

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

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011

22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011
24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
33	August 1, 2011	August 12, 2011
34	August 8, 2011	August 19, 2011
35	August 15, 2011	August 26, 2011
36	August 22, 2011	September 2, 2011
37	August 29, 2011	September 9, 2011
38	September 6, 2011	September 16, 2011
39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 17, 2011 to January 3, 2012.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Genetic Counselor Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1251
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1251.20	Amendment
1251.60	Amendment
1251.70	Amendment
1251.100	Amendment
- 4) Statutory Authority: Implementing the Genetic Counselor Licensing Act [225 ILCS 135] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking amends Section 1251.20 to allow applicants to submit an official transcript and letter of completion from an approved graduate program in lieu of an actual diploma as verification of graduation. Schools often do not issue the actual diploma until several months after students have officially graduated (for example, a student may have officially completed the graduate program in March but his or her diploma may not be issued until sometime after August following the graduation ceremonies); this amendment will help alleviate this unnecessary delay. The National Society of Genetic Counselors (NSGC) is being added to the list of approved continuing education sponsors. The renewal date is also being updated and the fee for restoration of a lapsed license is being increased from \$20 to \$50.
- 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 Objective: This rulemaking has no impact on local governments.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

12) Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing genetic counseling services.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Education and training in genetic counseling is necessary for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1251

GENETIC COUNSELOR LICENSING ACT

Section

1251.10	Definitions
1251.20	Qualifications for Licensure
1251.30	Examination
1251.40	Temporary License
1251.50	Endorsement
1251.60	Renewals
1251.70	Fees
1251.80	Restoration
1251.90	Inactive Status
1251.100	Continuing Education
1251.110	Granting Variances

AUTHORITY: Implementing the Genetic Counselor Licensing Act [225 ILCS 135] and authorized by Sections 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 30 Ill. Reg. 19717, effective December 18, 2006; amended at 36 Ill. Reg. _____, effective _____.

Section 1251.20 Qualifications for Licensure

An applicant for licensure as a genetic counselor shall file an application on forms provided by the Division that shall include:

- a) One of the following:
 - 1) Verification that the applicant has successfully completed a Master's degree in genetic counseling from an American Board of Genetic Counseling (ABGC) or an American Board of Medical Genetics (ABMG) accredited training program or an equivalent program approved by the ABGC or the ABMG;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Verification that the applicant is a physician licensed to practice medicine in all of its branches; or
- 3) Verification of a doctoral degree and successful completion of an ABMG accredited medical genetics training program or an equivalent program approved by the ABMG;
- b) Proof of passage of an examination provided by the American Board of Genetic Counseling or the American Board of Medical Genetics;
- c) Current certification from the American Board of Genetic Counseling or the American Board of Medical Genetics; **and**
- d) The required fee set forth in Section 1251.70; **and-**
- e) In lieu of providing an actual diploma as required under subsection (a)(1), the applicant may submit an official transcript and a letter of completion from the approved graduate program signed by the graduate program director. Should the applicant not receive a diploma, the program director shall be required to notify the Division, which shall be grounds for immediate termination of the license, without hearing.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1251.60 Renewals

- a) The first renewal date for licensure under the Act shall be January 31, ~~2011~~2009. Thereafter, every license issued under the Act shall expire on January 31 of odd numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and submitting proof of 30 hours of continuing education in accordance with Section 1251.100.
- b) It is the responsibility of each license holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) Practice on an expired license shall be considered the unlicensed practice of genetic counseling and will subject the individual to discipline or other penalties set forth in Section 95 of the Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1251.70 Fees

The following fees shall be paid to the Division and are not refundable:

a) Application Fees

- 1) The fee for application for a license as a genetic counselor is \$150.
- 2) The fee for a temporary license is \$50.

b) Renewal Fees

The fee for the renewal of a license shall be calculated at the rate of \$75 per year.

c) General Fees

- 1) The fee for the restoration of a license other than from inactive status is ~~\$50~~\$20 plus payment of all lapsed renewal fees, not to exceed \$470.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

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NOTICE OF PROPOSED AMENDMENTS

- 6) The fee for a roster of persons licensed as genetic counselors in this State shall be the actual cost of producing the roster.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1251.100 Continuing Education

- a) Continuing Education Hour Requirements
 - 1) Every renewal applicant shall complete 30 contact hours of continuing education (CE) relevant to the practice of genetic counseling during the prerenewal period. A prerenewal period is the 24 months preceding January 31 of each odd-numbered year.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
 - 3) Genetic Counselors licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- b) Approved Continuing Education
 - 1) All continuing education hours must be earned by verified attendance at, or participation in, a program that is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c) of this Section.
 - 2) Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of CE requirements of the State of Illinois.
 - 3) Credit shall not be given for courses taken in Illinois from unapproved sponsors.
- c) Approved continuing education sponsors and programs, as used in this Section, shall mean:
 - 1) The American Counseling Association;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) The American Board of Genetic Counselors;
- 3) The American Board of Medical Genetics; ~~or Any other entity approved by the Division.~~
- 4) The National Society of Genetic Counselors (NSGC); or
- 5) Any other entity approved by the Division.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Optometric Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1320
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1320.80	Amendment
1320.90	Amendment
1320.95	Amendment
1320.105	New Section
1320.330	Amendment
1320.400	Amendment
1320.410	Repealed
1320.411	New Section
- 4) Statutory Authority: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: PA 97-170, effective July 22, 2011, added anti-dry eye agents and agents for the treatment of hypotrichosis to be included in the definition of "ocular pharmaceutical agents"; this proposed rulemaking implements its provisions. A new Section 1320.105 is also being added in an attempt to address and clarify long-standing questions regarding the maintenance of optometric records. Section 1320.410, regarding ancillary licenses, is being repealed and replaced with Section 1320.411, directing optometrists to register ancillary locations with the Department. Clarification has also been made in Section 1320.95 regarding minimum equipment requirements for ancillary locations and in Section 1320.80 regarding out of state Council on Optometric Practitioner Education approved CE courses.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813 FAX: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of optometrists.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Optometry skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1320

OPTOMETRIC PRACTICE ACT OF 1987

SUBPART A: OPTOMETRY

Section

1320.20	Approved Programs of Optometry
1320.30	Application for Licensure
1320.35	Application for a Limited Residency License
1320.40	Examinations
1320.45	Fees (Emergency Expired)
1320.50	Endorsement
1320.55	Renewals (Renumbered)
1320.60	Inactive Status
1320.70	Restoration
1320.80	Continuing Education
1320.90	Minimum Eye Examination
1320.95	Minimum Equipment List
1320.100	Practice of Optometry
<u>1320.105</u>	<u>Recordkeeping</u>
1320.110	Advertising
1320.120	Granting Variances (Renumbered)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section

1320.200	Standards (Repealed)
1320.210	Application for Diagnostic Certification (Repealed)
1320.220	Approved Diagnostic Topical Ocular Pharmacological Training (Repealed)
1320.230	Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act (Repealed)
1320.240	Restoration of Diagnostic Certification (Repealed)
1320.250	Endorsement of Diagnostic Certification (Repealed)
1320.260	Renewal of Certification (Repealed)
1320.270	Display of Certification (Repealed)

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SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR
PHARMACEUTICAL AGENTS

Section

- 1320.300 Definitions and Standards
- 1320.310 Application for Therapeutic Certification (Repealed)
- 1320.315 Controlled Substance License Requirement
- 1320.320 Approved Therapeutic Ocular Training (Repealed)
- 1320.330 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act
- 1320.335 Oral Pharmaceutical Agents
- 1320.340 Restoration of Therapeutic Certification (Repealed)
- 1320.350 Endorsement of Therapeutic Certification (Repealed)

SUBPART D: GENERAL

Section

- 1320.400 Fees
- 1320.410 Ancillary Licenses (Repealed)
- 1320.411 Ancillary Registrations
- 1320.420 Renewals
- 1320.430 Granting Variances

AUTHORITY: Optometric Practice Act of 1987 [225 ILCS 80]; Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 14128, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at

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NOTICE OF PROPOSED AMENDMENTS

17 Ill. Reg. 21501, effective December 1, 1993; amended at 19 Ill. Reg. 17150, effective December 19, 1995; amended at 20 Ill. Reg. 9068, effective July 1, 1996; amended at 21 Ill. Reg. 16040, effective November 24, 1997; amended at 23 Ill. Reg. 5744, effective April 30, 1999; amended at 24 Ill. Reg. 3656, effective February 15, 2000; amended at 27 Ill. Reg. 2677, effective January 31, 2003; amended at 28 Ill. Reg. 4945, effective March 3, 2004; amended at 28 Ill. Reg. 16247, effective December 2, 2004; amended at 29 Ill. Reg. 20616, effective December 6, 2005; amended at 31 Ill. Reg. 4339, effective March 5, 2007; amended at 32 Ill. Reg. 3243, effective February 21, 2008; amended at 34 Ill. Reg. 2883, effective February 18, 2010; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: OPTOMETRY

Section 1320.80 Continuing Education

- a) Continuing Education Hour Requirements
 - 1) Every renewal applicant shall complete 30 hours of Continuing Education (CE) relevant to the practice of optometry required during each pre-renewal period. A pre-renewal period is the 24 months preceding March 31 in the year of the renewal.
 - 2) A CE hour equals 50 minutes. CE credit may be given only in one hour increments.
 - 3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
 - 4) Optometrists licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- b) Approved Continuing Education
 - 1) All continuing education hours must be earned by verified attendance at or participation in a program that is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c).
 - 2) As part of the 30 hours of required continuing education, each licensee shall complete during each pre-renewal period at least 12 hours of credit that is certified by an approved optometry college in accordance with

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Section 1320.20 of this Part, osteopathic or medical college or university pursuant to the Medical Practice Act of 1987 [225 ILCS 60], or a pharmacy college pursuant to the Pharmacy Practice Act [225 ILCS 85].

- A) Each certified course shall include at least 2 hours of actual course presentation and shall include the successful completion of a post-course evaluation of the attendee's understanding of the course material. No additional credit may be given for the required post-course evaluation.
- i) The post-course evaluation may be taken on-site immediately following the course presentation. An examination distributed on-site shall not be removed from the site.
 - ii) The post-course evaluation may be a correspondence evaluation mailed to the attendee and returned to the provider. The sponsor shall not distribute a post-course evaluation at the site.
 - iii) The post-course evaluation must consist of a minimum of 5 questions per course hour.
 - iv) At the sponsor's discretion, the attendee may be allowed one retake of a failed post-course evaluation in order to receive credit as certified continuing education.
- B) Licensees who attend a certified education course without completion or passage of a post-course evaluation may apply the actual course hours toward fulfillment of the non-certified continuing education requirements as set forth in subsection (a)(1).
- C) Any approved continuing education sponsor may offer, in conjunction with the above-referenced college or university, a certified course. However, certified continuing education shall not be provided, sponsored, co-sponsored or in any way supported or financially underwritten by a CE sponsor or others who may receive patient referrals from optometrists licensed under the Act. Approved optometry programs in subsection (b)(2) are not deemed

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

in violation of this Section. Faculty of an adjunct institution to an approved optometry program may present certified CE on the primary campus of the approved optometry program under this exception. Nothing in this Section shall prohibit the listing of courses in a professional journal or newsletter or prevent an approved school, college or university from certifying a course.

- D) Transcript quality continuing education courses shall be deemed equivalent to the certified courses if they meet the requirements set forth in subsection (b)(2)(A).
 - E) Continuing education sponsors shall state in their course materials the type of post-course evaluation which will be given and whether the applicant will be allowed to retake the evaluation.
 - F) Certified continuing education courses shall be courses in which the attendees are in actual attendance. No self instruction or correspondence courses shall be considered certified continuing education courses.
- 3) Eighteen hours of CE credit may be earned as follows (not accepted for certified CE):
- A) A maximum of 12 hours per pre-renewal period for papers prepared and delivered before recognized optometric organizations, papers published in nationally recognized optometric journals, or a chapter in a book of optometry, each appropriately verified.
 - B) A maximum of 12 hours per pre-renewal period for verified teaching of students at an optometry school approved by the Division, or practicing optometrists in approved CE programs. One hour of teaching at an optometry school approved by the Division is equal to one hour of continuing education.
 - C) A maximum of 4 hours per pre-renewal period for verified self-instruction or video teleconferencing that is sponsored or co-sponsored by any approved optometry college, institution or national or State optometry association.

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NOTICE OF PROPOSED AMENDMENTS

- D) A maximum of 4 hours per pre-renewal period for courses in practice management that includes business management.
 - E) A maximum of 2 hours of continuing education in cardiopulmonary resuscitation certified by the American Red Cross, American Heart Association, an Illinois licensed hospital or an approved medical or optometric institution may be earned per pre-renewal period.
- 4) Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.
 - 5) Credit shall not be given for courses taken in Illinois from unapproved sponsors except for a CPR course in accordance with subsection (b)(3)(E).
- c) Continuing Education Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, or any other group that has been approved and authorized by the Division upon the recommendation of the Optometric Licensing and Disciplinary Board to coordinate and present continuing education courses or programs.
 - 2) A sponsor shall file a sponsor application, along with the required fee set forth in Section 1320.400(a)(5), that includes:
 - A) Certification
 - i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in this Section;
 - ii) That the sponsor will be responsible for verifying attendance at each course or program or session thereof utilizing signature sheets or other means of attendance verification and for providing a certificate of completion as set forth in subsection (b);

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- iii) That, upon request by the Division, the sponsor will submit such evidence as is necessary to establish compliance with this Section;
 - iv) That each sponsor shall submit to the Division a written notice of a course offering 30 days prior to the course date. The notice shall include the description, location, date and time of the course to be offered;
- B) A history and the experience of the sponsor as an educational provider;
 - C) A copy of a sample program with faculty, course materials and syllabi;
 - D) The name and address of the contact person responsible for all recordkeeping; and
 - E) A list of all principals of the organization applying for a sponsor license.
- 3) Each sponsor shall submit by March 31 of each even numbered year a sponsor application along with the required fee set forth in Section 1320.400(b)(2) of this Part. With the application, the sponsor shall be required to submit to the Division a list of all courses and programs offered in the pre-renewal period, which includes a description, location, date and time the course was offered.
- 4) All courses and programs shall:
- A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of optometry;
 - B) Provide experiences that contain scientific integrity, relevant subject matter and course materials; and
 - C) Be developed and presented by persons with education and/or experience in subject matter of the program.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 5) The tuition fees charged for programs conducted by approved sponsors shall be reasonable and directly related to the sponsor's actual expense in conducting the programs.
- 6) All programs given by approved sponsors shall be open to all licensed optometrists and not be limited to the members of a single organization or group and shall specify the number of CE hours and categories that may be applied toward Illinois CE requirements for licensure renewal.
- 7) Certificate of Attendance
 - A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:
 - i) The name, sponsor number and address of the sponsor;
 - ii) The name of the participant and his/her optometry license number;
 - iii) A detailed statement of the subject matter;
 - iv) The number of hours actually attended in each topic;
 - v) The date of the program;
 - vi) Whether the course qualifies for certified continuing education.
 - B) A separate certification of passage or failure of the post-course evaluation shall be issued by the approved certifying institution when the course is for certified CE credit.
 - C) The sponsor shall maintain these records for not less than 5 years. These records shall include all test materials utilized for certified courses.
- 8) The sponsor shall be responsible for assuring verified continued

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attendance at each program. No renewal applicant shall receive CE credit for time not actually spent attending the program.

- 9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Division receives reasonably satisfactory assurances of compliance with this Section.
- d) Continuing Education Earned in Other States
- 1) If a licensee has earned CE hours in another jurisdiction for which he/she will be requesting credit toward full compliance in Illinois, the applicant shall submit an out of state CE approval form along with a \$20 processing fee within 90 days prior to or after the course. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the required 90 days, late approval may be obtained by submitting the application along with the \$20 processing fee plus a \$50 per hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - 3) The Board has determined that the Council on Optometric Practitioner Education (C.O.P.E.) approved courses are acceptable for out of state continuing education. If a licensee attends an out of state C.O.P.E. approved course, the licensee will not be required to submit the out of state CE approval form and the \$20 processing fee. All C.O.P.E. approved certified (tested) courses must contain certification by C.O.P.E. that the course was conducted in compliance with Section 1320.80(b)(2)(C) in order for certified credit to be granted under this Subpart.
- e) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a).

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- 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance for a period of 5 years.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- f) Waiver of CE Requirements/Certification in Cardiopulmonary Resuscitation
- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with the CE requirements or the certification in Cardiopulmonary Resuscitation (CPR) as required in Section 1320.420 shall file with the Division a renewal application, the renewal fee set forth in Section 1320.400(b)(1), a statement setting forth the facts (including time frames) concerning such non-compliance, and a request for waiver of the CE/CPR requirements on the basis of the facts. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.
 - 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE/CPR requirements during the applicable pre-renewal period because of:
 - A) Full time service in the armed forces of the United States of America during a substantial part of such period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness documented by a currently licensed physician,

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- ii) A physical inability to travel to the sites of approved programs, or
 - iii) Any other similar extenuating circumstances.
- 3) If an interview with the Board is requested at the time the request for the waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Division's final decision on the application has been made.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1320.90 Minimum Eye Examination

In the absence of good clinical reasons to the contrary as documented in the record, the following minimum examination shall be performed and findings recorded by an optometrist, and he/she shall keep a record for a period of 6 years:

- a) Complete case history, including medical conditions.
- b) Visual acuity.
 - 1) Monocular.
 - 2) Aided or unaided.
- c) External examination, including pupil reactivity.
- d) Internal examination (ophthalmoscopic examination) with dilation if indicated.
- e) Retinoscopy or equivalent.
- f) Subjective refraction to best visual acuity at distance and near.
- g) Measurement of binocularity and ocular motility.

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- h) Color vision screening.
- i) Tonometry.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1320.95 Minimum Equipment List

a) Each office in which the practice of optometry is conducted shall contain, in good working condition, the following minimum equipment:

- 1)a) Ophthalmoscope – Direct and Indirect
- 2)b) Retinoscope or its equivalent
- 3)c) Tonometer
- 4)d) Automated Threshold Visual Field Testing Device
- 5)e) Color Vision Testing Device
- 6)f) Keratometer or its equivalent
- 7)g) Biomicroscope
- 8)h) Lenses for subjective testing
- 9)i) Blood Pressure Measuring Device

b) An Automated Threshold Visual Field Testing Device, as specified in subsection (a)(4), is not required at an ancillary location where all prospective patients are unable to perform this test and this circumstance is reported in the application for an ancillary registration.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1320.105 Recordkeeping

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Every licensed optometrist shall keep a record of examinations made and prescriptions issued, which record shall include the names of persons examined and for whom prescriptions were prepared, and that shall be signed by the licensed optometrist and retained by him or her in the office in which the professional service was rendered. [225 ILCS 80/6]

a) Ownership of Records

1) Independent Optometric Practice

A licensed optometrist shall maintain full and independent responsibility and control over all records including prescriptions relating to the patients. All such records shall remain confidential, except as otherwise provided by law, and shall be maintained by the licensed optometrist in compliance with this Section, Section 6 of the Act, HIPAA and Section 1320.90 of this Part. For purposes of this subsection (a)(1), "maintain full and independent responsibility and control" means that the records shall be maintained by the licensed optometrist and that the optometrist shall not share, delegate or relinquish either possession of the records including prescriptions or his or her responsibility or control over those records with or to any entity that is not itself licensed by the Division.

2) Optometric Practice of an Employee of a Non-Medical Entity Not Licensed by the Division or the Department of Public Health

A) A licensed optometrist shall maintain full and independent responsibility and control over all records including prescriptions relating to the patients examined. All such records shall remain confidential, except as otherwise provided by law, and shall be maintained by the licensed optometrist in compliance with this Section, Section 6 of the Act, HIPAA and Section 1320.90 of this Part.

B) If the optometrist leaves the employ of the non-medical entity, a duplicate copy of his or her patient records including prescriptions may remain with the employer on the condition that a licensed health care professional is named as the custodian for the purpose of keeping the records in compliance with HIPAA and the Act. All such records shall maintain patient confidentiality pursuant to HIPAA.

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- 3) Optometrists Employed by Other Division Licensees
Patient records including prescriptions are the property and responsibility of the examining optometrist, except when the examining optometrist is employed by an optometrist or ophthalmologist. In this circumstance, the patient records are the property and responsibility of the optometrist or ophthalmologist who employs the optometrist, or remain the property and responsibility of the examining optometrist if agreed to by both parties under contract or other written agreement. In all circumstances, records must be available to the original optometrist for continued patient care and for compliance with statutory and regulatory recordkeeping requirements.
 - 4) Multidiscipline Group Practice
The records including prescriptions relating to the patients of a multidisciplinary group of licensed optometry care professionals, or relating to the patients of a partnership or professional association, may be maintained by the group practice, partnership or professional association on behalf of all licensed optometrists employed by the group practice, partnership or professional association. The optometrist may transfer ownership of his or her records including prescriptions to another licensed optometrist or group of optometrists provided that the records are available to the original optometrist for continued patient care and for compliance with statutory and regulatory recordkeeping requirements.
 - 5) Hospital, Clinic or Nursing Home Facility Practice
If an optometrist examines or writes a prescription for a patient in a hospital, clinic or nursing home, he or she may elect to utilize the recordkeeping system of the facility, if he or she determines that the system is accurate and secure and the records are available to the optometrist for compliance with statutory and regulatory recordkeeping requirements.
- b) Transfer of Ownership of Records
Upon the sale of a practice or the disability or death of an optometrist, the records must be transferred to a licensed optometrist or ophthalmologist or a health care facility licensed by the Department of Public Health for compliance with this Section, Section 6 of the Act, HIPAA and Section 1320.90 of this Part. Patients are to be informed of the location of their records unless they are to be maintained at their original location. Copies of records must be made available, within 10 days after the death of an optometrist, to patients upon their request. Another

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optometrist or ophthalmologist may use these records to meet the patient's needs until their next regularly scheduled eye exam. Failure to provide records under this Section by a non-licensed individual shall be considered to be a violation under Section 4.5 of the Act and may result in fines or civil penalties provided for in the Act.

c) Necessity for Having Contract Provisions that Preserve the Optometrist's Statutory Recordkeeping Requirement

No agreement, lease or other contract entered into, renewed or extended between an optometrist and any entity that itself is not licensed by the Division as an optometrist or ophthalmologist or by the Department of Public Health as a health care facility shall contain any provision that:

- 1) Impedes an optometrist's ability to gain access to his or her professional office or patient records including prescriptions, provided any such agreement, lease or other contract shall contain a provision that establishes reasonable protocol for the optometrist to gain access to the premises during non-business hours for medical emergencies; or
- 2) Limits, inhibits or prevents an optometrist's ability to communicate with his or her patients at any time.

d) Record Retention

1) All patient records including prescriptions shall be maintained by the examining optometrist at the location of the examination or shall be available at that location for inspection upon reasonable request if stored in a secure off-site location for six years pursuant to Section 1320.90. Records may be maintained on paper or in electronic format, as follows:

- A) If records are maintained electronically, an optometrist shall keep either a duplicate hard-copy record or a back-up unalterable electronic record off-site. If a record request is made, and the off-site location is out of state, the optometrist is required to obtain the records in order to comply with the request. Electronic records must be keyed to record the time and date of any patient record transactions or alterations.
- B) Any patient record that is created or maintained in an electronic

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format must have the capability of printing a paper record.

