Ill. Reg. 16890	1/11/11
1/29/11	<u>Department of Healthcare and Family Services</u> , Child Support Services (89 Ill. Adm. Code 160)	11/5/10 34 Ill. Reg. 16903	1/11/11
1/29/11	<u>Department of Financial and Professional Regulation</u> , Illinois Public Accounting Act (68 Ill. Adm. Code 1420)	10/22/10 34 Ill. Reg. 15939	1/11/11
1/29/11	<u>Department of Financial and Professional Regulation</u> , The Illinois Speech-Language Pathology and Audiology Practice Act (68 Ill. Adm. Code 1465)	10/29/10 34 Ill. Reg. 16642	1/11/11
1/30/11	<u>State Board of Education</u> , Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)	9/3/10 34 Ill. Reg. 12760	1/11/11
1/30/11	<u>State Board of Education</u> , Requirements for Accounting, Budgeting, Financial Reporting and Auditing (23 Ill. Adm. Code 100)	10/8/10 34 Ill. Reg. 14621	1/11/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/30/11	<u>State Board of Education</u> , Providers of Supplemental Educational Services (23 Ill. Adm. Code 675)	10/8/10 34 Ill. Reg. 14623	1/11/11
1/30/11	<u>Department of Financial and Professional Regulation</u> , The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 (68 Ill. Adm. Code 1175)	9/3/10 34 Ill. Reg. 12578	1/11/11
1/30/11	<u>Pollution Control Board</u> , Site-Specific Closures of Coal Combustion Waste Surface Impoundments (35 Ill. Adm. Code 840)	10/22/10 34 Ill. Reg. 16188	1/11/11
1/30/11	<u>Department of Agriculture</u> , Egg and Egg Products Act (8 Ill. Adm. Code 65)	10/15/10 34 Ill. Reg. 15590	1/11/11
1/30/11	<u>Department of Insurance</u> , Standard Health Applications (50 Ill. Adm. Code 2030)	10/15/10 34 Ill. Reg. 15708	1/11/11
1/30/11	<u>Department of Insurance</u> , Portability of Creditable Service Time for Downstate and Suburban Police Pension Funds (50 Ill. Adm. Code 4404)	8/27/10 34 Ill. Reg. 12307	1/11/11

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/7.2(b)

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] requires the Board to adopt regulations that are "identical in substance" to U.S. Environmental Protection Agency (USEPA) hazardous waste rules adopted to implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2008)). These rules are contained in 35 Ill. Adm. Code 701 through 705, 720 through 728, 733, and 739.

Section 7.2(a) of the Act [415 ILCS 5/7.2(a)] requires the Board to complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) [415 ILCS 5/7.2(b)] allows the Board to extend the deadline for adoption by publication of a notice of reason for delay in the *Illinois Register*.

By an order dated December 16, 2010, the Board set forth reasons for delay and extended the deadline for final action on the amendments from January 8, 2011 to July 1, 2011. That order stated in significant part as follows:

REASONS FOR DELAY AND EXTENSION OF DEADLINE

The Board has encountered delays in initiating development of a proposal for public comment in this matter. This was due to the delays in adopting the amendments in the prior RCRA Subtitle C update, RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (consolidated) (October 7, 2010) (filed and effective on November 12, 2010), and the federal Safe Drinking Water Act update docket, SDWA Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-1; SDWA Update, USEPA Amendments (July 1, 2009 through December 31, 2009), R10-17; and SDWA Update, USEPA Amendments (January 1, 2010 through June 30, 2010), R11-6 (December 2, 2010) (consolidated) (filed and effective December 6, 2010).

For the foregoing reasons, the Board finds that delay was unavoidable and an extension of the deadline for completion of these amendments is necessary until July 1, 2011. To fulfill this deadline, the Board must adhere to the following schedule of intermediate occurrences:

Due date: **July 1, 2011**

Proposal adopted date: **February 17, 2011**

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/7.2(b)

Publication submission deadline:	February 28, 2011
<i>Illinois Register</i> publication date:	March 11, 2011
End of 45-day public comment period:	April 25, 2011
Adoption date:	May 19, 2011
End of 30-day holding period:	June 20, 2011
Possible filing and effective date:	June 27, 2011
Possible <i>Illinois Register</i> publication date:	July 8, 2011

At present, the Board hopes to assemble the necessary proposal for public comment more rapidly than the times projected above—perhaps as early as January 2011. This would allow the Board to complete the rulemaking activities early as May 2011. However, to accommodate the unanticipated possibility for further delay, the Board extends the deadline for final action until July 1, 2011. This will allow the Board to vote to propose the amendments as late as the regularly-scheduled meeting of February 17, 2011.

The Board hereby extends the deadline for completion of this rulemaking under Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2008)). The Board also directs staff to cause publication of a Notice of Public Information on Proposed Rules in the *Illinois Register*, based on this order, which sets forth reasons for delay and extends the due date for this proceeding.

Direct inquiries as follows, referencing consolidated docket R09-16/R10-4:

Michael J. McCambridge, Staff Attorney
Illinois Pollution Control Board
312-814-6924 or mccambm@ipcb.state.il.us

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 1 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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**JOINT COMMITTEE ON
ADMINISTRATIVE RULES**

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