- 2) Failure to keep patient records for the statutory minimum of six years shall constitute "dishonorable or unprofessional conduct" as that phrase is used in Section 24 of the Act, and any such action may subject the licensee to disciplinary action by the Division.
- e) Patient Record Requests, Charges and Fees
A copy of patient records shall be provided, upon written request and payment of appropriate fees, to the person examined or his or her designee, in compliance with federal law.
- f) Other Authorized Record Requests
Releasing records under a lawful subpoena in a criminal or civil proceeding, or pursuant to a subpoena issued by the Division or the Illinois Optometric Licensing and Disciplinary Board, is permissible in accordance with federal law. Document production compliance under a lawful subpoena is mandated by law. If the records sought are maintained at a location other than the optometrist's office where the subpoena was served, the optometrist is responsible for obtaining and producing the records to comply with the subpoena.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR
PHARMACEUTICAL AGENTS

**Section 1320.330 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to
Section 15.1 of the Act**

- a) The following categories of therapeutic ocular pharmaceutical agents are approved for use by licensed optometrists:
- 1) Anti-Infective Agents
 - 2) Anti-Allergy Agents
 - 3) Anti-Glaucoma Agents (except oral carbonic anhydrase inhibitors, which may be prescribed only in a quantity sufficient to provide treatment for up to 72 hours)

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- 4) Anti-Inflammatory Agents (except oral steroids)
 - 5) Topical Anesthetic Agents
 - 6) Over the Counter Agents
 - 7) ~~Oral~~ Analgesic Agents
 - 8) Mydriatic Reversing Agents
 - 9) Anti-Dry Eye Agents
 - 10) Agents for the treatment of hypotrichosis
- b) Licensed optometrists shall be permitted to use topical anesthetics, mydriatics, cycloplegics and miotics.
 - c) Oral pharmaceutical agents may be prescribed for a child under 5 years of age only in consultation with a physician licensed to practice medicine in all its branches.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART D: GENERAL

Section 1320.400 Fees

- a) Application fees
 - 1) The fee for application for an original license as an optometrist is \$500.
 - 2) ~~The fee for application for an ancillary optometric license is \$50 per location unless waived in accordance with Section 1320.410(e).3)~~
Applicants for any examination shall be required to pay, either to the Division or its designated testing service, a fee covering the cost of determining the applicant's eligibility and providing the examination.

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~~3)4)~~ The fee for application for licensure of a person licensed as an optometrist in another jurisdiction is \$500.

~~4)5)~~ The fee for a sponsor of continuing education is \$500.

~~5)6)~~ The fee for an optometry residency one year license shall be \$100.

b) Renewal Fees

1) The fee for renewal of an optometrist license is \$200 per year.

2) ~~The fee for renewal of an ancillary optometry license is \$25 per year for each location unless waived in accordance with Section 1320.410(e). 3)~~
The fee for renewal as a sponsor of continuing education is \$250 per year.

c) General Fees

1) The fee for restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees. For the purposes of restoring from inactive status, the Division shall consider that no renewal fees have lapsed during the period of inactive status.

2) The fee for issuance of a duplicate license or for the issuance of a replacement license for a license which has been lost or destroyed is \$20.

3) The fee for the issuance of a license with a change of name or address other than during the renewal period is \$20.

4) The fee for the certification of a license for any purpose is \$20.

5) The fee for a wall certificate showing licensure is the actual cost of producing the license.

6) The fee for a roster of persons licensed under the Act is the actual cost of producing the roster.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1320.410 Ancillary Licenses (Repealed)

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- a) ~~Ancillary license, as used in this Part, shall mean an optometry license that is issued pursuant to Section 7 of the Act to a licensed optometrist who is engaged in the practice of optometry at more than one address.~~
- b) ~~Each ancillary license shall be displayed in accordance with Section 6 of the Act.~~
- e) ~~An ancillary license shall be issued to a licensed optometrist upon submitting a completed application to the Division, on forms provided by the Division, and the required fee set forth in Section 1320.400(a)(2) of this Part. The application shall include the address of the branch office location for which the license will be issued.~~
- d) ~~An optometrist shall be required to obtain an ancillary license for each additional location and to display the appropriate ancillary licenses at each location. Licensees may examine one new patient at facilities licensed by the Illinois Department of Public Health or their residence per address per month without an ancillary license.~~
- e) ~~Fees may be waived by the Division for an optometrist applying for an ancillary license to substitute for a licensee who has been called to active military duty. Applicants for such an ancillary license shall include a copy of the orders calling the licensee to active duty in addition to any other requirements.~~
- f) ~~Fees shall be waived by the Division for an optometrist applying for an ancillary license to practice as a volunteer for a charitable organization organized under section 501(c)(3) of the U.S. Internal Revenue Code at a location not otherwise licensed for the practice of optometry. All examinations performed under this license shall be done without remuneration to the licensee or the charitable organization and shall comply with Section 1320.100(g).~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1320.411 Ancillary Registrations

- a) Ancillary registrations, as used in this Part, shall mean registration of a practice location, pursuant to Section 7 of the Act, by a licensed optometrist who is engaged in the practice of optometry at more than one address.

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- b) An ancillary registration shall be submitted by the licensee on forms provided by the Division for each location in which a licensee practices optometry prior to practicing optometry at that location. The form shall include the address of the branch office location being reported.
- c) An optometrist shall submit an ancillary registration for each additional location where he or she practices optometry and shall display a copy of his or her optometry license in a conspicuous place in each office.
- d) Each licensee shall maintain a copy of his or her ancillary registration in the office registered and, upon request, shall exhibit this registration and a copy of his or her optometry license to any representative of the Division.
- e) Registration of a location other than where a licensee actually practices optometry shall be considered a violation of the Act.
- f) An ancillary registration expires with the expiration of the primary optometry license and a new application for ancillary registration must be submitted to the Division for all locations requiring an ancillary registration.

(Source: Added at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
147.205	Amendment
147.355	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 96-1530
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendment for Section 147.205 changes the current ventilator reimbursement process that will be superseded by the new Section 147.355. Section 147.355, which implements a provision in Public Act 96-1530, requires the Department to allocate at least \$8 million of the funds collected from the long term care assessment tax to reimburse nursing facilities for services provided to residents with exceptional needs. The Act defines exceptional needs as ventilator care, tracheotomy care, bariatric care, complex wound care and traumatic brain injury care.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
147.150	Amendment	35 Ill. Reg. 7444; May 13, 2011
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments

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concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid-funded long term care facilities
 - 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 2011

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

147.5	Minimum Data Set-Mental Health (MDS-MH) Based Reimbursement System
147.15	Comprehensive Resident Assessment (Repealed)
147.25	Functional Needs and Restorative Care (Repealed)
147.50	Service Needs (Repealed)
147.75	Definitions (Repealed)
147.100	Reconsiderations (Repealed)
147.105	Midnight Census Report
147.125	Nursing Facility Resident Assessment Instrument
147.150	Minimum Data Set (MDS) Based Reimbursement System
147.175	Minimum Data Set (MDS) Integrity
147.200	Minimum Data Set (MDS) On-Site Review Documentation
147.205	Reimbursement for Ventilator Dependent Residents
147.250	Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) (Repealed)
147.300	Payment to Nursing Facilities Serving Persons with Mental Illness
147.301	Sanctions for Noncompliance
147.305	Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities (Repealed)
147.310	Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)
147.315	Comprehensive Functional Assessments and Reassessments (Repealed)
147.320	Interdisciplinary Team (IDT) (Repealed)
147.325	Comprehensive Program Plan (CPP) (Repealed)
147.330	Specialized Care – Administration of Psychopharmacologic Drugs (Repealed)
147.335	Specialized Care – Behavioral Emergencies (Repealed)
147.340	Discharge Planning (Repealed)
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness (Repealed)
147.350	Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing

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Facilities

147.355 Reimbursement for Residents with Exceptional Needs

147.TABLE A	Staff Time (in Minutes) and Allocation by Need Level
147.TABLE B	MDS-MH Staff Time (in Minutes and Allocation by Need Level)
147.TABLE C	Comprehensive Resident Assessment (Repealed)
147.TABLE D	Functional Needs and Restorative Care (Repealed)
147.TABLE E	Service (Repealed)
147.TABLE F	Social Services (Repealed)
147.TABLE G	Therapy Services (Repealed)
147.TABLE H	Determinations (Repealed)
147.TABLE I	Activities (Repealed)
147.TABLE J	Signatures (Repealed)
147.TABLE K	Rehabilitation Services (Repealed)
147.TABLE L	Personal Information (Repealed)

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

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17

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Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18913, effective November 4, 2005; amended at 30 Ill. Reg. 15141, effective September 11, 2006; expedited correction at 31 Ill. Reg. 7409, effective September 11, 2006; amended at 31 Ill. Reg. 8654, effective June 11, 2007; emergency amendment at 32 Ill. Reg. 415, effective January 1, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 3114, effective February 13, 2008; emergency suspension withdrawn in part at 32 Ill. Reg. 4399, effective February 26, 2008 and 32 Ill. Reg. 4402, effective March 11, 2008 and 32 Ill. Reg. 9765, effective June 17, 2008; amended at 32 Ill. Reg. 8614, effective May 29, 2008; amended at 33 Ill. Reg. 9337, effective July 1, 2009; emergency amendment at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days; emergency amendment modified in response to the objection of the Joint Committee on Administrative Rules at 34 Ill. Reg. 1421, effective January 5, 2010, for the remainder of the 150 days; emergency expired February 27, 2010; amended at 34 Ill. Reg. 3786, effective March 14, 2010; amended at 36 Ill. Reg. _____, effective _____.

Section 147.205 Reimbursement for Ventilator Dependent Residents

- a) Pursuant to Public Act 96-473, effective October 1, 2009, Department of Healthcare and Family Services (HFS) shall begin paying nursing facilities for ventilator dependent residents through a system separate from the Minimum Data Set (MDS) based reimbursement methodology. For purposes of this Section, ventilators are defined as any type of electrical or pneumatically powered closed mechanical system for residents who are, or who may become, unable to support their own respiration. It does not include Continuous Positive Airway Pressure (CPAP) or Bi-level Positive Airway Pressure (BIPAP) devices.
- b) Payment shall be made for each individual resident receiving ventilator services through the Medicaid Management Information System (MMIS). The rate shall include the facility specific support, capital and nursing components plus the geographic area average ventilator minutes from the MDS and \$150 supply cost.

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- c) Other services coded by a facility on the MDS for a ventilator dependent resident shall continue to be applied toward the nursing component of the nursing facility rate.
- d) Staffing
 - 1) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health (DPH) in 77 Ill. Adm. Code 300.1240 or 250.910(e) and 250.910(f)(1), as appropriate). Additional RN staff may be determined necessary by HFS, based on HFS' review of the ventilator services.
 - 2) A minimum of the required number of LPN staff (as required by DPH in 77 Ill. Adm. Code 300.1230, 300.1240 or 250.910(e) and 250.910(f)(1), as appropriate), on duty, with an RN on call, if not on duty on the evening and night shifts, seven days per week.
 - 3) A certified respiratory therapy technician or registered respiratory therapist shall be available at the facility or on call 24 hours a day.
 - 4) A certified respiratory therapist shall evaluate and document the respiratory status of the ventilator resident on a weekly basis.
 - 5) At least one of the full-time licensed nursing staff members must have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons.
 - 6) All staff caring for ventilator dependent residents must have documented in-service training in ventilator care prior to providing that care. In-service training must be conducted at least annually by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one-year experience in the care of ventilator dependent persons. In-service training documentation shall include name and qualification of the in-service director, duration of presentation, content of presentation and signature and position description of all participants.

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- e) **Physical Plant**
The Provider shall have and maintain physical plant adaptations to accommodate the necessary equipment, such as, an emergency electrical backup system.
- f) **Notification to HFS**
A provider shall notify HFS, in writing, when a ventilator dependent resident is admitted and discharged from the facility. Notification in either instance shall occur within five days after the admission or discharge. Discharge is defined as the resident leaving the facility with no intention of returning. It does not mean an admission to a hospital.
- g) **Accessibility**
The provider must make accessible to HFS and/or DPH all provider, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of ventilator services.
- h) Pursuant to Section 5-5.4(4) of the Public Aid Code, payment for ventilator services has been incorporated into Section 147.355 that covers payment for exceptional need categories, including ventilator care, identified in that Section.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 147.355 Reimbursement for Residents with Exceptional Needs

- a) Pursuant to Section 5-5.4(4) of the Public Aid Code, effective January 1, 2012, the Department shall develop and make enhanced payments to nursing facilities for services provided to residents with exceptional needs. For purposes of this Section, an exceptional need means ventilator care, tracheotomy care, bariatric care, complex wound care and traumatic brain injury (TBI) care.
- b) Ventilator Care
- 1) Ventilators are defined as any type of electrical or pneumatically powered closed mechanical system for residents who are, or who may become, unable to support their own respiration. It does not include Continuous Positive Airway Pressure (CPAP) or Bi-level Positive Airway Pressure (BIPAP) devices.

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2) In order for an applicable rate to be assigned to a ventilator dependent resident, a nursing facility shall notify the Department using a Department designated form that includes a physician order sheet that identifies the need and delivery of ventilator services. A facility shall also use the designated form to notify the Department when a resident is no longer receiving ventilator services. The following criteria shall be met in order for a facility to qualify for ventilator care reimbursement.

3) A facility shall establish admission criteria to ensure the medical stability of patients prior to transfer from an acute care setting.

4) Facilities shall be equipped with technology that enables them to meet the respiratory therapy, mobility and comfort needs of their patients.

5) Clinical assessment of oxygenation and ventilation-arterial blood gases or other methods of monitoring carbon dioxide and oxygenation shall be available on-site for the management of residents.

6) Emergency and life support equipment, including mechanical ventilators, shall be connected to electrical outlets with back-up generator power in the event of a power failure.

7) Ventilators shall be equipped with internal batteries to provide a short back-up system in case of a total loss of power.

8) An audible, redundant ventilator alarm system shall be required to alert caregivers of a ventilator malfunction, failure or resident disconnect. A back-up ventilator shall be available at all times.

9) Staffing

A) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health (DPH) in 77 Ill. Adm. Code 300.1240 or 250.910(e) and (f)(1), as appropriate). Additional RN staff may be determined necessary by HFS, based on HFS review of the ventilator services.

B) At a minimum, the LPN staff required by DPH in 77 Ill. Adm. Code 300.1230 and 300.1240 or 250.910(e) and (f)(1), as

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appropriate, on duty, with an RN on duty or on call, on the evening and night shifts, seven days per week.

C) A respiratory care practitioner licensed in Illinois shall be available at the facility or on call 24 hours a day to provide care, monitor life support systems, administer medical gases and aerosol medications, and perform diagnostic testing. The practitioner shall evaluate and document the respiratory status of a ventilator resident on no less than a weekly basis.

D) A pulmonologist, or physician experienced in the management of ventilator care, shall direct the plan of care for ventilator residents.

E) At least one of the full-time licensed nursing staff members shall have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a licensed respiratory care practitioner or a qualified RN who has at least one-year experience in the care of ventilator dependent individuals.

F) All staff caring for ventilator dependent residents shall have documented in-service training in ventilator care prior to providing that care. In-service training shall be conducted at least annually by a licensed respiratory care practitioner or qualified registered nurse who has at least one-year experience in the care of ventilator dependent individuals. Training shall include, but is not limited to, status and needs of the resident, infection control techniques, communicating with the ventilator resident, and assisting the resident with activities. In-service training documentation shall include name and qualification of the in-service director, duration of the presentation, content of presentation, and signature and position description of all participants.

10) HFS staff shall conduct on-site visits on a random and targeted basis to ensure both facility and resident compliance with identified requirements. All records shall be accessible to determine that the needs of a resident are being met and to determine the appropriateness of ventilator services.

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11) The enhanced payment shall be added to the rate determined by the methodology currently in place:

A) Payment shall be made for each individual resident receiving ventilator services;

B) A rate for ventilator services shall be set based on geographic area for all facilities within that area; and

C) The rate shall include the facility specific support, capital and nursing components plus the geographic area average ventilator minutes from the MDS and \$174 supply costs.

c) TBI

1) TBI is a nondegenerative and noncongenital insult to the brain from an external mechanical force, possibly leading to permanent or temporary impairment of cognitive, physical and psychosocial functions, with an associated diminished or altered state of consciousness.

2) The following criteria shall be met in order for a facility to qualify for TBI reimbursement.

A) The facility shall have policies and procedures for care of the residents with TBI and behaviors.

B) The facility shall have staff to complete the required physical (PT), occupational (OT) or speech therapy (ST), as needed.

C) Staff caring for a TBI resident shall receive in-service training for the care of a TBI resident and dealing with behavior issues. In-service training shall be conducted at least annually. In-service documentation shall include name and qualifications of the in-service director, duration of the presentation, content of presentation, and signature and position description of all participants.

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- D) The facility environment shall be such that it is aimed at reducing distractions for the TBI resident during activities and therapies.
- E) Care plans on all residents shall address the physical, behavioral and psychosocial needs of the TBI residents. Care plans shall be individualized to meet the resident's needs, and shall be revised as necessary.
- F) The facility shall use the "Rancho Los Amigos Cognitive Scale" to determine the level of cognitive functioning. Based on the level of functioning, and the services and interventions implemented, a resident will fall into one of three tiers of payments, Tier 3 being the highest reimbursement. By completing a Department designated form, facilities will be responsible for notifying the Department of the applicable tier into which a resident falls. The payment is in lieu of any other reimbursement for nursing facility services.
- G) Documentation found elsewhere in the resident records shall support the scoring on the Rancho assessment as well as the delivery of coded interventions.
- H) Initial requirement for all tiers is the resident has a TBI diagnosis on the MDS 3.0 (I5500=1 on MDS 3.0) that meets the Resident Assessment Instrument (RAI) requirements for coding.
- I) Residents scoring a Level I, II or III on the Rancho assessment shall not be eligible for TBI reimbursement.
- J) Tier I requirements are as follows.
- i) The payment amount is \$264.17 per day and shall not exceed six months.
- ii) Includes residents who have received intensive rehabilitation and are preparing for discharge to the community.

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iii) Resident scores a Level VIII-X on the Rancho Los Amigos Cognitive Scale (Purposeful, Appropriate, and stand-by assistance to Modified Independence).

iv) No behaviors (E0300=0 on MDS 3.0).

v) Cognitive-Brief Interview for Mental Status (BIMS) is 13-15 (Cognitively intact, C0500 on MDS 3.0).

vi) Activities of daily living (ADL) functioning. All ADL tasks shall be coded less than 3 (Section G on MDS 3.0).

vii) Discharge potential. There is an active discharge plan in place (Q0400A=1 on MDS 3.0) or referral has been made to the local contact agency (Q0600=1 on MDS 3.0).

K) Tier II requirements are as follows.

i) The payment amount is \$486.49 per day, and shall not exceed 12 months.

ii) Includes residents who have reached a plateau in rehabilitation ability, but still require services related to the TBI.

iii) Resident scores a Level IV-VII on the Rancho Los Amigos Cognitive Scale (Confusion, may or may not be appropriate).

iv) Cognition. BIMS is less than 13 (C0500 on MDS 3.0) or Cognitive Skills for decision making are moderately to severely impaired (C1000=2 or 3 on MDS 3.0).

v) Resident has behaviors (E0300=1 or E1000=1 on MDS 3.0) and these behaviors impact resident (E0500A-C=1) or impact others (E0600A-C=1).

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- vi) ADL function (Section G on MDS 3.0) 3 or more ADL requires extensive assistance.
- vii) Resident is on 2 or more of the following restoratives: Bed Mobility (O0500D=1 on MDS 3.0), Transfer (O0500E=1 on MDS 3.0), Walking (O0500F=1 on MDS 3.0), Dressing/Grooming (O0500G=1 on MDS 3.0), Eating (O0500H=1 on MDS 3.0) or Communication (O0500J=1 on MDS 3.0).
- viii) Resident receives either Psychological (O0400E2>1 on MDS 3.0) or Recreational Therapy (O0400F2>1 on MDS 3.0) at least two or more days a week.
- L) Tier III requirements are as follows.
 - i) The payment amount is \$767.46 per day, and shall not exceed nine months.
 - ii) The injury resulting in a TBI diagnosis must have occurred within the prior six months to score in Tier III.
 - iii) Includes the acutely diagnosed resident with high rehabilitation needs.
 - iv) Resident scores a Level IV-VII on the Rancho Los Amigos Cognitive Scale.
 - v) Cognition-MMIS is less than 13 (C0500 on the MDS 3.0) or Cognitive Skills for decision making are moderately to severely impaired (C1000=2 or 3 on MDS 3.0).
 - vi) Resident receives Rehabilitation Therapy (PT, OT or ST) at least 500 minutes per week and at least 1 rehab discipline 5 days/week (O400 on MDS 3.0).
 - vii) Resident receives Psychological Therapy (O0400E2>1 on MDS 3.0) at least 2 days per week.

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d) Other Exceptional Need Services

1) Facilities scoring tracheotomy care, bariatric care, complex wound care and TBI on MDS 2.0 shall receive an additional add-on for supply costs associated with providing those services.

2) Following are the per diem add-ons for the four services identified in subsection (d)(1).

A) Tracheotomy Care – \$8.80

B) Bariatric Care – \$1.00

C) Complex Wound Care – \$8.80

D) TBI – \$8.80

(Source: Added at 36 Ill. Reg. _____, effective _____)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3) Section Number: 1200.50 Proposed Action:
Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) A Complete Description of the Subjects and Issues Involved: Except with respect to municipalities employing less than 35 employees and parties meeting the financial qualifications for obtaining Board-appointed legal counsel, this rulemaking shifts the costs of procuring the transcripts required by Section 11(c) of the Illinois Public Labor Relations Act for administrative hearings concerning collective bargaining representation petitions or unfair labor practice complaints from the Illinois Labor Relations Board to the parties appearing before it in order to create an incentive for more efficient use of Board resources by the parties appearing before it.
- 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: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Jerald S. Post

ILLINOIS LABOR RELATIONS BOARD

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General Counsel
Illinois Labor Relations Board
160 N. LaSalle Street, Suite S-400
Chicago, Illinois 60601

312/793-6400
Jerald.Post@Illinois.Gov

- 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: Small businesses, small municipalities and not for profit corporations will not be affected.
 - C) Types of professional skills necessary for compliance: Small businesses, small municipalities and not for profit corporations will not be affected.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1200
GENERAL PROCEDURES

Section

1200.3	General Statement of Purpose
1200.5	Board Information and Business Hours
1200.10	Definitions
1200.20	Filing and Service of Documents
1200.30	Computation and Extensions of Time
1200.40	Authority of Administrative Law Judges
1200.45	Motions
1200.50	Recording of Hearings
1200.60	Closing Arguments and Briefs Before an Administrative Law Judge
1200.70	Representation of Parties
1200.80	Ex Parte Communications
1200.90	Subpoenas
1200.100	Transfer of Jurisdiction
1200.105	Consolidation of Proceedings
1200.110	Amicus Curiae Briefs (Repealed)
1200.120	Voluntary Settlement or Adjustment of Disputes
1200.130	Rules of Evidence
1200.135	Appeals Procedures, Board Review and Court Review
1200.140	Amicus Curiae Briefs
1200.143	Declaratory Rulings
1200.145	Filing of Contracts
1200.150	Conflicts of Interest
1200.160	Variances and Suspensions of Rules

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315]

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill. Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg.

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15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. 15154, effective November 1, 2004; amended at 36 Ill. Reg. _____, effective _____.

Section 1200.50 Recording of Hearings

Whenever a representation hearing, unfair labor practice hearing, ~~strike investigation hearing~~ or similar hearing is held by the Board or its Administrative Law Judge under ~~the Act or~~ this Part or 80 Ill. Adm. Code 1210 ~~or~~ 1220 ~~or 1230~~, it shall be recorded by stenographic or other means that adequately preserves the record. The Administrative Law Judge or the Board may order that the recording be transcribed. The costs of recording and transcribing the hearing shall be shared equally by the parties. Any party refusing to pay its share of the costs of recording and transcribing the hearing shall be precluded from participating in the hearing, or from participating in that portion of the hearing for which it refuses to pay its share of the costs, except that such party will be permitted to present closing argument pursuant to Section 1200.60 or to submit a post-hearing brief. Parties may order copies of transcripts and shall bear the costs of any transcripts ~~that~~ they order. Public employers having fewer than 35 employees and any party meeting the financial tests applicable for the appointment of counsel pursuant to 80 Ill. Adm. Code 1220.105 will not be required to pay the costs of recording and transcribing the hearing, but shall be responsible for the cost of any copies of transcripts they order.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

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- 1) Heading of the Part: Commercial Fishing and Musseling in Certain Waters of the State
- 2) Code Citation: 17 Ill. Adm. Code 830
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
830.13	Amendment
830.40	Amendment
830.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify distribution of unallocated permits and to add authorization and criteria for issuance of Special Use Permits
- 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 Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Nick San Diego, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

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217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons issued licenses by the Department for commercial harvest of fish and mussels.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Commercial fishermen shall submit an accurate annual record of the undressed weights of the species of fish and/or crayfish harvested to the Department whether or not any fish and/or crayfish were harvested. Commercial roe harvesters shall submit an accurate monthly record of the undressed weight of roe-bearing species and the unprocessed weight of roe from these fishes to the Department whether or not roe-bearing species were harvested. Commercial roe dealers shall submit to the Department an accurate monthly record of the unprocessed and processed weight of roe purchased from commercial roe harvesters to the Department whether or not roe was purchased. Holders of a commercial mussel harvest license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells harvested or purchased on a monthly basis following harvest whether or not any mussels or mussel shells were harvested. Holders of a commercial mussel dealer's license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells purchased on a monthly basis during the season whether or not any mussels or mussel shells were purchased.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on the July 2011 Regulatory Agenda because the determination to amend this rulemaking was made after the Agenda was filed.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 830

COMMERCIAL FISHING AND MUSSELING IN CERTAIN WATERS OF THE STATE

Section

830.5	Definitions
830.10	Waters Open to Commercial Harvest of Fish
830.13	Special Regulations for the Commercial Harvest of Roe-Bearing Species
830.15	Waters Open to Commercial Harvest of Crayfish
830.20	Waters Open to Commercial Harvest of Mussels and Seasons
830.30	Special Regulations
830.40	Devices
830.50	Permission
830.60	Species
830.70	Size Limit
830.80	Commercial Fishing and Musseling in Additional Waters
830.90	Revocation and Suspension of Commercial Fishing and Musseling Privileges, Hearings and Appeals and Reporting Requirements

AUTHORITY: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 6809, effective June 16, 1981; codified at 5 Ill. Reg. 10648; emergency amendment at 6 Ill. Reg. 6468, effective May 18, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 10680, effective August 20, 1982; amended at 7 Ill. Reg. 2707, effective March 2, 1983; amended at 10 Ill. Reg. 6926, effective April 15, 1986; amended at 11 Ill. Reg. 9513, effective May 5, 1987; amended at 12 Ill. Reg. 11714, effective June 30, 1988; amended at 15 Ill. Reg. 8544, effective May 24, 1991; amended at 16 Ill. Reg. 5257, effective March 20, 1992; amended at 17 Ill. Reg. 3177, effective March 2, 1993; emergency amendments at 18 Ill. Reg. 4671, effective March 14, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 9985, effective June 21, 1994; amended at 19 Ill. Reg. 5250, effective March 27, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 4700, effective April 1, 1997; amended at 22 Ill. Reg. 6697, effective March 30, 1998; amended at 24 Ill. Reg. 4945, effective March 13, 2000; amended at 29 Ill. Reg. 6277, effective April 25, 2005; amended at 31 Ill. Reg. 13187,

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effective August 30, 2007; amended at 34 Ill. Reg. 2938, effective February 19, 2010; emergency amendment at 34 Ill. Reg. 15884, effective October 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 4187, effective February 22, 2011; amended at 36 Ill. Reg. _____, effective _____.

Section 830.13 Special Regulations for the Commercial Harvest of Roe-Bearing Species

- a) Shovelnose sturgeon may not be commercially harvested except in the Mississippi River upstream of the Melvin Price Lock and Dam located in Alton (excluding the area from Lock and Dam 19 to the State Highway 9 Bridge in Niota), the Ohio River or the Wabash River. Shovelnose sturgeon may only be commercially harvested from October 1 through May 31 from the Mississippi and Wabash River and from October 15 through May 15 from the Ohio River .
- b) Paddlefish may not be commercially harvested except in the Ohio River, the Illinois River below Route 89, and the Mississippi River below Lock and Dam 19. Paddlefish may only be commercially harvested from October 1 through May 31 from the Mississippi and Illinois Rivers. Paddlefish may only be commercially harvested from November 1 through April 30 from the Ohio River.
- c) Shovelnose sturgeon and shovelnose sturgeon X pallid sturgeon hybrids may not be commercially harvested from the Mississippi River downstream of Lock and Dam 26. Pallid sturgeon are federally and State listed endangered fish species that cannot be taken and must be immediately released unharmed back to the water.
- d) All commercial roe harvesters engaged in harvesting of roe-bearing species, including shovelnose sturgeon, paddlefish and bowfin, shall:
 - 1) leave the roe of harvested shovelnose sturgeon, paddlefish and bowfin whole, intact and inside the body cavity of the fish while on the water or adjacent bank. However, the intact ovaries of paddlefish harvested from the Mississippi or Illinois Rivers may be removed while on the water with the carcasses of the fish the ovary is harvested from being retained for identification purposes;
 - 2) after complete retrieval of fishing tackle, commercial fishermen shall immediately remove all aquatic species that are not in compliance with size limits or are illegal species to take or possess and immediately return them without unnecessary injury to the waters from which taken, unless it

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is unsafe to remove fish where the net was pulled. In such case, fishermen shall immediately move to a shore area no more than $\frac{1}{4}$ mile from the location where the net was set, and then remove fish not legal for commercial fishermen to take. "Complete retrieval" means as soon as an individual piece of fishing tackle has been retrieved in whole to the fisherman's boat;

- 3) not kill roe-bearing species to check for eggs. Commercial roe harvesters may use a 10 or 12 gauge needle to examine roe-bearing species for the presence of eggs;
- 4) not set any tackle prior to 10:00 a.m. on October 1 on the Mississippi and Wabash Rivers. Any commercial gear that is being operated under a commercial roe harvest permit prior to 10:00 a.m. on the Mississippi or Wabash River shall be considered an illegal device.

e) Commercial Roe Permit

- 1) Commercial Roe Harvest Permits shall be valid only on the water specified on the permit: the Mississippi River, the Illinois River, the Ohio River or the Wabash River. The Mississippi River will be further divided into two zones, from Lock and Dam 26 upstream to the Wisconsin border (Northern Zone) and from Lock and Dam 26 downstream to the mouth of the Ohio River (Southern Zone).
- 2) Commercial fishermen will be allowed to procure permits for additional water bodies at the same commercial roe harvest permit rate as the first permit, based on availability.
- 3) Commercial Roe Harvest Permit holders shall provide an up-to-date listing of all helpers to IDNR on a form provided by IDNR (at the beginning of the commercial season prior to initiation of fishing activities and immediately during the commercial fishing season for any helper changes prior to initiation of fishing activities). An up-to-date helper list must be on file with IDNR prior to the initiation of fishing activities. A helper is defined as anyone aboard the boat of a commercial roe harvester.
- 4) IDNR shall have the authority to restrict the number of permits issued for each body of water in order to establish a limited entry fishery to maintain

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a sustainable fishery for all caviar-bearing species based on the following criteria:

- A) The best biological information available pertaining to maintaining a sustainable level of harvest for target fish species based on the size, structure and abundance of each population of roe-bearing species.
 - B) A determination of the potential impact of commercial fishing activities on other water-based recreational activities.
 - C) Harvest Pressure. No more than the following number of permits, unless specifically authorized by IDNR by water area and type, may be issued in each commercial fishing season: 50 permits for the Mississippi North/Mississippi South Zones allowing commercial harvest of paddlefish, bowfin and shovelnose sturgeon (shovelnose sturgeon only in the Mississippi North Zone); 10 permits for the Ohio River/Mississippi South Zone allowing commercial harvest of paddlefish, bowfin and shovelnose sturgeon (shovelnose sturgeon only in the Ohio River); 35 permits for the Wabash River allowing commercial harvest of shovelnose sturgeon and bowfin; and 15 permits for the Illinois River allowing commercial harvest of paddlefish and bowfin.
 - D) Commercial roe harvest permits are not transferable.
- 5) Application for permit (under a limited entry fishery)
- A) Legally licensed Illinois resident commercial ~~fishermen~~fisherman and non-resident commercial fishermen from states who share reciprocal waters (with commercial fishing reciprocal agreements, including the states of Iowa, Indiana, Missouri and Kentucky) who held a commercial roe harvest permit in the previous year and provided a complete monthly report to the Department of their catch each month are eligible to obtain a commercial roe harvest permit in the first lottery drawing. In addition to the previously stated qualifications, to be eligible for this drawing, fishermen must provide the following information to the Department: name, current address, date of birth, choice of water body (Mississippi

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River North/Mississippi River South, Wabash River, Illinois River, or Ohio River/Mississippi River South). Applications shall be submitted to the Department from June 1 through 15 and the lottery drawing will be held on July 1.

- B) Legally licensed Illinois resident commercial ~~fishermen~~fisherman and non-resident commercial ~~fishermen~~fisherman who did not obtain a permit in the July lottery drawing or who desire to obtain a permit for additional water bodies are eligible to obtain a commercial roe harvest permit in the second lottery drawing. In addition to the previously stated qualifications, to be eligible for this drawing, fisherman must provide the following information to the Department: name, current address, date of birth, choice of water body (Mississippi River North/Mississippi River South, Wabash River, Illinois River or Ohio River/Mississippi River South). Applications shall be submitted to the Department from August 1 through 15. If there are more applications than available permits, a drawing will be held on August 31 and successful applicants will be issued a permit.

C) Any remaining permits will be allocated on a first come-first served basis.

- 6) Penalties for Violations
Any commercial fisherman who is found guilty (including supervision or conditional discharge) of violating any of the regulations in this Section or of taking any of the species listed in 17 Ill. Adm. Code 1010.30(a) or (b) shall be subject to having his or her commercial roe harvest privileges suspended for a period of up to 36 months from the date of the Department's final administrative decision pursuant to 17 Ill. Adm. Code 2530.490.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 830.40 Devices

- a) Commercial Fishing

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- 1) Devices used in the waters listed in Section 830.10 shall conform to all regulations as outlined in Article 15 of the Fish and Aquatic Life Code [515 ILCS 5/Art.15]. Hoop nets, basket traps, trot lines and dip nets may be used in all of the aforementioned waters.
 - 2) It shall be unlawful:
 - A) To use trammel nets and gill nets except in the Illinois River up to Route 89 Highway bridge, the Ohio River and the Mississippi River, unless authorized by a Special Use Permit issued pursuant to Section 830.80.
 - B) To use seines except in the Illinois, Mississippi, Ohio and Wabash Rivers (except seining will not be permitted in Boston Bay and its connected backwaters above the mouth of Boston Bay in Mercer County).
 - C) To use trammel nets or gill nets in the Ohio River with less than 4 inch bar mesh netting, except that, from May 1 through October 31, bar mesh size cannot be less than 4 inches or greater than 4.5 inches.
- b) Commercial Musseling
- 1) Devices used in waters open to commercial musseling shall conform to all regulations as outlined in this subsection (b) and in Articles 1 and 15 of the Fish and Aquatic Life Code [515 ILCS 5/Arts. 1 and 15].
 - 2) It shall be unlawful:
 - A) To use hand forks.
 - B) To use basket dredges, mechanical devices and hand dredges in the taking of mussels.
 - C) To harvest mussels in the Ohio River except by using crowfoot bars.

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- D) To tether or hold mussels in any containment device. Mussels must be taken to the boat or released each day.
- 3) Brail or crowfoot bars must be 20 feet or less in length. No more than 3 bars may be possessed in each boat.
- c) Crayfish Harvest
Seines are the only commercial devices legal to use to commercially harvest crayfish in waters open to the commercial harvest of crayfish. They can be of any length, but not more than 6 feet in depth with a bag not more than 6 feet in height with a mesh no greater than ½ inch bar measurement.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 830.80 Commercial Fishing and Musseling in Additional Waters

- a) Additional waters may be open to commercial fishing or musseling by a Special Use Permit~~contract for removal~~. Any licensed commercial fisherman or musseler who wishes to fish in any water not listed under Section 830.10 or 830.20 must request permission from the Division of Fisheries. The Division will determine whether the fish, crayfish or mussel resource can support such activity and whether the activity is in the best interests of the general public. If so, the Department shall issue a Special Use Permit~~contract for removal~~ specifying the type of gear, season, species of fish, crayfish or mussel that shall be removed, and any other regulations as shall be necessary to protect the resource.
- b) The standards for determining whether or not an additional fishery will be open to commercial fishing or musseling shall include: a biological sampling of the commercial fish, crayfish or mussel population to determine the relative abundance of the species present; an assessment of the impact of commercial fishing or musseling gear on sport fish, crayfish or mussel populations; a determination of the potential impact of commercial fishing or musseling activities on other water-based recreation; a determination of whether the fish are safe for public consumption (U.S. Food and Drug Administration standards are followed (USFDA 21, CFR 109.30, 2004) (no incorporation in this Part includes later amendments or editions)); and a fair and equitable allocation of commercial fishing or musseling opportunities.

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- c) For commercial musseling mussels, in addition to the criteria listed in subsection (b), both of the specific criteria listed below must be met for areas to be open or remain open to commercial harvest of selected mussel species:
- 1) sub-legal to legal mussel (same species) ratio equal to or exceeding 2:1; and
 - 2) catch rate (CPUE) of individual specimens of a given species, as measured by a timed diver sample equal to or exceeding 60 per hour.
- d) Commercial fishing or musseling Special Use Permit~~contracts~~ will not be issued:
- 1) for non-commercial purposes; or
 - 2) if an individual has been found guilty of a violation of a State Fish and Aquatic Life Code law or this Part during the past 12 months.
- e) Commercial fishing Special Use Permits may be issued for private bodies of water if all of the following conditions have been satisfied:
- 1) The body of water is completely encompassed by land that is owned by an individual, leased by a tenant residing upon it, or controlled by ownership or lease by a private club or association.
 - 2) The commercial fisherman has obtained permission in writing from the owner, tenant or private club who controls the property; and either:
 - A) None of the commercially-harvested fish are offered for barter or sale; or
 - B) If commercially-harvested fish are offered for barter or sale, it has been determined that the fish are safe for public consumption (U.S. Food and Drug Administration (FDA) standards are followed (21 CFR 109.30 (2004)).
- f) Application procedures for commercial fish removal Special Use Permits:
- 1) Illinois resident commercial fishermen can submit an application for a Special Use Permit on June 1 through 15 of each year for any

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of the waters designated in subsection (g) or (h). If there are more applications than permits available, a drawing will be conducted on June 30 to allocate available permits.

- 2) Non-resident or resident commercial fishermen who desire an additional Special Use Permit can submit an application on July 1 through 15 of each year for any of the waters designated in subsection (g) or (h). If there are more applications than permits available, a drawing will be conducted on July 31 to allocate available permits.
- 3) Any permits remaining after the first two allocations will be issued on a first come-first served basis.

g) The following water bodies will be open to commercial removal of selected fish species under a Special Use Permit to be allocated pursuant to subsection (f):

- 1) Rock River – divided into 6 sections with one Special Use Permit allocated per section
- 2) Rend Lake – maximum of 10 Special Use Permits
- 3) Carlyle Lake – maximum of 10 Special Use Permits
- 4) Mississippi River State Fish and Wildlife Area – maximum of 5 Special Use Permits
- 5) Anderson Lake State Fish and Wildlife Area – maximum of 5 Special Use Permits
- 6) Otter Creek in Green County (from the Route 100 crossing downstream to the Illinois River) – maximum of 1 Special Use Permit
- 7) Macoupin Creek in Jersey and Green Counties (from the Reddish Ford Bridge downstream to the Illinois River) – maximum of 1 Special Use Permit
- 8) Quincy Bay, including those portions opened under a U.S. Fish and Wildlife Service Special Use Permit – maximum of 2 Special Use Permits

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- h) The following water bodies, all currently open to commercial fishing under Section 830.10, will be open to commercial removal of selected fish species with the use of trammel and gill nets under a Special Use Permit to be allocated pursuant to subsection (f):
- 1) Kaskaskia River – maximum of 10 Special Use Permits
 - 2) Sangamon River – maximum of 5 Special Use Permits
 - 3) Big Muddy River – maximum of 3 Special Use Permits
 - 4) Saline River – maximum of 3 Special Use Permits

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Designation of Restricted Waters in the State of Illinois
- 2) Code Citation: 17 Ill. Adm. Code 2030
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2030.20	Amendment
2030.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to designate a portion of the Vermilion River as "NO ENTRY" and to modify the area designated as "Slow, No Wake" at Quincy Bay Harbor.
- 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 Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Robert Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER e: LAW ENFORCEMENT

PART 2030

DESIGNATION OF RESTRICTED WATERS IN THE STATE OF ILLINOIS

Section

2030.10	General Regulations
2030.15	Designation of Restricted Waters by the Department of Natural Resources
2030.20	Region I – Designated Restricted Boating Areas
2030.30	Region II – Designated Restricted Boating Areas
2030.40	Region III – Designated Restricted Boating Areas
2030.50	Region IV – Designated Restricted Boating Areas
2030.60	Region V – Designated Restricted Boating Areas
2030.70	Riverboat Gambling Casinos – Designated Restricted Boating Areas
2030.80	Hazardous Navigation Conditions – Designated Restricted Boating Areas

AUTHORITY: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].

SOURCE: Adopted at 5 Ill. Reg. 8763, effective August 25, 1981; codified at 5 Ill. Reg. 10617; amended at 9 Ill. Reg. 4789, effective April 2, 1985; amended at 11 Ill. Reg. 9519, effective May 5, 1987; emergency amendment at 12 Ill. Reg. 8745, effective May 15, 1988, for a maximum of 150 days; emergency expired September 20, 1988; emergency amendment at 12 Ill. Reg. 12111, effective July 6, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 12 Ill. Reg. 16707, effective September 30, 1988; amended at 12 Ill. Reg. 20472, effective November 28, 1988; corrected at 13 Ill. Reg. 967; emergency amendment at 13 Ill. Reg. 2878, effective February 21, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12814, effective July 21, 1989; amended at 16 Ill. Reg. 8483, effective May 26, 1992; amended at 19 Ill. Reg. 7549, effective May 26, 1995; emergency amendment at 19 Ill. Reg. 11967, effective August 3, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 750, effective December 29, 1995; amended at 20 Ill. Reg. 7864, effective June 3, 1996; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 15692, effective December 2, 1996; amended at 23 Ill. Reg. 6822, effective May 20, 1999; amended at 27 Ill. Reg. 8871, effective May 19, 2003; amended at 29 Ill. Reg. 15550, effective September 27, 2005; amended at 30 Ill. Reg. 11576, effective June 23, 2006; emergency amendment at 31 Ill. Reg. 8348, effective May 25, 2007, for a maximum of

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150 days; amended at 31 Ill. Reg. 14522, effective October 5, 2007; amended at 34 Ill. Reg. 7720, effective May 20, 2010; amended at 36 Ill. Reg. _____, effective _____.

Section 2030.20 Region I – Designated Restricted Boating Areas

- a) The following portions of the Rock River are designated as Slow, No Wake areas:
- 1) An area of the Rock River located at Moonlite Bay, 4 miles east of Sterling and 6 miles west of Dixon, Illinois.
 - 2) The portion of the Rock River $\frac{1}{4}$ mile above the dam at Oregon, Illinois, at the docking area at Lowden Memorial Park.
 - 3) The portion of the Rock River at Martin Park in Loves Park from 200 feet upstream of the boat launches to 200 feet downstream of the boat launches, and for 150 feet from the Martin Park Shoreline from 200 feet downstream of the boat launches to 400 feet downstream of the boat launches.
 - 4) The portion of the Rock River (river right) at approximately mile 144.5 in Machesney Park, Winnebago County, beginning at the mouth of an artificial canal leading into the River Key Subdivision and continuing throughout the inner canal system found there.
- b) The following portions of the Fox River are designated as Slow, No Wake areas:
The portion of the Fox River between the Main Street bridge of the City of Ottawa and the mouth of the Fox River at the confluence of the Illinois River.
- c) The following portions of the Illinois River are designated as Slow, No Wake areas:
- 1) The portion of the Illinois River from the Burlington Northern R.R. bridge in the City of Ottawa to the upstream side of the mouth of the Fox River.
 - 2) The area of the Illinois River near the Spring Bay boat harbor at Spring Bay, Illinois.
 - 3) An area of the Illinois River at the Woodford County Conservation area, 7 miles north of Spring Bay off Route 87.

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- 4) An area of the Illinois River located at the Detweiller Marina, Peoria, Illinois.
 - 5) An area of the Illinois River from the southernmost edge of the Downtown Riverfront Marina to the Murray Baker Bridge, Peoria, Illinois.
 - 6) An area of the Illinois River at Alfrisco Harbor, Peoria Heights, Illinois.
 - 7) An area located at the Sobowski Marina, Peoria Heights, Illinois.
 - 8) An area located at the Illinois Valley Yacht Club, Peoria Heights, Illinois.
 - 9) An area at Henry, Illinois, on the west side of the River from Browns Landing to 300 yards north of the bridge.
 - 10) The Lacon Boat Club Dock, Lacon, Illinois.
 - 11) The boat harbor at Lacon, Illinois.
 - 12) An area at the South Shore Boat Club, Peru, Illinois.
 - 13) The harbor of Starved Rock Marina, Ottawa, Illinois.
 - 14) The waters of the Illinois River beginning in front of the Pekin Boat Club launching ramp.
- d) The following portions of the Mississippi River are designated as Slow, No Wake areas:
- 1) An area bordering the Savanna Park waterfront, extending from a jetty south of the Ritchie Boat Dock, north to a jetty north of the Kindell Marina.
 - 2) An area in Vaely Chute which runs through the Andalusia Islands located 4 miles west of Andalusia.
 - 3) An area at the launching ramp and harbor of the Rock Island Boat Club located at the foot of 18th Avenue in Rock Island.

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- 4) An area at the harbor and boat ramp in front of the Legion Hall at Cordova, Illinois.
- 5) An area located at the boat ramps, City of Moline, between 26th Street and 34th Street and River Drive.
- 6) An area near the launching ramps and bathing beach at Keithsburg, Illinois.
- 7) An area in the chute connecting Sturgeon Bay and the Mississippi River at New Boston, Illinois.
- 8) An area near the boat ramp and floating gas station at the end of Route 17 at New Boston.
- 9) An area at Shokohon, Illinois.
- 10) An area in the fish preserve lock and dam 19 at Hamilton, Illinois.
- 11) The public launching area 3 miles north above the dam at Hamilton.
- 12) The waters of Harris Slough Mississippi River backwaters at the Galena Boat Club, 3 miles south of Galena, Illinois.
- 13) The waters encompassing the cut starting at the mouth of the cut on Deadman's Slough, then northward approximately 250 feet to the confluence of the Harris and Keohough Sloughs.
- 14) The backwater section of the Mississippi River (river mile marker 479.8) that starts at the Harbor opening of Potter's Lake, Sunset Park, Rock Island and covers the entire lake area.
- 15) The area of Cattail Slough off the Mississippi River, located south of Fulton, Whiteside County, .7 mile in length, 150 yards wide, starting on the north at the Chicago and Northwestern R.R. bridge and extending south .7 mile to the first narrows.
- 16) The waters of the south entrance to Chandler Slough lying upstream from

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the north boundary of the U.S. Fish and Wildlife Service property up to and including the Bent Prop Marina harbor area.

- 17) The waters of Frentress Lake lying upstream from the boat ramp at Charlies Boat Dock, including the adjacent sand pit harbor area.
 - 18) An area of the Mississippi River in the vicinity of the Lazy River Marina at Savanna, Illinois, extending from the upper limit of the dredge cut at Miller's Lake to a point north of the Miller's Hollow public launching ramp.
 - 19) An area located approximately at Mississippi River mile 536.6 known as Savanna Slough from the Soo Line railroad bridge north to the north point of the Savanna Park District island as posted by signs or buoys.
- e) The following waters shall be designated as restricted waters as described below:
- 1) NO BOATS
 - A) The swimming area at Albany Beach located in Albany Township.
 - B) The swimming area at the Santa Fe Island bar, approximately 4 miles north of Savanna.
 - C) The head of Big Island and 1½ miles north of Oquawka, Illinois.
 - D) The Boy Scout Camp located on Lake Cooper, Mississippi River.
 - E) The waters of the four chutes of Argyle Lake, approximately 2 miles north of Colchester, Illinois.
 - F) The water 600 feet above and 150 feet below dams 12, 13, 14, 15, 16, 17 and 18 on the Mississippi River.
 - 2) NO SKI – It shall be unlawful to water ski in the following designated waters:

That area of the inside cut of the Mississippi River, opening directly into Frentrees Lake, includes the area from the north to the south entrances

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from the river slough, inclusive, east of Mile Post 576.

- f) The following portion of the Vermilion River is designated as NO ENTRY: An area 180 feet (on river left) to 150 feet (on river right) upstream and 45 feet downstream of the Cement Plant Dam except for the 20 feet of river adjacent to the right bank. The Cement Plant Dam is located approximately 6 miles downstream from the Highway 178 bridge and 4.75 miles upstream from the confluence with the Illinois River.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2030.50 Region IV – Designated Restricted Boating Areas

- a) The following portions of the Illinois River are designated as Slow, No Wake areas:
- 1) The designated area in the vicinity of the boat launching ramp at Havana, Illinois.
 - 2) The mouth of Patterson Bay.
 - 3) The waters of Bath Chute at head of Island, at the foot of Island, above the town of Bath, Illinois, and below the town of Bath, Illinois.
 - 4) Designated areas of Silver Lake in Calhoun County.
 - 5) Near Grafton, Illinois, an area at the confluence of the Illinois and Mississippi Rivers starting at the old water treatment plant and extending 150 feet out from the shoreline continuing upstream to Shaffer's Wharf.
- b) The following portion of the Mississippi River is designated as No Boats: The water 600 feet above and 150 feet below dams 19, 20, 21 and 22 on the Mississippi River.
- c) The following portions of Quincy Bay in Adams County are designated as Slow, No Wake Areas:
- 1) Designated area at the entrance to Broad Lake.

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- 2) Designated area at the "River Channel Cut-Through."
- 3) ~~Designated area at Quincy Bay Harbor~~ ~~area from the Railroad Bridge south to the southern tip of Quinsippi Island.~~
- d) Piasa Creek in Jersey County from its mouth at the Mississippi River upstream to Illinois Route 100 bridge.
- e) Otter Creek in Jersey County from its mouth at the Illinois River upstream to Illinois Route 100 bridge.
- f) The following portions of Sangchris Lake in Christian County are designated as No Boat areas:
 - 1) The power plant intake arm beyond the buoy line.
 - 2) The power plant discharge arm beyond the buoy line.
 - 3) The designated South Waterfowl Refuge or Rest Area.
 - 4) The designated North Waterfowl Refuge or Rest Area.
- g) Macoupin Creek from its mouth at the Illinois River upstream to Reddish Ford bridge.
- h) The following portions of Coffeen Lake in Montgomery County are designated as No Boats and No Fishing areas:
 - 1) The power plant intake arm beyond the buoy line.
 - 2) The power plant discharge arm beyond the buoy line.
 - 3) The buoyed area of the spillway.
- i) The following portions of the Kaskaskia River are designated as Slow, No Wake Areas:
 - 1) All backwaters and/or side channels below Fayetteville, Illinois.

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- 2) All waters between the Illinois Route 3 Bridge and the Northern boundary of the public boat ramp in Evansville, Illinois.
 - 3) All waters between the ICG Railroad Bridge and the entrance to the public boat launching ramp known as "Baldwin Ramp."
 - 4) River Mile 24 to 25.
 - 5) 100 yards upstream and 100 yards downstream from the Kaskaskia River Lock and Dam.
 - 6) 100 yards upstream and 100 yards downstream from the New Athens boat launching ramp.
- j) The following portion of the Mississippi River is designated as a Slow, No Wake area:
- An area 6½ miles north of Hamilton, Illinois.
- k) Those portions of Carlyle Lake, as posted, are designated No Entry, No Boats, No Fishing, or otherwise restricted areas.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Resident Armed Forces Fee Exemptions
- 2) Code Citation: 17 Ill. Adm. Code 2510
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2510.10	Amendment
2510.20	Amendment
2510.30	Amendment
2510.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 805-305 of the Civil Administrative Code of Illinois [20 ILCS 805/805-305], Sections 20-45 and 20-47 of the Fish and Aquatic Life Code [515 ILCS 5/20-45 and 20-47] and by Section 3.1-4 and 3.2 of the Wildlife Code [520 ILCS 5/3.1-4 and 3.2]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being amended to incorporate provisions contained in PA 97-498, effective April 1, 2012, that provide, commencing with the 2012 license year, one-half price fishing licenses, sportsmen's combination licenses and hunting licenses to resident veterans of the United States Armed Forces after returning from service abroad or mobilization by the President of the United States.
- 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 Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

DEPARTMENT OF NATURAL RESOURCES

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George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
 SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2510
 ILLINOIS RESIDENT ARMED FORCES FEE EXEMPTIONS
AND ILLINOIS RESIDENT VETERAN FEE REDUCTIONS

Section	
2510.10	Purpose
2510.20	Definitions
2510.30	Fee Exemptions <u>and Fee Reductions</u>
2510.40	Application
2510.50	Violations

AUTHORITY: Implementing and authorized by Section 805-305 of the Civil Administrative Code of Illinois [20 ILCS 805/805-305], Sections 20-45 and 20-47 of the Fish and Aquatic Life Code [515 ILCS 5/20-45 and 20-47] and by Sections 3.1-4 and 3.2 of the Wildlife Code [520 ILCS 5/3.1-4 and 3.2].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 14396, effective September 9, 2005, for a maximum of 150 days; adopted at 30 Ill. Reg. 461, effective January 3, 2006; amended at 35 Ill. Reg. 10779, effective June 23, 2011; amended at 36 Ill. Reg. _____, effective _____.

Section 2510.10 Purpose

- a) The purpose of this Part is to acknowledge and recognize the contribution of:
- 1) *Illinois residents returning from service abroad or mobilization by the President of the United States as an active duty member of the United States Armed Forces, the Illinois National Guard, or the Reserves of the United States Armed Forces [20 ILCS 805/805-305]; and*
 - 2) *Illinois resident veterans of the United States Armed Forces after returning from service abroad or mobilization by the President of the United States [515 ILCS 5/20-45].*

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- b) In recognition of ~~the~~~~their~~ services of Illinois resident service members, the Department of Natural Resources will waive specified fees for camping, fishing and hunting for the amount of time that the active duty member spent in service abroad or mobilized.
- c) In recognition of the services of Illinois resident veterans, the Department of Natural Resources will issue veterans a current fishing license, sportsmen's combination license or hunting license at one-half the current fee.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2510.20 Definitions

Active Duty – means active duty in the Armed Forces of the United States, as evidenced by a DD form 2, United States Uniformed Service Identification Card, marked "Active" or "Active Duty".

Department – means the Department of Natural Resources.

Members – means Illinois resident military, guard or reserve members.

Mobilization – means that Reserves or Guard Members were called to active duty by the President of the United States under Title 10 or Title 32, United States Code.

Service Abroad – means active duty service outside of the 50 United States and the District of Columbia, and includes all active duty service in territories and possessions of the United States.

Verification of Service or Mobilization – means official documentation from the Department of Defense or the appropriate Major Command showing mobilization dates or service abroad dates, including a DD-214, a letter from the Illinois Department of Military Affairs for members of the Illinois National Guard, a letter from the Regional Reserve Command for members of the Armed Forces Reserve, a letter from the Major Command covering Illinois for active duty members, or personnel records for mobilized State employees. A copy of orders shall not be accepted as verification.

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Veteran – means an Illinois resident who is a former member of the Armed Forces of the United States, as evidenced by a form DD-214.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2510.30 Fee Exemptions and Fee Reductions

- a) Illinois resident military members who have served abroad, or guard or reserve members who were mobilized, are eligible for the following without fee:
 - 1) Camping, with no camping fee except:
 - A) camper is responsible for applicable utility fees; and
 - B) camper is responsible for applicable rent-a-tent fees and cabin fees.
 - 2) Sport fishing and hunting:
 - A) Members will be issued a current Combined Sportsman's License and Habitat Stamp.
 - B) If requested by the member, one statewide archery deer permit will be issued upon verification if currently available. One free firearm deer permit for the county of choice (and the archery deer permit if not available at time of verification) will be mailed to the applicant when available.
- b) Illinois resident veterans of the United States Armed Forces are eligible to purchase licenses at one-half the fee charged for the following:
 - 1) fishing license;
 - 2) sportsmen's combination license; and
 - 3) hunting license.
- c)b) Non-resident military members are not eligible for no-fee hunting, fishing or camping.

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d) Non-resident veterans are not eligible for reduced fee hunting or fishing licenses.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2510.40 Application

a) Military members are eligible for free sport fishing, hunting and camping for one year for each year served and for one year for each portion of a year served.

b) To receive free passes, licenses, stamps and permits, receive a camping pass, sportsman's license, habitat stamp and/or deer permit, eligible military members and veterans shall:

1) Appear in person at the following Department of Natural Resources offices:

One Natural Resources Way
Springfield, Illinois

2317 E. Lincolnway
Sterling, Illinois

15676 State Highway 54
Clinton, Illinois

11731 State Highway 37
Benton, Illinois

4521 Alton Commerce Parkway
Alton, Illinois

2) Eligible military members must applyApply within two years after their return from abroad or release from mobilization, provide. ~~3) Provide~~ verification of dates of service abroad or verification of dates of mobilization (see Section 2510.20) and provide. ~~4) Provide~~ a photo identification card.

3) Veterans can apply at any time and must provide a form DD-214 and a photo identification card.

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- c) The Armed Forces Special Pass (camping), issued to eligible military members, shall become effective on the date of application and shall expire on the same month and day in the year the entitlement expires.
- d) The Combined Sportsman's License will expire March 31 of each year. If eligible, a new Combined Sportsman's License, stamp and deer permit may be obtained by following the procedures under subsection (b). Eligible military members can show or by showing an unexpired Armed Forces Special Pass to obtain a new license, stamp or permit.
- e) After the initial issuance of one-half price licenses under subsection (b), eligible veterans may obtain one-half price licenses in subsequent years through the Department website or over-the-counter from any of the Department's direct license agents.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
500.100	Amendment
500.200	Amendment
500.201	Amendment
500.202	Amendment
500.204	Amendment
500.210	Amendment
500.230	Amendment
500.235	Amendment
500.265	Amendment
500.280	Amendment
500.285	Amendment
500.298	Amendment
500.300	Amendment
500.305	Amendment
500.310	Amendment
500.315	Amendment
500.320	Amendment
500.325	Amendment
500.330	Amendment
500.335	Amendment
500.355	Amendment
500.400	Amendment
- 4) Statutory Authority: 35 ILCS 505/14; 20 ILCS 2505/2505-20; PA 96-1384; PA 96-161; PA 94-654
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking makes numerous technical changes to the motor fuel regulations and also implements the provisions of various statutory changes. Technical changes include amendment of rules governing motor fuel tax licensing application procedures and requirements, and an explanation of the manner in which the Department establishes its "Part B" rate, including authorization for the Department to utilize data derived from independent surveys to determine the average selling price per gallon of motor fuel. Regulations governing the licensing process under the International Fuel Tax Agreement (IFTA) are

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being updated, including the addition of provisions specifying the grounds for denial of IFTA license renewals. New provisions are also being added to clarify the types of Department actions that can be protested by IFTA licensees. The regulations are amended to reflect the provisions of PA 94-654, which added an exemption for undyed diesel fuel used by spotters and tugs used to move parcels on both airport and private property. The regulations are also amended to reflect the provisions of PA 96-161, which extended the sunset date for the Leaking Underground Storage Tank Tax and the Environmental Impact Fee to January 1, 2025.

These regulations also implement the provisions of PA 96-1384, which enacted a number of changes to the Motor Fuel Tax Law. Primary among those changes are the increase in cost of a single trip permit ("STP") to \$40 for a period of 96 hours (currently \$20 for 72 hours), and provisions allowing the temporary waiver of IFTA registration or purchase of STPs upon the determination by the Revenue Director that a disaster exists (this allows commercial motor vehicles to move quickly through the state in order to assist in critical disaster relief efforts). The bill also changes the definition of "distributor" so that persons who export fuel from Illinois can obtain a license and thus make tax-free purchases of fuel. Prior to this change, such persons were not able to purchase motor fuel tax-free; as a result of "destination state" laws that required them to pay tax to the state in which the fuel was destined to be used, they were required to pay tax to both Illinois and the export state. Later, these purchasers filed large refund claims with Illinois that drained the Department's limited refund pool. By allowing these purchasers to obtain licenses as distributors, the law affords that purchasers an easy method to avoid double tax up front. The bill also amends the definition of "base jurisdiction" for the IFTA program to include the United States of Mexico (this change is made to conform to the requirements of the IFTA). These regulations also implement provisions of PA 96-1384 that pertain to the dyed diesel program, including new provisions regarding accessibility restrictions for pumps that dispense tax-free dyed diesel fuel, and a reduction in the amount of the first offense civil penalty imposed on persons found to be operating motor vehicles with dyed diesel fuel in their tanks (was \$2500; now \$1000), as well as reduction in the amount of both the first and second offense civil penalty for persons selling or attempting to sell dyed diesel fuel for highway use (was \$5000 and \$10,000; now, \$1000 and \$5000). The manner in which these penalties are applied has also been clarified in these regulations. In addition, these regulations implement provisions of PA 96-1384 requiring that fire or police department reports be submitted with claims for refunds based upon the loss of motor fuel due to fire or theft, as well as provisions allowing refunds for decal fees.

PA 96-1384 also authorizes the Department to adopt rules requiring electronic filing of motor fuel taxes, returns and applications, as well as electronic payments of motor fuel

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taxes. These rules implement these requirements for motor fuel use taxes (the IFTA program; STPs).

- 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? Yes, it reflects a statutory sunset date for the Leaking Underground Storage Tax of January 1, 2025.
- 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: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn Troxell Gorden
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses that remit motor fuel tax, purchase Single Trip Permits, or are registered for the International Fuel Tax Agreement are affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping

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- C) Types of professional skills necessary for compliance: General bookkeeping
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 500

MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section	
500.100	Definitions
500.101	Definition of Receiver (Repealed)
500.102	Definition of Loss (Repealed)
500.103	Basis and Rate of Tax Payable by Receivers (Recodified)
500.105	Monthly Returns (Recodified)
500.110	Report of Loss of Motor Fuel (Recodified)
500.115	Daily Gallonage Record (Recodified)
500.120	Licenses Are Not Transferable (Recodified)
500.125	Changes of Corporate Officers (Recodified)
500.130	Blenders' Permits Are Not Transferable (Recodified)
500.135	Vehicles of Distributors Transporting Petroleum Products (Recodified)
500.140	Other Vehicles (Recodified)
500.145	Cost of Collection – Determination (Recodified)
500.150	Cost of Collection – Books and Records (Repealed)
500.155	Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers (Recodified)
500.160	Claims for Refund – Original Invoices (Recodified)
500.165	Definition of Loss (Recodified)
500.170	Sales of Special Fuel – Variation in Usage (Recodified)
500.175	Special Motor Fuel Permits and Decals (Recodified)
500.180	Estimated Claims Not Acceptable (Recodified)
500.185	Claimants Owning Motor Vehicles (Recodified)
500.190	Detailed Answers (Recodified)
500.195	Revocation of License, Etc. – Notice – Hearing (Recodified)

SUBPART B: MOTOR FUEL TAX

Section	
500.200	Basis and Rate of the Motor Fuel Tax
500.201	Licensure

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500.202	Basis and Rate of Tax Payable by Receivers
500.203	Monthly Returns
500.204	Report of Loss of Motor Fuel
500.205	Daily Gallonage Record
500.206	Special Fuel Sold or Used for Non-Highway Purposes
500.210	Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.215	Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.220	Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.225	Other Vehicles (Repealed)
500.230	Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.235	Claims for Refund <u>of Taxes and Motor Fuel Use Tax Decal Fees</u> – Invoices
500.240	Sales of Special Fuel – Variation in Usage (Repealed)
500.245	Estimated Claims
500.250	Claimants Owning Motor Vehicles (Repealed)
500.255	Detailed Answers
500.260	Revocation of License, Etc. – Notice – Hearing
500.265	Distributors' and Suppliers' Claims for Credit or Refund
500.270	Receivers' Claims for Credit
500.275	Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
500.280	Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.285	Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas
500.290	When Purchaser's License Number With Department on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.295	Cost of Collection – Determination (Repealed)
500.297	Protest Procedures for Certain Penalties
500.298	Civil Penalties for Dyed Diesel Fuel Violations

SUBPART C: MOTOR FUEL USE TAX

Section	
500.300	Licensure – <u>Temporary Waiver upon Determination of Disaster</u>
500.301	Special Motor Fuel Permits and Decals (Repealed)
500.302	Motor Carrier's Quarterly Report (Repealed)
500.305	Licenses and Decals
500.310	Display of License and Decals

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500.315	Renewal of Decals and Licenses
500.320	Single Trip Permits
500.325	Licensure of Lessors and Lessees
500.330	Cancellation of License
500.335	Quarterly Payment and Reporting
500.340	Credits and Refunds
500.345	Records Requirements
500.350	Revocation
500.355	<u>IFTA</u> Protest Procedures
500.360	Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section	
500.400	General Information
500.405	Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

Section	
500.500	Licenses and Permits Are Not Transferable
500.501	Blenders' Permits Are Not Transferable (Repealed)
500.505	Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section	
500.600	Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 2505-20 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-20].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill. Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990;

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amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. 10168, effective July 16, 1996; amended at 22 Ill. Reg. 2253, effective January 9, 1998; amended at 22 Ill. Reg. 14917, effective August 3, 1998; amended at 22 Ill. Reg. 16322, effective August 25, 1998; amended at 22 Ill. Reg. 20299, effective December 1, 1998; emergency amendment at 24 Ill. Reg. 880, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6918, effective April 21, 2000; amended at 24 Ill. Reg. 17826, effective November 28, 2000; amended at 26 Ill. Reg. 9912, effective June 24, 2002; amended at 27 Ill. Reg. 7870, effective April 21, 2003; emergency amendment at 27 Ill. Reg. 10547, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3921, effective February 13, 2004; amended at 32 Ill. Reg. 7134, effective April 21, 2008; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 500.100 Definitions

For purposes of this Part, the following definitions apply:

"Base Jurisdiction" means the jurisdiction where commercial motor vehicles are based for vehicle registration purposes and:

Where the operational control and operational records of the licensee's commercial motor vehicles are maintained or can be made available; and

Where some travel is accrued by commercial motor vehicles within the fleet.

"Blender" means any person who engages in the practice of blending. (Section 1.6 of the Law)

"Blending" means the mixing together by any process whatsoever, of any one or more products with other products, and regardless of the original character of the products so blended, provided the resultant product so obtained is suitable or practicable for use as a motor fuel, except such blending as may occur in the process known as refining by the original refiner of crude petroleum, and except, also, the blending of products known as lubricating oil in the production of lubricating oils and greases and except, also, the dyeing of special fuel as

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required by Section 4d of the Law. (Section 1.5 of the Law)

"Commercial Motor Vehicle" means *a motor vehicle used, designed, or maintained for the transportation of persons or property and either having 2 axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,793 kilograms, or having 3 or more axles regardless of weight, or that is used in combination, when the weight of the combination exceeds 26,000 pounds or 11,793 kilograms gross vehicle weight. For purposes of administration of the Motor Fuel Use Tax imposed by Section 13a of the Law, this term does not include motor vehicles operated by the State of Illinois or the United States, recreational vehicles, school buses and commercial motor vehicles operated solely within Illinois for which all motor fuel is purchased within this State. (Section 1.16 of the Law)*

"Designated inspection site" means *any State highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Department to be used as a fuel inspection site. A designated inspection site will be identified as a fuel inspection site. (Section 1.26 of the Law)*

"Diesel fuel" means *any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. (Section 2(b) of the Law)*

"Distributor" means *a person who (i) produces, refines, blends, compounds or manufactures motor fuel in this State, or (ii) transports motor fuel into this State, or (iii) exports motor fuel out of this State, or (iv) who is engaged in this State in the distribution of motor fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active bulk storage capacity of not less than 30,000 gallons for gasoline as defined in Section 5(A) of the Law. (Section 1.2 of the Law)*

"Dyed diesel fuel" means *special fuel, as defined in Section 1.13 of the Law, dyed in accordance with Section 4d of the Law. (Section 1.13B of the Law)*

"Export" means *the transportation of reportable motor fuel or fuel, by any vessel, from Illinois, when such motor fuel or fuel comes to rest in a different state, whether or not in the original vessel used to transport the motor fuel or fuel. Motor fuel or fuel delivered to a different state, by or on behalf of the seller,*

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constitutes an export by the seller. Motor fuel or fuel delivered to a different state, by or on behalf of the purchaser, constitutes an export by the purchaser. The exporter of such motor fuel or fuel is subject to the reporting and licensing requirements of the origin and destination states.

"Fuel" means *all liquids defined as "motor fuel"* and aviation fuels and kerosene, but excluding liquified petroleum gases. (Section 1.19 of the Law)

"Import" means the transportation of reportable motor fuel or fuel, by any vessel, into Illinois, when such motor fuel or fuel comes to rest in Illinois, whether or not in the original vessel used to transport the motor fuel or fuel. Motor fuel or fuel delivered into Illinois, from a different state, by or on behalf of the seller, constitutes an import by the seller. Motor fuel or fuel delivered into Illinois, from a different state, by or on behalf of the purchaser, constitutes an import by the purchaser. The importer of such motor fuel or fuel is subject to the reporting and licensing requirements of the origin and destination states.

"International Fuel Tax Agreement" ~~or ("IFTA")~~ means the multijurisdictional International Fuel Tax Agreement ratified by Congress, the provisions of which were imposed upon States pursuant to Public Law 102-240, which mandates that no State shall establish, maintain or enforce any law or regulation which has fuel use tax reporting requirements not in conformity with the International Fuel Tax Agreement.

"Jurisdiction" is a state of the United States, the District of Columbia, [a state of the United Mexican States](#), or a province or Territory of Canada.

"Kerosene-type jet fuel" means *any jet fuel as described in ASTM specification D 1655 and military specifications MIL-T-5624R and MIL-T-83133D (Grades JP-5 and JP-8)*. (Section 1.25 of the Law)

"Law" means the Motor Fuel Tax Law [35 ILCS 505].

"Leasing" means the giving of possession and control of a vehicle for valuable consideration for a specified period of time.

"Loss" means, for purposes related to claims for refund, the reduction of motor fuel resulting from spillage, spoilage, leakage, theft, destruction by fire or any other provable cause, but does not include a reduction resulting from evaporation

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or shrinkage due to temperature variations.

"Motor fuel" means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, the propulsion of motor vehicles. Among other things, "motor fuel" includes "special fuel." (Section 1.1 of the Law)

"Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, or any city, town, county or other political subdivision in this State. When used in these rules to prescribe or impose a fine or imprisonment or both, the term as applied to partnerships and associations shall mean the partners or members thereof; as applied to limited liability companies, the term means managers, members, agents or employees of the limited liability company; and as applied to corporations, the term shall mean the officers, agents, or employees thereof who are responsible for any violation of the Act. (Section 1.11 of the Law)

"Power take-off equipment" means any accessory that is mounted onto or designed as an integral part of a transmission of a motor vehicle that is registered for highway purposes whereby the accessory allows power to be transferred outside the transmission to a shaft or driveline and the power is used for a purpose other than propelling the motor vehicle. (Section 1.27 of the Law)

"Premises" means any location where original records are kept; where tank cars, ships, barges, tank trucks, tank wagons, or other types of transportation equipment are used to distribute fuel or motor fuel; or where containers, storage tanks, or other facilities are used to store or distribute fuel or motor fuel. (Section 1.24 of the Law)

"Receiver" means a person who either produces, refines, blends, compounds or manufactures fuel in this State, or transports fuel into this State or receives fuel transported to him from without the State or exports fuel out of this State, or who is engaged in the distribution of fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active fuel bulk storage capacity of not less than 30,000 gallons. (Section 1.20 of the Law)

"Records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation.

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"Recreational vehicle" means vehicles, such as motor homes, pickup trucks with attached campers, camping or travel trailers, van or truck campers, mini motor homes, or buses, used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

"Research and development" *means basic and applied research in the engineering, designing, development, or testing of prototypes or new products. "Research and development" does not include manufacturing quality control, any product testing by consumers, market research, sales promotion, sales service, or other non-technological activities or technical services.* (Section 1.29 of the Law)

"Revocation" means the withdrawal of license and privileges.

"Semitrailer" *means every vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.* (Section 1.28 of the Law)

"Special fuel" means *all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5(A) of the Law, or combustible gases as defined in Section 5(B) of the Law. "Special fuel" includes "diesel fuel." All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of the Law.* (Section 1.13 of the Law)

"Supplier" means *any person other than a licensed distributor who (i) transports special fuel into this State; or (ii) exports special fuel out of this State; or (iii) engages in the distribution of special fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active bulk storage capacity of not less than 30,000 gallons for special fuel as defined in Section 1.13 of the Law.* (Section 1.14 of the Law)

"Terminal rack" *means a mechanism for dispensing motor fuel or fuel from refinery, terminal, or bulk plant into a transport truck, railroad tank car, or other means of transportation.* (Section 1.23 of the Law)

"Total distance" for purposes of the motor fuel use tax means all miles traveled

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during the reporting period by every commercial motor vehicle in the licensee's fleet, regardless of whether the miles are considered taxable or nontaxable by a jurisdiction.

"Weight" for purposes of the motor fuel use tax means the maximum weight of the loaded vehicle or combination of vehicles during the registration period.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART B: MOTOR FUEL TAX

Section 500.200 Basis and Rate of the Motor Fuel Tax

a) *The Motor Fuel Tax is imposed "on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State".*

1) *Motor fuel used in such motor vehicles upon public highways and in such recreational watercraft on such waters is taxed according to the following rate schedule:*

<i>Tax Period</i>	<i>Rate</i>
<i>Until August 1, 1983</i>	<i>7½¢ per gallon</i>
<i>From August 1, 1983 through June 30, 1984</i>	<i>11¢ per gallon</i>
<i>From July 1, 1984 through June 30, 1985</i>	<i>12¢ per gallon</i>
<i>From July 1, 1985 through June 30, 1989</i>	<i>13¢ per gallon</i>
<i>From August 1, 1989 through December 31, 1989</i>	<i>16¢ per gallon</i>
<i>From January 1, 1990 and thereafter</i>	<i>19¢ per gallon</i>

2) *The tax on the privilege of operating motor vehicles which use diesel fuel shall be the rate according to subsection (a) plus an additional ~~2½¢~~ 1½¢ cents per gallon. This rate is as follows:*

<i>Tax Period</i>	<i>Rate</i>
<i>Until August 1, 1983</i>	<i>7½¢ per gallon</i>
<i>From August 1, 1983 through June 30, 1984</i>	<i>13½¢ per gallon</i>

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<i>From July 1, 1984 through June 30, 1985</i>	<i>14½¢ per gallon</i>
<i>From July 1, 1985 through July 31, 1989</i>	<i>15½¢ per gallon</i>
<i>From August 1, 1989 through December 31, 1989</i>	<i>18½¢ per gallon</i>
<i>From January 1, 1990 and thereafter</i>	<i>21½¢ per gallon</i>

b) *The Motor Fuel Use Tax is imposed "upon the use of motor fuel upon highways (including toll ways of this State) by commercial motor vehicles". The tax on such motor fuel shall be comprised of two parts:*

- 1) *A tax at the rate established in subsections (a)(1) and (a)(2) ~~above~~; and*
- 2) *A rate ~~"established by the Department as of January 1 of each year using the average "selling price", as defined in the Retailers' Occupation Tax Act, per gallon of motor fuel sold in this State during the previous 12 months and multiplying it by 6.25% to determine the cents per gallon rate."~~ (Section 13a(2) of the Motor Fuel Tax Law [35 ILCS 505]). The Department may use data derived from independent surveys conducted or accumulated by third parties to determine the average selling price per gallon of motor fuel. Third parties include, but are not limited to, commercial entities that collect data (available by contract or at no cost) regarding the selling price of motor fuel sold in this State on a per gallon basis.*

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.201 Licensure

- a) *No person shall act as a distributor, supplier, or receiver in Illinois without first applying for and obtaining a license from the Department. The application shall be signed and verified by the applicant, and shall contain information required by the Department. Applications must be signed by, and contain the home address of, each officer, partner or owner of the entity seeking licensure. In the case of a corporate applicant, the application shall be signed by at least one corporate officer and shall contain the home address and Social Security Number of all corporate officers. In the case of a Limited Liability Company, the application shall be signed by at least one member or manager and shall contain the home address and Social Security Number of all managers and members. ~~In the case of corporate applicants, the application shall be signed by a corporate officer or~~*

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officers. Applications may not be signed by reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney, notwithstanding a properly executed power of attorney. The application shall also contain an acceptance of responsibility signed by the person or persons who will be responsible for filing returns and payment of taxes due under the law. No license shall be granted unless the application contains the name and home address of the person or persons who will be responsible for filing returns and payment of taxes due under the Law. An applicant shall also file with the Department a bond on a form to be approved by and with a surety or sureties satisfactory to the Department.

- b) *A license shall not be granted, nor shall any license be maintained, for any supplier or distributor whose principal place of business is in a state other than Illinois, unless such person is licensed for motor fuel distribution or export in the state in which the principal place of business is located and such person is not in default to that state for any monies due for the sale, distribution, export or use of motor fuel. (Section 3, 3a, 3b and 3c of the Law) Applicants whose principal place of business is outside of Illinois and who are not required to be licensed by the state in which their principal place of business is located shall not be granted any license, nor shall any license be maintained, if they are in default to that state for any monies due for the use of motor fuel.*
- c) *A license shall not be issued to any person who fails to file a return, or to pay the tax, penalty or interest for a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Law, or as required by any other tax Act administered by the Department. [20 ILCS 2505/39b47]*

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.202 Basis and Rate of Tax Payable by Receivers

- a) *Except as hereinafter provided, on and after January 1, 1990 and before January 1, ~~2025~~2013, a tax of three-tenths of a cent per gallon is imposed upon the privilege of being a receiver in this State of fuel for sale or use.*
- b) *The tax shall be paid by the receiver in this State who first sells or uses fuel. In the case of a sale, the tax shall be stated as a separate item on the invoice.*
- c) *For the purpose of the tax imposed by this Section, being a receiver of "motor*

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fuel" as defined by Section 1.1 of the Act, and aviation fuels, home heating oil and kerosene, but excluding liquified petroleum gases, is subject to tax without regard to whether the fuel is intended to be used for operation of motor vehicles on the public highways and waters. However, no such tax shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 300,000 operations per year, for years prior to 1991, and over 170,000 operations per year beginning in 1991, located in a city of more than 1,000,000 inhabitants for sale to or use by holders of Certificates of Public Convenience and Necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no such tax shall be imposed upon the importation or receipt of diesel fuel sold to or used by a rail carrier, registered pursuant to Section 18c-7201 of the Illinois Vehicle Code or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no such tax shall be imposed when the sale is made with delivery to a purchaser outside the State or when the sale is made to a person holding a valid license as a receiver. In addition, no tax shall be imposed upon diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale. (Section 2a of the Law)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.204 Report of Loss of Motor Fuel

- a) All licensed suppliers, distributors, and receivers are required to report all losses of motor fuel sustained by them on account of fire, theft, spillage, spoilage, leakage or any other provable cause when filing the return for the period during which such loss occurred in order that the Department may make such investigation as it may deem necessary.
- b) The mere making of such a report does not assure the allowance of such loss as a credit on account of tax liability with respect to such loss, but failure to report such losses promptly may result in the refusal of the Department to allow credit

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on account of tax liability with respect to such a loss.

- e) ~~Before July 1, 2001, losses of fuel as the result of evaporation or shrinkage due to temperature variations may not exceed one percent of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of one percent shall be subject to the tax imposed by Section 2 or Section 2a of the Law and the fee imposed by Section 310 of the Environmental Impact Fee Law. (Sections 2b, 5, and 5a of the Law)~~
- cd) *On and after July 1, 2001, for each 6-month period January through June, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2 or 2a of the Law and the fee imposed by Section 310 of the Environmental Impact Fee Law. "Net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6-month periods. (Sections 2b, 5, and 5a of the Law)*
- d) Distributors or suppliers reporting loss due to fire or theft must include fire department or police department reports with their returns.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.210 Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers

- a) A distributor or supplier may make tax free sales of motor fuel, with respect to which he or she is otherwise required to collect tax, only as specified in subsections (b) through (i). Sales of motor fuel made to licensed distributors or

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~~suppliers. A specific notation of the nature of the exemption must be made on the invoice for these sales. Also, the seller must retain the invoice number and date, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination, purchaser's license number, and invoiced gallons sold.~~

- b) Sales of motor fuel delivered to points outside Illinois. The seller must retain the invoice date and number, name of carrier, bill of lading/manifest number, purchaser's name and address, Illinois origin, destination location, and invoiced gallons.
- c) Sales of motor fuel to the Federal government or its instrumentalities. The seller shall retain the invoice number and date, name of carrier, bill of lading/manifest number, name of purchaser, Illinois origin, Illinois destination, and invoiced gallons.
- d) Sales of motor fuel to a municipal corporation owning and operating a local transportation system for public service in Illinois. The seller shall retain the invoice date and number, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination and invoiced gallons. In addition, the seller shall include with his return a Certificate of Exemption, in the form required by Section 500.280 of this Part, for each such sale.
- e) Sales of motor fuel to a privately owned public utility owning and operating 2-axle vehicles designed and used for transporting more than 7 passengers, for the operation of vehicles which are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or any group of municipalities or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission. The seller shall retain the invoice date and number, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination and invoiced gallons. In addition, the seller shall include with his return a Certificate of Exemption, in the form required by Section 500.285 of this Part, for each such sale.
- f) Sales of gasoline for aviation purposes. A Seller shall retain the invoice date and number, name of carrier, bill of lading/manifest number, name of purchaser, Illinois origin, Illinois destination, and invoiced gallons. He must also include a

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"Certificate of Gas Sold For Propulsion of Aircraft" with his return to document this type of exemption.

g) Sales to persons other than licensed distributors or suppliers

1) Sales of ~~dyed~~^{special} fuel sold to persons other than licensed distributors or licensed suppliers for non-highway purposes only when:

A) The fuel is delivered from a vehicle designed for the specific purpose of such sales and delivered directly into a stationary bulk storage tank that displays the notice required by Section 4f of the Act;

B) The fuel is delivered from a vehicle designed for the specific purpose of such sales and delivered directly into the fuel supply tanks of non-highway vehicles that are not required to be registered for highway use; or

C) The fuel is dispensed from a dyed diesel fuel dispensing facility that has withdrawal facilities that are not readily accessible to and are not capable of dispensing dyed diesel fuel into the fuel supply tank of a motor vehicle.

2) For purposes of this subsection (g), a dyed diesel fuel dispensing facility is considered to have withdrawal facilities that are "not readily accessible to, and not capable of dispensing dyed diesel fuel into, the fuel supply tank of a motor vehicle" only when the dyed diesel fuel is delivered from:

A) A dispenser hose that is short enough that it will not reach the fuel supply tank of a motor vehicle; or

B) A dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling. (Section 6 of the Law)

5) For each sale of dyed diesel fuel described in this subsection (g), a~~A~~ specific notation of the nature of the exemption must be made on the invoice for these sales. The seller must retain the invoice number and date, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination, and invoiced gallons sold. A legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable

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Use Only, Penalty For Taxable Use" must appear on all shipping papers (including delivery tickets or manifests and excluding material safety data sheets), bills of lading, and invoices accompanying any sale of dyed diesel fuel.

- h) Sales of 1-K kerosene delivered into a storage tank located at a facility that has withdrawal facilities which are readily accessible to, and are capable of dispensing 1-K kerosene into the fuel supply tanks of, motor vehicles are taxable. *For purposes of the exemption described in this subsection (h), a facility is considered to have withdrawal facilities that are not "readily accessible to and capable of dispensing 1-K kerosene into the fuel supply tanks of motor vehicles" only when the 1-K kerosene is delivered from:*
- 1) *a dispenser hose that is short enough that it will not reach the fuel supply tank of a motor vehicle; or*
 - 2) *a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling. (Section 2 of the Law)*
- i) Sales of motor fuel made to licensed distributors or suppliers. A specific notation of the nature of the exemption must be made on the invoice for these sales. Also, the seller must retain the invoice number and date, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination, purchaser's license number, and invoiced gallons sold.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.230 Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers

- a) Distributors are required to pay the tax on all motor fuel (of the type they are required by the second paragraph of Section 5 of the Motor Fuel Tax Law to report to the Department when filing a return), except dyed diesel fuel used by such distributors for non-highway purposes, used or consumed by them, whether for taxable or nontaxable purposes. If the motor fuel is consumed for statutory nontaxable purposes, a claim for credit or refund may thereafter be filed as provided by the Motor Fuel Tax Law and on the form prescribed by the Department for that purpose.

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- b) Suppliers are required to pay the tax on all special fuel, except dyed diesel fuel used by such suppliers for non-highway purposes, used or consumed by them, whether for taxable or nontaxable purposes. If the special fuel is consumed for statutory nontaxable purposes, a claim for credit or refund may thereafter be filed as provided by the Motor Fuel Tax Law and on the form prescribed by the Department for that purpose.
- c) Receivers are required to pay tax on all fuel, as defined by Section 1.19 of the Motor Fuel Tax Law, used or consumed by them.
- d) In addition to the daily gallonage requirements of Section 500.205, distributors, suppliers, ~~and~~ receivers, ~~and bulk users~~ are required to keep detailed records of all motor fuel and fuel withdrawn from storage facilities for highway and nonhighway use by the distributor, supplier, ~~and~~ receiver ~~and bulk user~~. This information must contain the following information:
- 1) Date of withdrawal.
 - 2) Number of gallons by fuel type.
 - 3) Description of vehicle or equipment into which the fuel or motor fuel was delivered.
 - 4) Unit number, license plate number, or vehicle identification number (VIN) of the vehicle or equipment.
 - 5) Detailed description of the purpose for which the fuel or motor fuel was used.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.235 Claims for Refund of Taxes and Motor Fuel Use Tax Decal Fees – Invoices

- a) Claims for the refund of Motor Fuel Tax imposed by Section 2 of the Law, by persons other than a distributor or supplier, shall be made to the Department of Revenue, duly verified by the claimant, upon forms prescribed by the Department. The Department of Revenue will not approve claims for refund of Motor Fuel Tax unless such claims can be directly supported by invoices, sales slips, statements of

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account, or monthly statements (herein referred to as "purchase documentation"). Reproductions may be submitted in lieu of originals, provided they are legible. However, the Department may require original purchase documentation to verify purchases. Purchase documentation may be electronically generated by the claimant's fuel supplier. Electronically generated purchase documentation shall meet all applicable electronic storage requirements of Sections 130.805 and 130.825 of the Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130). Manifests will not be treated as purchase documentation.

- b) All purchase documentation must contain the following information:
- 1) Date of delivery;
 - 2) name and address of purchaser (which must be the name of the claimant);
 - 3) name and address of seller;
 - 4) number of gallons purchased and price per gallon;
 - 5) Illinois Motor Fuel Tax as separate item if the purchase documentation is from other than a retail outlet; ~~and~~
 - 6) receipt of payment. (Only paid purchase documentation is acceptable in connection with claims for refund.) Refunds will only be issued when payment of tax is exactly correlated to the purchase documentation for which the claim is being filed; ~~and-~~
 - 7) *persons making claims based upon the loss of motor fuel due to fire or theft must include fire department or police department reports with their claim. (Section 13 of the Law) Failure to include these reports will result in automatic denial of the claim.*
- c) Claimants must retain purchase documentation in conjunction with claims based upon motor fuel used for a nontaxable purpose. In making a claim, claimants must show total purchases, deducting the gallonage used upon public highways or waters, the difference being the net amount upon which the claim is based. Claimants must retain among their books and records documentation of all purchases, payments, bulk storage withdrawals and proof of usage for a period equivalent to that during which an assessment can be issued under the Law, from

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the date of issuance of the claim or refund. This information must be made available to Department employees upon request. Failure to keep or provide such records will result in denial of claims and recovery of any claims paid. In addition, the Department may recover any claims erroneously paid.

- d) Where the claimant has lost purchase documentation through inadvertence or an act of God, the Department will permit the claimant to submit an affidavit in lieu of such purchase documentation in support of the claim, if the affidavit contains the same information which the purchase documentation was required to contain, plus a statement of facts explaining the loss of the purchase documentation and justifying the substitution of an affidavit for the purchase documentation.
- e) ~~Claims for full reimbursement for taxes paid on or before December 31, 1999 on motor fuel must be filed not later than one year after the date on which the tax was paid by the claimant. If, however, a claim for such reimbursement otherwise meeting the requirements of the Law is filed more than one year but less than 2 years after that date, the claimant shall be reimbursed at the rate of 80% of the amount to which he would have been entitled if his claim had been timely filed.~~ Claims for full reimbursement for taxes paid ~~on~~ or after January 1, 2000 must be filed not later than 2 years after the date on which the tax was paid by the claimant.
- f) Claims accompanied by purchase documentation which demonstrate evidence of change of name, date or gallonage or other evidence of fraud, or which is illegible, will be disallowed in their entirety.
- g) Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repaid the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes directly paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a certified copy of the tax return filed with such other state by the claimant and a copy of either the cancelled check paying the tax due on such return, or a receipt acknowledging payment of the tax due on such tax return. The provisions of this subsection (g) shall not apply to taxes paid on returns under Section 13a.3 of the Law. (Section 13 of the Law) Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and

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~~repaid the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a copy of the tax return filed with such other state and a copy of the cancelled check or a receipt acknowledging payment of the tax due on said tax return.~~

- h) *Claims for refunds for the motor fuel tax imposed by Section 2 of the Law approved by the Department shall be paid within 90 days after receipt of a complete and correct application for such a refund. If refunds are paid after the expiration of the 90 day period, the Department shall also pay from the Motor Fuel Tax Fund to the taxpayer interest at the rate and in the manner set by the Uniform Penalty and Interest Act [35 ILCS 753][35 ILCS 505/15.1]. (Section 15.1 of the Law) Refunds paid after the expiration of the 90 day period shall bear interest from the date that a properly completed claim for refund was filed with the Department.*
- i) The Department will approve claims for refund only when such claims are based upon a showing that such motor fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When such claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims that can be supported by proof of the amount of motor fuel not used for a taxable purpose will be approved.
- j) *For claims based upon taxes paid on or before December 31, 2000, no claim based upon the use of undyed diesel fuel shall be allowed except for:*
- 1) *Undyed diesel fuel used in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*
 - 2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29, of machinery or*

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equipment intended for manufacture.

- 3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*
- 4) *Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used. For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (j)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (j)(7).*
- 5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*
- 6) *Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.*
- 7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law. Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Such approved studies shall be valid for 2 years after the date of approval.*
- 8) *Undyed diesel fuel used by unlicensed commercial vehicles, as defined in Section 1-111.8 of the Illinois Vehicle Code, operating exclusively on*

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~~private property. (Section 13 of the Law) Such claims are subject to a maximum of 100% of the fuel consumed by such commercial vehicles.~~

- 9) ~~Undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highway. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways. (Section 13 of the Law) Such claims must be based upon actual consumption of undyed diesel fuel. The following are identified uses subject to refund and are the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in such a dual capacity:~~

Use	Maximum
Application of dry fertilizer, liquid fertilizer, pesticides, or herbicides by a commercial vehicle that is either licensed for highway use or is not required to be licensed under Section 3-809(c) of the Illinois Vehicle Code and is designed or adapted and used for the bulk spreading of agricultural chemicals	Limestone .20 gallon per ton applied Phosphate 1 gallon per ton applied Dry fertilizer 2 gallons per ton applied Liquid mixed fertilizer 1 gallon per ton applied Liquid nitrate fertilizer 1 gallon per ton applied Anhydrous ammonia 2 gallons per acre of application NH₃ liquid/dry fertilizer 1 gallon per acre of application Pesticides/herbicides .13 gallon per acre of application
Commercial vehicles utilizing power take-off equipment (including concrete mixing vehicles and solid waste compacting vehicles)	25% of the fuel consumed
Commercial vehicle with permanently mounted refrigeration units that refrigerate cargo and have a dedicated fuel supply system separate from the commercial	100% of the fuel consumed by the refrigeration units

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~~vehicle's fuel supply tank~~~~Custom work maintenance by commercial vehicles~~

~~Moldboard plowing 8 gallons per acre
Chisel plowing 6 gallons per acre
Discing 3 gallons per acre
Chopping stalks 3 gallons per acre
Pasture reseeding 3 gallons per acre
Bluegrass sowing 3 gallons per acre
Combining 5 gallons per acre Bushhogging
5 gallons per acre Planting 2 gallons per acre
Replanting 2 gallons per acre
Mowing 1 gallon per acre~~

~~Cultivation maintenance by commercial vehicles~~

~~Corn 12 gallons per acre cultivated
Soybeans 10 gallons per acre cultivated
Small grain 3 gallons per acre cultivated
Hay 10 gallons per acre cultivated
Corn silage 20 gallons per acre cultivated~~

~~Livestock maintenance by commercial vehicles~~

~~Swine .3 gallon per animal raised to market
Sheep .45 gallon per animal raised to market
Beef cattle 1.3 gallons per animal raised to market
Dairy cattle 1 gallon per animal raised to market
Poultry .054 gallon per bird raised to market~~

~~A claimant who has a commercial vehicle that is operated for both highway purposes and any purposes other than operating such vehicles upon the public highways that is not included in the above table shall submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. The above amounts are the maximum amounts allowed unless the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of these amounts. Such approved studies shall be valid for 2 years from the date of approval.~~

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~~(j)~~ *No ~~For claims based upon taxes paid on or after January 1, 2001, no~~ claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*

- 1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*
- 2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*
- 3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*
- 4) *Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used. For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and also on landfills in landfill operations. This subsection ~~(j)~~(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection ~~(j)~~(7).*
- 5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*
- 6) *Undyed diesel fuel used by refrigeration units that are permanently*

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mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.

- 7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law. Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Such approved studies shall be valid for 2 years after the date of approval.*
- 8) Claims for taxes paid on and after January 1, 2001 are ~~not no longer~~ authorized for commercial vehicles unless the commercial vehicle falls within the definition of a "commercial motor vehicle", as provided in Section 500.100 of this Part and the claim is eligible for refund under subsection ~~(j)(4)~~, or the claim is eligible for refund under any of the other provisions of this subsection ~~(j)(4)~~.
- 9) *Beginning on August 22, 2005, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under this subsection (j)(9) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this subsection (j)(9) by a claimant in any calendar year may not exceed \$100,000. A claim may not be made under this subsection (j)(9) by the same claimant more often than once each quarter. For purposes of this subsection (j)(9), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks. (Section 13 of the Law) Claims for taxes paid on and after January 1, 2001 are no longer authorized for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property, unless such vehicles are eligible for refund under any of the provisions of this subsection (k).*

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- k4) Effective July 1, 2001, *any person who has paid the tax imposed by Section 2 of the Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for nonhighway purposes. (Section 13 of the Law)*
- 1) *Any person who purchases motor fuel use tax decals as required by Section 13a.4 of the Law and pays an amount of fees for such decals that exceeds the amount due shall be reimbursed and repaid the amount of the decal fees that are deemed by the Department to be in excess of the amount due. Claims for reimbursement of decal fees are subject to the following procedures and restrictions:*
- 1) *Claims for reimbursement shall be made upon forms prescribed by the Department and be duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability);*
 - 2) *Claims shall state facts relating to the overpayment of decal fees;*
 - 3) *Claims for reimbursement of overpayment of decal fees paid on or after January 1, 2011 must be filed not later than one year after the date on which the fees were paid by the claimant;*
 - 4) *If it is determined that the Department should reimburse a claimant for overpayment of decal fees, the Department shall first apply the amount of such refund against any tax or penalty or interest due by the claimant under Section 13a of the Law. (Section 13 of the Law)*

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.265 Distributors' and Suppliers' Claims for Credit or Refund

- a) Filing of Claims. Any distributor or supplier who shall have paid Motor Fuel Tax

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upon motor fuel used by such distributor or supplier for any purpose other than operating a motor vehicle upon the public highways or waters, may file a claim for credit or refund to recover the amount so paid. Such claims shall be filed on forms prescribed by the Department. Such claims shall be made to the Department, duly verified by the claimant (or by the claimant's legal representative if the claimant shall have died or become a person under legal disability). The claim shall state such facts relating to the purchase, importation, manufacture or production of the motor fuel by the claimant as the Department may deem necessary and shall state when the nontaxable use occurred and shall specify the purpose for which such motor fuel was used by the claimant, together with such other information as the Department may reasonably require. Claims for credit or refund for tax paid on motor fuel purchased on or after July 1, 1965, must be filed not later than one year after the date on which tax was paid by the claimant. In case the distributor or supplier requests and the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department shall provide for the payment of refunds in hardship cases as provided in 86 Ill. Adm. Code 130.1510.

- b) The Department will approve claims for refund only when such claims are based upon a showing that such motor fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When such claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims that can be supported by proof of the amount of motor fuel not used for a taxable purpose will be approved.
- e) *For claims based upon taxes paid on or before December 31, 2000, no claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*
- 1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in*

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~~Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.~~

- 2) ~~Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.~~
- 3) ~~Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.~~
- 4) ~~Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used. For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (c)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (c)(7).~~
- 5) ~~Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.~~
- 6) ~~Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.~~
- 7) ~~Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law. Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department~~

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~~for claims in excess of this amount. Such approved studies shall be valid for 2 years from the date of approval.~~

- ~~8) Undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property. Such claims are subject to a maximum of 100% of the fuel consumed by such commercial vehicles.~~
- ~~9) Undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highway. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways. (Section 13 of the Law) Such claims must be based upon actual consumption of undyed diesel fuel. The following are identified uses subject to refund and are the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in such a dual capacity:~~

Use	Maximum
Application of dry fertilizer, liquid fertilizer, pesticides, or herbicides by a commercial vehicle that is either licensed for highway use or is not required to be licensed under Section 3-809(c) of the Illinois Vehicle Code and is designed or adapted and used for the bulk spreading of agricultural chemicals	Limestone .20 gallon per ton applied Phosphate 1 gallon per ton applied Dry fertilizer 2 gallons per ton applied Liquid mixed fertilizer 1 gallon per ton applied Liquid nitrate fertilizer 1 gallon per ton applied Anhydrous ammonia 2 gallons per acre of application NH₃ liquid/dry fertilizer 1 gallon per acre of application Pesticides/herbicides .13 gallon per acre of application
Commercial vehicles utilizing power take-off equipment (including concrete mixing vehicles and solid waste compacting vehicles)	25% of the fuel consumed
Commercial vehicle with permanently mounted refrigeration	100% of the fuel consumed by the refrigeration units

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~~units that refrigerate cargo and have a dedicated fuel supply system separate from the commercial vehicle's fuel supply tank~~

~~Custom work maintenance by commercial vehicles~~

~~Moldboard plowing 8 gallons per acre
Chisel plowing 6 gallons per acre
Discing 3 gallons per acre
Chopping stalks 3 gallons per acre
Pasture reseeding 3 gallons per acre
Bluegrass sowing 3 gallons per acre
Combining 5 gallons per acre
Bushhogging 5 gallons per acre
Planting 2 gallons per acre
Replanting 2 gallons per acre
Mowing 1 gallon per acre~~

~~Cultivation maintenance by commercial vehicles~~

~~Corn 12 gallons per acre cultivated
Soybeans 10 gallons per acre cultivated
Small grain 3 gallons per acre cultivated
Hay 10 gallons per acre cultivated
Corn silage 20 gallons per acre cultivated~~

~~Livestock maintenance by commercial vehicles~~

~~Swine .3 gallon per animal raised to market
Sheep .45 gallon per animal raised to market
Beef cattle 1.3 gallons per animal raised to market
Dairy cattle 1 gallon per animal raised to market
Poultry .054 gallon per bird raised to market~~

~~A claimant who has a commercial vehicle that is operated for both highway purposes and any purpose other than operating such vehicles upon the public highways that is not included in the above table shall~~

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~~submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. The above amounts are the maximum amounts allowed unless the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of these amounts. Such approved studies shall be valid for 2 years from the date of approval.~~

- ~~(c)~~ For claims based upon taxes paid on or after January 1, 2001, no claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:
- 1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*
 - 2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*
 - 3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*
 - 4) *Undyed diesel fuel used by a commercial motor vehicle for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used. For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (~~(c)~~(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim*

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is described in subsection ~~(c)~~(7).

- 5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*
- 6) *Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units. Claims may be made for 100% of the fuel consumed by the refrigeration units.*
- 7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law. (Section 13 of the Law) Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amounts of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Such approved studies shall be valid for 2 years after the date of approval.*
- 8) *Beginning on August 22, 2005, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under this subsection (c)(8) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this subsection (c)(8) by a claimant in any calendar year may not exceed \$100,000. A claim may not be made under this subsection (c)(8) by the same claimant more often than once each quarter. For purposes of this subsection (c)(8), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks. (Section 13 of the Law)*
- 98) Claims for taxes paid on and after January 1, 2001 are ~~not~~*no longer* authorized for commercial vehicles unless the commercial vehicle falls within the definition of a "commercial motor vehicle" as provided in

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Section 500.100 of this Part and the claim is eligible for refund under subsection (c~~d~~)(4), or the claim is eligible for refund under any of the other provisions of this subsection (c~~d~~).

109) Claims for taxes paid on and after January 1, 2001 are ~~not no longer~~ authorized for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property, unless such vehicles are eligible for refund under any of the provisions of this subsection (c~~d~~).

de) *Effective July 1, 2001, any person who has paid the tax imposed by Section 2 of the Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for nonhighway purposes. (Section 13 of the Law)*

ef) Issuance of Credit Memoranda – Use Thereof to Satisfy Prior Rights of Department. The Department may make such investigation of the correctness of the facts stated in such claims for credit or refund as it deems necessary. When the Department approves a claim for credit or refund the Department shall issue a refund or credit memorandum to the distributor or supplier who made the payment for which the refund or credit is being given or, in the event that such distributors or suppliers shall have died or become incompetent, to such distributor's or supplier's legal representative, as such. The amount of such refund or credit memorandum shall first be credited against any tax due or to become due under the Law from the distributor or supplier who made the payment for which credit has been given. This means that if there is an established or admitted unpaid Motor Fuel Tax liability on the part of the claimant, the amount of the credit or refund will be credited against the tax that is due. If the credit or refund is in an amount less than that of the unpaid liability, the credit or refund shall be applied against such liability. If the amount of the credit or refund exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, the Department will issue a new credit memorandum or refund representing the difference between that of the original credit or refund

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found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum or refund will be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Law. If a proceeding to establish such an unpaid liability is pending, the credit memorandum or refund will be held by the Department until such proceeding is concluded; and if such proceeding results in a determination that Motor Fuel Tax is due from the claimant, the credit memorandum or refund will be applied by the Department, to the extent which may be necessary, in liquidation of such liability, and the balance of the credit memorandum or refund, if any (after cancellation of the credit memorandum or refund applied in liquidation of said liability), will be issued in the form of a new credit memorandum or refund and delivered to the person entitled to receive delivery thereof.

fg) Disposition of Credit Memoranda by Holder Thereof

- 1) Assignment of Credit Memoranda. Credit memoranda may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:
 - A) That the assignment is made to a person who is licensed as a distributor of motor fuel or a supplier of special fuel under the Law;
 - B) that there is no proceeding pending to establish an unpaid Motor Fuel Tax liability against the assignor; and
 - C) that there is no established or admitted unpaid Motor Fuel Tax liability against the assignor; provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an unpaid liability of the claimant-assignor, notice to this effect will be given the claimant-assignor by the Department. If any balance is due such claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, such balance may be assigned upon receipt by the Department of instructions to that effect. If there is no unpaid liability and no proceedings pending to determine a liability as aforesaid, and if the assignee is a licensed distributor of motor fuel, the request for

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leave to assign will be approved. The original credit memorandum will be cancelled, and a new credit memorandum will be issued to the assignee in the amount shown on the cancelled memorandum. However, before a credit memorandum is issued to the assignee, the amount of such credit will be applied, to the extent that may be necessary, in liquidation of any unpaid Motor Fuel Tax liability of the assignee, and a credit memorandum for the balance, if any, will be issued to the assignee, provided that there is no proceeding pending against the assignee to establish an unpaid Motor Fuel Tax liability against him. If a proceeding to establish such an unpaid liability is pending, the credit memorandum will be held by the Department until such proceeding is concluded; and if such proceeding results in a determination that Motor Fuel Tax is due from the assignee, the credit will be applied by the Department, to the extent which may be necessary in liquidation of such liability, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of said liability), will be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

- 2) Submission of Credit Memoranda With Monthly Returns. Credit memoranda, in the hands either of the original claimant or of his assignee, may be submitted to the Department, along with monthly tax returns, in payment of Motor Fuel Tax due from the holder of such credit memoranda. If, after applying any such credit memorandum against the amount of tax shown to be due by the tax return with which the credit memorandum is submitted, the Department finds that there is a balance of the credit memorandum in favor of the distributor or supplier submitting the credit memorandum, the Department will cancel the credit memorandum that has been submitted and will issue and deliver to such distributor or supplier a new credit memorandum for such balance. This process will be followed until the credit, to which such distributor or supplier is entitled, is exhausted. However, any new credit memorandum, which is issued as provided in this paragraph for a balance of credit due the distributor or supplier after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see subsection (e) of this Section) or when leave to assign a credit memorandum is requested (see

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subsection (fg)(1) of this Section).

- gh) Refunds to Distributors and Suppliers. If any distributor or supplier ceases to be licensed as a distributor or supplier while still holding an unused credit memorandum, such distributor or supplier may, at his election (instead of assigning the credit memorandum to another licensed distributor or supplier under the Law), surrender such unused credit memorandum to the Department and receive a refund in lieu thereof.
- hi) *Claims filed under this Section for overpayment of the Motor Fuel Tax imposed by Section 2 of the Law shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act. Claims made under this Section that are based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters shall be paid within 90 days after receipt of a complete and correct application for credit. If credits based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters are issued after expiration of the 90 day period, the Department shall include interest at the rate and in the manner set by the Uniform Penalty and Interest Act [35 ILCS 735]. (Section 13 of the Law) Refunds paid after the expiration of the 90 day period shall bear interest from the date that a properly completed claim for refund was filed with the Department.*

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.280 Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems

A distributor of motor fuel or a supplier of special fuel may make tax-free sales thereof to a municipal corporation owning and operating a local transportation system for public service in the State for use in operating vehicles used for public transportation as part of the local transportation system, provided that the distributor or supplier obtains an official Certificate of Exemption in lieu of the tax. ~~The Such~~ Certificate of Exemption shall accompany the distributor's or supplier's monthly Motor Fuel Tax return to the Department to support his or her claim to exemption from the tax. ~~The Such~~ Certificate of Exemption shall be in substantially the following form:

"This is to certify that _____ (Name of Municipal Corporation)
of _____, Illinois, a municipal corporation which owns
and operates a local transportation system for public service in Illinois, purchased

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_____ gallons of motor fuel, Illinois Motor Fuel Tax exempt, from

 (Name of Distributor Supplier) _____ whose address is
 _____ on Invoice No _____ dated _____,
 and said motor fuel is for use in operating vehicles used for public transportation
 as part of the said-local transportation system.

Name of Municipal Corporation

Name of Authorized Representative

Title of Authorized Representative

Dated: _____, 2019 _____ "

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.285 Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas

- a) A distributor of motor fuel or a supplier of special fuel may make tax-free sales thereof to a privately-owned public utility which owns and operates 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, provided that the distributor or supplier obtains an official Certificate of Exemption in lieu of the tax. Motor fuel may be sold tax-free only for the purpose of operating the 2-axle vehicles as common carriers in general transportation of passengers entirely within the territorial limits of a single municipality, any group of contiguous municipalities, or a close radius of either.
- b) The Such-Certificate of Exemption shall accompany the distributor's or supplier's monthly Motor Fuel Tax return to the Department to support his or her claim to exemption from the tax.

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c) ~~The Such~~ Certificate of Exemption shall be in substantially the following form:

"This is to certify that _____ (Purchasing Bus Company) _____ of _____, Illinois, a privately owned public utility which owns and operates 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, purchased _____ gallons of motor fuel, Illinois Motor Fuel Tax exempt, from _____ (Name of Distributor or Supplier) _____ whose address is _____ on Invoice No _____ dated _____, and said motor fuel is for use in operating such local transportation system under the limitations specified hereinabove.

Name of Purchasing Bus Company

Name of Authorized Representative

Title of Authorized Representative

Dated: _____, ~~2019~~ _____"

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.298 Civil Penalties for Dyed Diesel Fuel Violations

a) Definitions. For purposes of this Section, the following definitions apply:

"Inspection" means the periodic examination by duly authorized agents of the Department of places at which motor fuel is or may be produced or stored. Such places may include, but are not limited to, any terminal, any fuel storage facility that is not a terminal, any retail fuel facility, and any State highway inspection

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station, weigh station, agricultural inspection station, mobile station, or other location designated by the Department to be used as a fuel inspection site. Inspection of multiple locations may be conducted as part of one inspection. When one inspection spans multiple sites, the inspection may occur over a period of up to 15 days.

"Occurrence" means each event that results in a violation. As noted in subsections (c) and (d), an occurrence may encompass a series of similar violations occurring during an inspection (e.g., multiple violations of notice requirements). However, a separate occurrence results each time a violation of subsection (b) ~~or (e)~~ is found. For purposes of the penalty imposed under subsection (e), a first occurrence results for any amount of sales or attempted sales made to a specific customer during the course of a single day. A second and subsequent occurrence results for each day subsequent to the first occurrence in which any amount of sales or attempted sales are made to that same customer.

"Operator" means the person who has physical control over a motor vehicle. For purposes of this Section, the driver of a vehicle is considered the operator of that vehicle irrespective of any ownership or lease agreements. When a motor vehicle is not under the control of a driver, the operator will be the person that has physical control over that vehicle. For instance, if a truck parked on company property is found to have dyed diesel fuel in its tanks, a penalty will be issued to the company. If, however, the company has leased that truck to a lessee and the lease remains in effect at the time an inspection occurs on the company property, the lessee will be the operator to whom a penalty is issued. In the latter case, the lessee is the party having physical control over the leased vehicle, until such time as the lease has terminated.

- b) From January 1, 2000 through June 30, 2001, *if a licensed motor vehicle is found to have dyed diesel fuel within the ordinary fuel tanks attached to the motor vehicle, the operator shall pay a penalty of \$2500 for the first occurrence and \$5000 for the second occurrence and each occurrence thereafter.* On and after July 1, 2001, ~~these penalties will be imposed~~ when a motor vehicle required to be registered for highway purposes is found to have dyed diesel fuel within the ordinary fuel tanks attached to the motor vehicle, the operator shall pay a penalty of \$2500 for the first occurrence and \$5000 for the second occurrence and each occurrence thereafter. ~~On~~In addition, on and after August 2, 2001, *if a recreational-type watercraft is found to have dyed diesel fuel within the ordinary fuel tanks attached to the watercraft, the operator shall pay a penalty of \$2500*

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for the first occurrence and \$5000 for the second occurrence and each occurrence thereafter. (Section 15 of the Law)[35 ILCS 505/15]. The first occurrence penalty imposed by this subsection (b) on and after July 29, 2010 shall be \$1,000. Each licensed motor vehicle or recreational-type watercraft found to have dyed diesel fuel in its tanks constitutes a separate occurrence.

EXAMPLE #1: A truck is inspected at a designated inspection site and dyed diesel fuel is found in the ordinary fuel tank of the truck (owned by the ABC Company). The truck driver tells Department agents that his boss, Mr. ABC, tells employees to fill ABC Company trucks with dyed diesel fuel. The truck driver tells the agents that there are other trucks located at the ABC Company with dyed diesel fuel in the ordinary fuel tanks attached to such trucks. Department agents then go to the ABC Company and conduct an inspection. Agents find 2 vehicles registered to the ABC Company with dyed diesel fuel in the ordinary fuel tanks of the vehicles.

In this example, there are 3 separate occurrences. The truck driver is assessed a ~~\$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck. The driver is the operator who had physical control over the truck when dyed diesel fuel was found in the tanks. The ABC Company is assessed a ~~\$2500~~ first occurrence penalty for the first licensed motor vehicle inspected at the business found with dyed diesel fuel in the ordinary fuel tank attached to the motor vehicle. The company is also assessed a ~~\$5000 second~~~~\$2500 first~~ occurrence penalty for the second licensed motor vehicle inspected at the business found with dyed diesel fuel in the ordinary tank attached to the motor vehicle. The ABC Company is the person who has physical control over the trucks at the time of inspection.

EXAMPLE #2: Truck driver #1 was previously issued a ~~\$2500~~ first occurrence penalty when he was found operating an ABC Company truck with dyed diesel in its tanks. Truck driver #1 returns this truck to the ABC Company. Several months later, agents inspect the ABC Company. The same truck previously driven by truck driver #1 is found to have dyed diesel fuel in its tanks. At a later inspection, truck driver #2 is found to be operating the same truck with dyed diesel in its tanks. In addition, truck driver #1 was found to be operating a truck with dyed diesel in its tanks. Six months after its first inspection, ABC Company acquires 5 new trucks.

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During the course of an inspection, all 5 of the new trucks are found to have dyed diesel in their tanks.

The ABC Company is issued a ~~\$2500~~ first occurrence penalty for the truck discovered during the agent's first inspection at ABC Company. The ABC Company is the person who has physical control over the truck at the time of inspection. ~~Truck driver #2 subsequently is found operating the same truck with diesel in its tanks.~~ Truck driver #2 is issued a ~~\$2500~~ first occurrence penalty. Truck driver #2 is the person who has physical control over the truck at the time of inspection. Truck driver #1 is issued a \$5000 second occurrence penalty because he or she has physical control over the truck at the time of inspection and it is the second time he or she has committed a violation of subsection (b) of this Section. ~~Company ABC acquires 5 new trucks a year later. During the course of an inspection, all 5 of the new trucks are found to have dyed diesel in their tanks.~~ Company ABC is issued a separate \$5000 second occurrence penalty for each of the 5 new trucks because the company has physical control over each of these trucks, and each truck represents a second and subsequent violation of subsection (b) of this Section.

EXAMPLE #3: The owner of XYZ Company is driving a truck that is inspected and found to have dyed diesel fuel in the ordinary fuel tank attached to the truck. Several hours later, a second truck owned by XYZ Company and driven by an employee is inspected. It, too, is found to have dyed diesel fuel in the ordinary tank attached to the truck.

In this example, there are 2 separate occurrences. The owner of Company XYZ driving the truck is assessed a ~~\$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck, and the employee of Company XYZ driving the second truck is assessed a ~~\$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck. The owner and employee are each persons who have physical control over the trucks, and as such, are operators subject to first occurrence penalties.

EXAMPLE #4: Robert Andrew takes his family water skiing on Fox Lake. The boat is stopped for a routine inspection and dyed diesel fuel is found in the boat's fuel tanks.

Mr. Andrew is assessed a ~~\$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the watercraft. Mr. Andrew's ski boat

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is a recreational-type watercraft required to use clear diesel fuel. Dyed diesel fuel may be placed in the tanks of commercial watercraft, however, without penalty. For example, tugboats or commercial fishing boats found to have dyed diesel fuel in their tanks will not be subject to the penalty imposed in this subsection (b).

- c) *Any person who owns, operates, or controls any container, storage tank, or facility used to store or distribute dyed diesel fuel without the notice required by Section 4f of the Motor Fuel Tax Law shall pay a penalty of \$500 for the first occurrence and \$1000 for the second occurrence and each occurrence thereafter.* [35 ILCS 505/15] Section 4f requires that a legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only" appear on all containers, storage tanks, or facilities used to store or distribute dyed diesel fuel. For purposes of this penalty, a series of similar violations occurring during the course of one inspection constitutes a single occurrence.

EXAMPLE #1: A licensed motor fuel distributor has 5 bulk storage tanks of dyed diesel fuel. During an inspection, agents find that none of the 5 tanks are marked with the required dyed diesel fuel notice.

In this example, the distributor is assessed a first occurrence penalty of \$500 for all 5 storage tanks found without the required notice. This series of similar violations results in one first occurrence penalty.

EXAMPLE #2: In the course of an inspection of a licensed motor fuel distributor with multiple locations, a motor fuel distributor is found to have 5 unmarked tanks at the first location, 3 unmarked tanks at the second location, and one unmarked tank at the third location. For purposes of this penalty, the violations found at the first, second and third location are considered a single occurrence spanning multiple locations during one inspection. However, if a subsequent inspection revealed that his storage tanks did not contain the required notice, the distributor would be assessed a second occurrence penalty of \$1000. These violations would be considered to have occurred during a separate inspection.

- d) *Any person who sells or transports dyed diesel fuel without the notice required by Section 4e shall pay a penalty of \$500 for the first occurrence and \$1000 for the second occurrence and each occurrence thereafter. (Section 15 of the Law) [35 ILCS 505/15] A legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only, Penalty for Taxable Use" must appear on all bills of lading and*

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invoices accompanying any sale of dyed diesel fuel. (Section 4e of the Law) [35 ILCS 505/4e]

EXAMPLE #1: A licensed motor fuel distributor is inspected at one of its 3 locations. Three dyed diesel fuel sales invoices are found without the required dyed diesel fuel notice. During the course of a week-long inspection, agents examine invoices at the other 2 bulk plants of this distributor. At the second location, no violations are found, and at the third location, none of the diesel fuel sales invoices contain the required dyed diesel fuel notice.

In the above example, the licensed motor fuel distributor is assessed a first occurrence penalty of \$500 for all invoices found at the first and third locations without the required notice. The unmarked invoices found at these locations constitute a single occurrence spanning multiple locations during one inspection. However, if a subsequent inspection revealed that his invoices did not contain the required notice, the licensed motor fuel distributor would be assessed a second occurrence penalty of \$1000.

- e) *Any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for highway use shall pay a penalty of \$5000 for the first occurrence and a \$10,000 penalty for the second occurrence and each occurrence thereafter. In addition, on and after August 2, 2001, any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for use by recreational-type watercraft on the waters of this State shall pay a penalty of \$5000 for the first occurrence and a \$10,000 penalty for the second occurrence and each occurrence thereafter. The penalties imposed under this subsection (e) on and after July 29, 2010 shall be \$1000 for the first occurrence and \$5000 for the second occurrence and each occurrence thereafter. (Section 15 of the Law) [35 ILCS 505/15]. Each separate sale or attempted sale made by a licensed motor fuel distributor or licensed supplier that is discovered as part of an investigation constitutes a separate first occurrence. Each sale or attempted sale made after the issuance of a citation for a violation of this subsection (e) constitutes a separate second or subsequent occurrence subject to a \$10,000 penalty.*
- f) *Any person subject to the penalties described in this Section may protest the penalty by making a written request for a hearing within 60 days after notice of the penalty from the Department. If the hearing is not requested in writing within*

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60 days, the penalty assessment becomes final. (Section 15 of the Law) [~~35 ILCS 505/15~~]

- g) The penalties imposed by subsections (b) and (e) of this Section will be imposed only when the special fuel contains the dye Solvent Red 164 in quantities greater than .1 part per million.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART C: MOTOR FUEL USE TAX

Section 500.300 Licensure – Temporary Waiver upon Determination of Disaster

- a) Except as provided in Section 500.320 or as otherwise provided in subsection (f) of this Section, no motor carrier shall operate commercial motor vehicles, as defined in Section 500.100, in Illinois without first securing a motor fuel use tax license and decals issued by the Department under the IFTA program or by any member jurisdiction.
- b) Illinois IFTA credentials may be obtained from the Department by Illinois based carriers who operate one or more commercial motor vehicles in at least one other IFTA-member jurisdiction. Illinois based carriers are those carriers whose operational control and records for their vehicles are maintained or can be made available in Illinois and whose commercial motor vehicles accrue miles in Illinois. Carriers who are based in a non-IFTA jurisdictionstate will not be issued IFTA credentials by the Department, unless issuance is granted for fleet consolidation purposes. An Illinois carrier registered under the IFTA must consolidate all vehicles in its fleet. Fleet consolidation must include commercial motor vehicles based in other IFTA jurisdictions and non-IFTA jurisdictions and may include motor vehicles which travel exclusively intrastate, regardless of jurisdiction.
- c) Motor carriers operating commercial motor vehicles that are based in a jurisdictionstate that has not joined IFTA, and who wish to operate in Illinois, ~~may apply for an Illinois IFTA license and decals. If such carriers do not wish to obtain these credentials, they~~ must obtain single trip permits before operating in Illinois.
- d) Motor vehicles operated by the State of Illinois or the United States government, recreational vehicles and school buses (with school bus license plates) are not

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required to register as provided in subsection (a). However, if these carriers will travel in other jurisdictions, they may wish to obtain a motor fuel use tax license and decals under the provisions of the International Fuel Tax Agreement. This will allow the carrier, when in an IFTA jurisdiction that does not consider it exempt, to avoid receiving citations or being required to obtain the proper credentials (e.g., single trip permits). If the carrier is travelling in a non-IFTA jurisdiction and is not considered to be exempt from fuel tax reporting requirements, it must purchase single trip permits or otherwise obtain the proper motor fuel use tax credentials required by the laws of that particular jurisdiction.

- e) In order to establish and maintain the concept of one license and administrative base jurisdiction for each licensee, the Department shall issue only one license to each person.

f) *The Director of the Department of Revenue, or his or her designee, may, upon determining that a disaster exists in Illinois or in any other state, temporarily waive the licensing requirements of this Section for commercial motor vehicles that travel through Illinois for the purpose of assisting in disaster relief efforts. Temporary waiver of the licensing requirements imposed in this Section shall not exceed a period of 30 days from the date the Director temporarily waives the licensing requirements of this Section. For purposes of this Section, a disaster includes flood, tornado, hurricane, fire, earthquake, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to endanger the public health, safety and welfare. The licensing requirements of this Section shall be temporarily waived only if the operator of the commercial motor vehicle can provide proof by manifest that the commercial motor vehicle is traveling through Illinois or returning to Illinois from a point outside Illinois for purposes of assisting in disaster relief efforts. (Section 13a.4 of the Law)*

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.305 Licenses and Decals

- a) Applications for motor fuel use tax licenses and decals shall be made under oath and on forms provided by the Department. On and after October 1, 2012, all applications shall be filed electronically. Information provided to the Department shall include:

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- 1) a carrier's Federal Employer Identification Number (in the case of a sole proprietorship, the Social Security number of the owner), and the United States Department of Transportation (USDOT) numbers issued to the applicant;
- 2) owner, partnership or corporate name;
- 3) name, title and social security number of all officers, partners or owners;
- 4) legal business name (if different from subsection (a)(2));
- 5) physical location of the business;
- 6) mailing address of the business;
- 7) signature of the applicant. All applications must be signed by an officer, partner, or owner of the entity seeking licensure, ~~or an employee~~ who has the control, supervision or responsibility of filing returns and making payment of the tax. Applications filed electronically must contain electronic signatures and meet all requirements and procedures outlined in the Department's regulation governing electronic signatures (see 86 Ill. Adm. Code 760.230); Reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney are permitted to sign an application on behalf of any applicant provided that a properly executed power of attorney accompanies each application;
- 8) type of ~~fuel~~ fuel(s) used by applicant;
- 9) number of decals required by the licensee;
- 10) decal fee. On and after October 1, 2012, decal fees must be paid electronically by ACH debit in accordance with regulations at 86 Ill. Adm. Code 750 (for claims for reimbursement of overpayment of decal fees, see Section 500.235);
- 11) for IFTA applicants, a statement of the existence of bulk storage facilities in anyall member jurisdictions;
- 12) a statement that the applicant agrees to comply with reporting, payment,

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recordkeeping, and license display requirements, and all applicable regulations. IFTA applicants must agree that the base jurisdiction may withhold any refunds due if the applicant is delinquent on payment of motor fuel use taxes due any member jurisdiction or taxes owed to the Department; and

- 13) Such other information as the Department deems necessary.
- b) Bonds are not required for first-time applicants. However, bond may be required for just cause, as determined by the Department. Bonds may be required when a licensee fails to file timely reports, when he fails to remit the proper tax, when the Department has twice received a Non-Sufficient Funds check as payment, or when an audit indicates problems severe enough that, in the Director's discretion, a bond is required to protect the interests of the Department. If a bond is required, it shall be equal to at least twice the estimated average quarterly tax liability. The average tax liability upon which the bond is based shall be determined by taking into consideration the amount of motor fuel expected to be used in all jurisdictions by such applicant. *The penalty fixed by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount hereinafter provided on motor fuel used (Section 13a.4 of the Law).*
- c) *Neither a license or decals shall be issued to any person who fails to file a return, or to pay the tax, penalty or interest for a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Law, or as required by any other tax Act administered by the Department [20 ILCS 2505/39b47].*
- d) Persons required to file bonds with the Department must make payments by certified check.
- e) Upon receipt of a complete application for a license and decals, including payment for decals, any required reinstatement fees and provision of an approved bond, if applicable, the Department will issue each applicant one license. In addition to the license, a minimum of two decals per commercial motor vehicle will also be issued. A license and decals will only be sent to the licensee. A license and decals are valid for a period of one calendar year.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.310 Display of License and Decals

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- a) Motor fuel use tax licenses, or copies thereof, shall be carried in the cab of each commercial motor vehicle operating in Illinois. Failure to carry a copy of the license in the commercial motor vehicle may subject the operator to the purchase of a single trip permit and/or a citation.
- b) The Department will not issue multiple licenses to an applicant. If the applicant requires multiple licenses, he may make legible copies of his license and carry them in his vehicles.
- c) One decal must be placed on the exterior portion of each side of the cab of the commercial motor vehicle. In the case of transporters, manufacturers, dealers, or driveaway operations, the decals need not be permanently affixed, but may be temporarily displayed in a visible manner on both sides of the cab. Failure to display decals in the required manner may subject the vehicle operator to the purchase of a single trip permit and/or a citation.
- d) Decals are not vehicle specific. Licensees may purchase additional decals at a cost of \$3.75 per set throughout the license year. If decals are destroyed, lost or stolen, replacements may be obtained from the Department at a cost of \$2 per set.
Licensees shall provide the Department with the serial number of the decals being replaced under this subsection (d).~~Additional decals must be ordered on forms provided by the Department.~~
- e) Decals are valid only for the vehicle of the person to whom they are issued. The transfer of decals between commercial motor vehicles or from one motor carrier to another is prohibited.
- f) All IFTA carriers shall be allowed a two-month grace period to display the current year IFTA license and decals. They may display a decal and license from the previous year issued by any member jurisdiction until March 1. Carriers from new member jurisdictions shall be allowed a two-month grace period from the date of the new member's IFTA program implementation to display the IFTA license and decals. However, to operate in Illinois, these carriers must either display a decal and license issued by Illinois for the previous year, a single trip permit, or the current year IFTA license issued by their base state.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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Section 500.315 Renewal of Decals and Licenses

- a) Motor fuel use tax licenses and decals must be renewed annually on forms provided by the Department. On and after October 1, 2012, all licenses and decals must be renewed electronically. The Department shall mail renewal applications to all currently registered licensees in good standing. Failure to receive a license renewal application does not excuse a licensee's failure to renew his credentials.
- b) The Department may deny a renewal application if the applicant's decal or license applicant is currently revoked or the applicant has failed to file a return or, pay any outstanding motor fuel use tax liabilities or other liabilities owed to the Department, or has failed to comply with a request for bond or is currently revoked.
- c) The Department shall provide renewal reminders as a courtesy to all currently registered licensees in good standing. The Department may provide this notice by posting a general renewal reminder on its internet website or by other electronic notification methods.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.320 Single Trip Permits

- a) If a commercial motor vehicle does not have motor fuel use tax credentials under IFTA, a single trip permit to operate in Illinois must be obtained. A single trip permit may be obtained upon proper application from the Department or its agents.
- b) A single trip permit authorizes operation of a commercial motor vehicle for a single trip into the State of Illinois, through the State of Illinois, or from a point on the border of this State to a point within and return to the border.
- c) The fee for each single trip permit shall be \$4020 and the such-single trip permit is valid for a period of 96 seventy-two hours. This fee is in lieu of the tax and all reports required by Section 13a.3 of the Law, as well as the registration, decal display and furnishing of bond required by Section 13a.4 of the Law. On and after January 1, 2013, prepurchased single trip permits shall be applied for and the permit fees shall be paid electronically by ACH debit in accordance with 86 Ill. Adm. Code 750.

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- d) *The Director of the Department of Revenue, or his or her designee, may, upon determining that a disaster exists in Illinois or in any other state, temporarily waive the licensing requirements of this Section for commercial motor vehicles that travel through Illinois for the purpose of assisting in disaster relief efforts. Temporary waiver of the licensing requirements imposed in this Section shall not exceed a period of 30 days from the date the Director temporarily waives the licensing requirements of this Section. For purposes of this Section, a disaster includes flood, tornado, hurricane, fire, earthquake, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to endanger the public health, safety and welfare. The licensing requirements of this Section shall be temporarily waived only if the operator of the commercial motor vehicle can provide proof by manifest that the commercial motor vehicle is traveling through Illinois or returning to Illinois from a point outside Illinois for purposes of assisting in disaster relief efforts. (Section 13a.4 of the Law)*

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.325 Licensure of Lessors and Lessees

- a) A lessor regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to licensees or other lessees may be deemed to be the licensee, and such lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction.
- b) In the case of a carrier using independent contractors under long-term leases (more than 30 days), the lessor and lessee will be given the option of designating which party will report and pay fuel use tax. In the absence of a written agreement or contract, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax. If the lessee (carrier), through a written agreement or contract, assumes responsibility for reporting and paying fuel use taxes, the base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor.
- c) For motor vehicle leases of 30 days or less, the lessor of the motor vehicles under lease will be liable for all requirements of the motor fuel use tax program.

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- d) In the case of a household goods carrier using independent contractors, agents, or service representatives, under intermittent leases, the party liable for motor fuel tax shall be:
- 1) The lessee (carrier) when the commercial motor vehicle is being operated under the lessee's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessee (carrier), regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor or lessee.
 - 2) The lessor (independent contractor, agent, or service representative) when the qualified motor vehicle is being operated under the lessor's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessor, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes.
- e) For licensees registered under the IFTA, leases shall be made available upon request of the Department or request of any member jurisdiction.
- f) Any agreement between lessors and lessees does not prevent the Department from fulfilling its obligation to collect any tax due by proceeding against either party.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.330 Cancellation of License

- a) The Department may, at the request of a~~A~~ licensee or on its own initiative, cancel a license if the licensee has complied with all applicable provisions of the IFTA agreement, including the satisfaction of ~~may request that its license be cancelled.~~ A license will only be cancelled if all reporting requirements and tax liabilities have been met and the account is clear of any unapplied payments or credits. A licensee shall make a request for cancellation by making a notation on its electronic return and indicating its final date of operations~~must request cancellation either by checking the cancellation box on the quarterly tax return and noting the date of the end of operations, or by submitting a written request for cancellation to the Department.~~

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- b) Upon cancellation, the carrier must destroy its original license and all copies, and decals.
- c) A final audit may be conducted by the Department, or ~~for IFTA licensees,~~ by any IFTA jurisdiction, upon cancellation of the license. When a license is cancelled, ~~a~~ carrier ~~cancelling a license~~ must retain all records for a period of four years from the due date of the final quarterly tax return.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.335 Quarterly Payment and Reporting

- a) Every person holding a valid unrevoked motor fuel use tax license issued by the Department under the provisions of the IFTA shall file a quarterly motor fuel use tax return, along with full payment of taxes, with the Department. Returns are due, even if no operations were conducted during the reporting period. The due date for the return and full payment of taxes is the last day of the month immediately following the close of the quarter for which the return is being filed. Returns and full payment of taxes are due on or before the following dates:

Reporting Quarter	Due Date
January - March	April 30
April - June	July 31
July - September	October 31
October - December	January 31

If the due date is a Saturday, Sunday, or legal holiday, the next business day is considered the due date. Each motor fuel use tax return should be mailed in a separate envelope. On and after January 1, 2013, returns and payment of tax, including amended returns, must be made electronically. Electronic returns shall be made in accordance with 86 Ill. Adm. Code 760. Electronic payments shall be made by ACH debit in accordance with 86 Ill. Adm. Code 750.

- b) The taxable event is the consumption of motor fuel, as defined in Section 500.100 of this Part, used to operate commercial motor vehicles. For tax payment and reporting purposes, all motor fuels placed in supply tanks of commercial motor vehicles, and all miles travelled, are taxable. Carriers must utilize the procedures

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in Section 500.235 for refunds for off-road or non-highway use.

- c) For IFTA licensees: The IFTA provides that member jurisdictions may determine what type of motor fuels and miles travelled are exempt from tax, and are therefore not reportable. Carriers should contact member jurisdictions to determine what types of fuel and miles travelled are exempt from taxation. For IFTA carriers, claims for refunds for fuel used for any purpose other than propelling a commercial motor vehicle upon public highways must be made directly to the respective jurisdiction.
- d) The quarterly return shall include a statement of the total number of miles travelled, as well as total miles travelled in each jurisdiction and in Illinois during the previous calendar quarter; the total number of gallons and type of reportable motor fuel consumed on the highways of all jurisdictions, as well as in each jurisdiction and in Illinois, and the total number of gallons and types of tax paid fuel purchased within each jurisdiction during the previous calendar quarter; and the total (net) of tax due the base jurisdiction on behalf of all jurisdictions. Licensees shall report all required information, and may not include miles operated and gallons of fuel purchased that were unavailable during any prior quarters. If a licensee does not include all required information, and that information is subsequently available, he must file an amended return, which will include penalty and interest.
- e) Fuel and distance must be reported in gallons and miles. The conversion rates are:
- | | | |
|---------------|---|-------------------|
| One liter | = | 0.2642 gallons |
| One gallon | = | 3.785 liters |
| One mile | = | 1.6093 kilometers |
| One kilometer | = | 0.62137 mile |
- f) For carriers registered under the IFTA which consume compressed natural gas and other fuels that cannot be measured in gallons, the fuels must be converted to gallons using the conversion factor used by the jurisdiction in which the fuel was consumed. The conversion rate for compressed natural gas is 14.7 pounds per square inch for 1 gallon or 1.24 therms of compressed natural gas for 1 gallon.
- g) In order for a licensee to obtain credit for tax-paid retail purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained by the licensee showing evidence of such purchases and tax

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having been paid by the licensee directly to the applicable jurisdiction or at the pump. The receipt must contain the following information:

- 1) date of purchase;
 - 2) seller's name and address;
 - 3) number of gallons purchased;
 - 4) fuel type;
 - 5) price per gallon or total amount of sale;
 - 6) unit numbers; and
 - 7) purchaser's name (in the case of a lessee/lessor agreement, receipts will be accepted in either name, provided a legal connection can be made to reporting party).
- h) In the case of withdrawals from licensee-owned, tax-paid bulk storage, credit may be obtained only if the following records are maintained:
- 1) date of withdrawal;
 - 2) number of gallons;
 - 3) fuel type;
 - 4) unit number (upon application by a licensee, the Department may waive the requirement of unit numbers for fuel withdrawn from the licensee's own bulk storage and placed in its commercial motor vehicles. The licensee must show that adequate records are maintained to distinguish fuel placed in commercial vs. non-commercial motor vehicles for all member jurisdictions); and
 - 5) purchase and inventory records to substantiate that tax was paid on all bulk purchases.
- i) Carriers registered under the IFTA must pay all taxes due to all member

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jurisdictions with one check, to be made payable to the Department. Payment by certified check is required of licensees who are required to post a bond. On and after January 1, 2013, payment shall be made electronically by ACH debit in accordance with 86 Ill. Adm. Code 750.

- j) Through December 31, 2012, returns~~Returns~~ shall be filed on forms provided by the Department. However, with written approval from the Department, a licensee may submit a computer-generated tax return instead of the Department-supplied return. Computer-generated tax returns will be approved only if they contain all the same information, are in the same format and are on the same size paper, as the Department's return. On and after January 1, 2013, returns shall be filed electronically in accordance with 86 Ill. Adm. Code 760.
- k) If a licensee uses a reporting service for his motor fuel use taxes, the licensee must maintain a power of attorney in its books and records~~a power of attorney must be placed on file annually at the time of renewal.~~ Use of a~~Filing a~~ power of attorney does not relieve the licensee of the legal obligations associated with the license. The licensee is responsible for the payment of taxes as well as all acts and omissions of the reporting service. ~~If a power of attorney is on file, the Illinois Department of Revenue will mail the quarterly tax return to the reporting service.~~ Decal and renewal applications, ~~however,~~ will always be mailed directly to the licensee.
- l) Reports not filed or full payment of taxes not made by the due date shall be considered late and any taxes due considered delinquent. The licensee shall be assessed a penalty of \$50 or 10 percent of the delinquent taxes, whichever is greater, for failure to file a report, for filing a late report, or for underpayment of taxes due. Tax shall bear interest at the rate of 1 percent per month or fraction of month until paid. For reasonable cause shown, the Department may waive a penalty. For IFTA licensees, the Department may waive interest for another jurisdiction only with that jurisdiction's approval.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 500.355 IFTA Protest Procedures

- a) An IFTA~~A~~ licensee or applicant may protest license denials or revocations, or any action of the Department for which a notice of tax liability, notice of tentative denial of claim, or penalty assessment under Section 13a.6 of the Law has been

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~~issued. Department actions may be protested an action or audit finding made by the Department by~~ submitting a written request for a hearing within 30 days after notification of the license denial or revocation, or notification of tax liability, denial of claim or penalty assessment notice of the original action or finding. If the hearing is not requested within 30 days, the Department's action becomes final. Notices of additional tax due as provided in Section 4 of the Retailers' Occupation Tax Act [35 ILCS 120], or admitted liabilities, are not protestable. Abatement of penalties based upon reasonable cause shall be governed by Section 3-8 of the Uniform Penalty and Interest Act [35 ILCS 735/3-8].

- b) In the case of an audit, if the licensee is in disagreement with the original audit finding of the Department, it may request any or every jurisdiction to audit the licensee's records. Each jurisdiction to which a request is made may elect to accept or deny the request. Each jurisdiction electing to audit the licensee's records will audit only for its own portion of the licensee's operations. The licensee shall make records available at the office of the jurisdiction or at a place designated by the jurisdiction or pay reasonable per diem and travel expenses associated with conducting an audit at the licensee's place of business.
- c) Hearings that have been timely requested will be scheduled by the Department. The Department will provide written notice of the date, time, and place of the hearing at least 20 days prior to the hearing date.
- d) Hearings shall be conducted in accordance with the provisions of the Illinois Administrative Procedure Act [5 ILCS 100] and regulations promulgated thereunder found at 86 Ill. Adm. Code 200.101 through 200.225.
- e) The Department shall notify the licensee of the findings of fact and ruling on the hearing. If, within 35 days from the date the licensee receives notice of such decision, proceedings for review thereof are not instituted in the manner provided by the Administrative Review Law [735 ILCS 5/Art. III], the decision shall become final.
- f) For IFTA licensees only, the Department shall participate in the hearing on behalf of all member jurisdictions.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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Section 500.400 General Information

- a) Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the Department of Revenue, which document or payment is transmitted through the United States mail, will be deemed to have been filed with and received by the Department on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. If mailed but not received by the Department, or if received, but the cancellation mark is illegible, erroneous or omitted, the document or payment will be deemed to have been filed on the date it was mailed if the sender establishes by competent evidence that the document or payment was deposited, properly addressed, in the United States mail on or before the date on which it was required or authorized to be filed or was due. In the event of the Department's failure to receive a document or payment required or authorized by law to be filed, such document or payment will be deemed to have been received by the Department on time if the sender files with the Department a duplicate within 30 days after written notification is given to the sender by the Department of its failure to receive such document or payment, provided proof is furnished that the original of the document was deposited in the United States mail on or before the date due for filing.
- b) If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be deemed to be the postmarked date.
- c) Reports, claims, tax returns, statements, remittances, applications or other documents delivered by non-electronic means other than the United States mail (e.g., paid courier or other delivery services) are considered to be filed on the date they are received by the Department.
- d) The timeliness of reports, claims, tax returns, statements, remittances, applications or other documents required to be filed or paid by electronic means shall be determined in accordance with 86 Ill. Adm. Code 760.240.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses that remit the Environmental Impact Fee
 - B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping
 - C) Types of professional skills necessary for compliance: General bookkeeping
- 14) Regulatory Agenda on which this rulemaking was summarized: The Environmental Impact Fee and the Leaking Underground Storage Tank Tax are both administered through the Motor Fuel program. The extension of the sunset dates for these taxes was generally referenced as "changes to reflect statutory updates" under the Motor Fuel section of the July 2011 Regulatory Agenda.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 501
ENVIRONMENTAL IMPACT FEE

Section

501.100	Definitions
501.200	Basis and Rate of the Environmental Impact Fee Law
501.300	Motor Fuel Tax Regulations Applied

AUTHORITY: Implementing the Environmental Impact Fee Law [415 ILCS 125] and authorized by Section 39b19 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b19].

SOURCE: Adopted at 22 Ill. Reg. 2230, effective January 9, 1998; amended at 26 Ill. Reg. 9939, effective June 24, 2002; amended at 36 Ill. Reg. _____, effective _____.

Section 501.200 Basis and Rate of the Environmental Impact Fee Law

- a) *Beginning January 1, 1996 and before January 1, ~~2025~~2013, all receivers of fuel are subject to an environmental impact fee of \$60 per 7,500 gallons of fuel, or an equivalent amount per fraction thereof, that is sold or used in Illinois. The fee shall be paid by the receiver in this State who first sells or uses the fuel. (Section 310 of the Law)*
- b) *A receiver of fuels is subject to the fee without regard to whether the fuel is intended to be used for operation of motor vehicles on the public highways and waters. However, no fee shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 170,000 operations per year, located in a city of more than 1,000,000 inhabitants, for sale to or use by holders of certificates of public convenience and necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no fee may be imposed upon the importation or receipt of diesel fuel sold to or used by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no fee may be imposed when the sale is made*

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with delivery to a purchaser outside this State or when the sale is made to a person holding a valid license as a receiver. In addition, no fee shall be imposed upon diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale. (Section 310 of the Law)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois State Library, Government Documents Section
- 2) Code Citation: 23 Ill. Adm. Code 3020
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3020.100	Amend
3020.110	Amend
3020.120	Amend
3020.200	Amend
3020.210	Amend
3020.220	Amend
3020.230	Repeal
3020.240	Amend
- 4) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act [15 ILCS 320/2 and 21]
- 5) A Complete Description of the Subjects and Issues Involved: The amendments in this rulemaking reflect the Illinois State Library's initiative to transition the state government depository program to an electronic-based system. A limited amount of hardcopy versions for publications created by state agencies will have to be submitted to the Illinois State Library for distribution to depository libraries.
- 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 any 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: This rulemaking has no effect on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed amendment:

SECRETARY OF STATE

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profits corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which these amendments were summarized: July 2011

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3020

ILLINOIS STATE LIBRARY, GOVERNMENT DOCUMENTS SECTION

SUBPART A: DEPOSIT OF PUBLICATIONS

Section

3020.100	Definitions
3020.110	State Agency Publications
3020.120	State University Publications and Presses
3020.130	Delivery Cost and Responsibility
3020.140	Excess Copies (Repealed)
3020.150	Administrator of State Agency
3020.160	Lists of Published Materials

SUBPART B: DEPOSITORY LIBRARIES

Section

3020.200	Designation of Depositories
3020.210	Retention and Disposal of Publications
3020.220	Citizen Access to Publications
3020.230	Inspection of Depositories (Repealed)
3020.240	Termination of Depository Status

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

SOURCE: Filed effective December 21, 1967; rules repealed, new rules adopted and codified at 8 Ill. Reg. 319, effective December 27, 1983; amended at 10 Ill. Reg. 4555, effective July 1, 1986; amended at 27 Ill. Reg. 219, effective January 1, 2003; amended at 33 Ill. Reg. 4169, effective February 27, 2009; amended at 34 Ill. Reg. 19115, effective November 22, 2010; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: DEPOSIT OF PUBLICATIONS

Section 3020.100 Definitions

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The following definitions apply to this Part:

"Access" means the allowance or liberty to make use of publications deposited in a depository or exchange library.

"Core list" means State agency publications that the Government Documents Section has designated as required in a tangible format.

"Depositories" means those libraries and/or resource centers that have Illinois publications deposited in their collections for citizen availability by agreement with the Secretary of State.

"Electronic depository" means the depository that provides permanent public access to publications of the State of Illinois in an electronic format.

"Ephemeral material" means any material that is of a short duration, for example, an announcement of a conference or seminar, applications and forms.

~~"Exchange libraries" means those libraries with which the Secretary of State has an agreement whereby each library exchanges publications.~~

~~"ILLINET" means the Illinois Library and Information Network.~~

"Metadata" means structured information that describes content, origin, format and other key characteristics of data for the purpose of information management.

"Metadata generator" means the Web-based resource used by State agencies to submit URLs, metadata and electronic versions of published materials to the Illinois State Library.

"Microforms" means any medium bearing microimages, such as microfiche or microfilm.

"Publications" means all formats of media, including microforms, recordings, and other printed material paid for in whole or in part by funds appropriated by the General Assembly or issued at the request of a State agency, excepting however, correspondence, interoffice memoranda, and confidential publications. Publications to be deposited with the Illinois State Library and the electronic

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depository include, but are not limited to, the following:

- Annual Reports
- Bulletins/Circulars
- Handbooks/Manuals
- Laws/Rules/Decisions
- Maps/Charts
- Newsletters
- Pamphlets/Brochures/Fact Sheets
- Press Releases Issued by Constitutional Officers
- Technical/Research/Statistical Reports

"Published material" means publications in print and electronic formats duplicated by any means of duplication, including material downloaded from a publicly accessible electronic network.

"Recordings" means anything, other than printing on paper, on which sound or visual images have been recorded, including cassettes, records, slides, films or electronic storage media.

"Secure transfer protocol" means the method for transfer of the deposited electronic files shall be as resistant as possible to corruption or outside interference to maintain the integrity of the file content.

"State agencies " means every State office, officer, department, division, section, unit, service, bureau, board, commission, committee, and subdivision thereof of all branches of the State government and which agencies expend appropriations of State funds, regardless of the amount. This includes state universities.

"Superseded material" means any publication cumulated in later issues, issued in later revised editions, or separates, replaced by final bound volumes.

"URL" or "Uniform Resource Locator" means the address for a resource or site (usually a directory or file) on the World Wide Web and the convention that Web browsers use for locating files and other remote services.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 3020.110 State Agency Publications

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- a) Within one week after an agency receives copies of publications it intends to issue, the agency shall send 235 copies of all publications, priced and non-priced, to the Government Documents Section, Illinois State Library. The agency shall send 26 copies of publications on the core list. TheAlong with the publications, ~~the~~ issuing agency shall include information containing the address of the agency and, if applicable, the price of each item so that it may appear on the list of State of Illinois publications issued by the State Library.
- 1) In addition to the 35 copies submitted to the Illinois State Library, the agency shall submit to the Illinois State Library an electronic copy of the publication via the Illinois State Library's metadata generator using a secure transfer protocol.
 - 2) Submissions in the metadata generator will be deposited in the electronic depository.
 - ~~3) When a State agency has very few copies of a publication printed, the Illinois State Library may accept three copies of a publication in print instead of the 35 copies if an electronic version has been deposited.~~
 - 34) Electronic deposit is required for copyrighted and priced publications. Internet availability of copyrighted and priced publications will be determined by the depositing State agency.
- b) The issuing agency shall notify the Illinois State Library of allan electronic-only publicationspublication by submitting the publication and metadata describing the publication to the electronic depository via the Illinois State Library's metadata generator.
- c) One electronic copy shall be provided to the Illinois State Library of all published materials as defined in this Part in a format acceptable to the Illinois State Library, including, but not limited to, the following:
- 1) Microsoft Office ~~file~~
 - 2) Plain text file
 - 3) Adobe Acrobat

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- 4) Video (mpeg) or sound (wav)
 - 5) Image files (JPEG, TIFF)
 - 6) Formats in compliance with the Illinois Information Technology Accessibility Act Standards ([see http://www.dhs.state.il.us/IITAA/IITAAStandards.html](http://www.dhs.state.il.us/IITAA/IITAAStandards.html))
- d) In formats where applicable (such as HTML), electronic-only publications shall include metadata embedded in the file posted on a publicly accessible network as submitted to the electronic depository via the Illinois State Library's metadata generator.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 3020.120 State University Publications and Presses

- a) Within one week after a State university receives publications it intends to issue, the university shall deposit ~~two~~three copies of all priced and non-priced university publications, and two copies of all publications published by the university presses, with the Government Documents Section. The address of the issuing State university and the price of the publications shall accompany the materials.
 - 1) In addition to ~~two~~three copies of university publications or two copies of university press publications submitted to the Illinois State Library, the State university shall submit to the Illinois State Library an electronic copy of the publication via the Illinois State Library's metadata generator using a secure transfer protocol.
 - 2) Submissions in the metadata generator will be deposited in the electronic depository.
 - 3) Electronic deposit is required for copyrighted and priced publications. Internet availability of the publication will be determined by the depositing State university.
- b) The issuing agency shall notify the Illinois State Library of an electronic-only publication by submitting the publication and metadata describing the publication

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to the electronic depository via the Illinois State Library's metadata generator.

- c) One electronic copy shall be provided to the Illinois State Library of all published materials as defined in this Part in a format acceptable to the Illinois State Library as indicated in Section 3020.110(c) of this Part.
- d) In formats where applicable, electronic-only publications shall include metadata embedded in the file posted on a publicly accessible network as submitted via the Illinois State Library's metadata generator.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART B: DEPOSITORY LIBRARIES

Section 3020.200 Designation of Depositories

- a) All libraries serving as depositories ~~or exchange libraries~~ as of December 31, 2011~~December 27, 1983~~ shall continue in that status, unless that status is terminated according to the provisions of Section 3020.240. ~~The Director of the Illinois State Library shall designate which institutions shall replace depositories or exchange libraries for Illinois publications.~~
- b) Designation of depositories shall be based on the institution's ability to provide access to the material to the public, the institution's interest in the publications of the State of Illinois, and the institution's geographic location. ~~The Director shall give priority to libraries in the same library system as the terminating depository. If no qualified library in the same geographic area, as established by the library system, desires depository status, the priority will be given to a qualified library in the same geographical area as the terminating depository.~~
- e) ~~Priority for the replacement of an exchange library shall be given to a state library, based on that state's similarity to Illinois in terms of industry and demographic factors, and the library's interest in Illinois publications. If no qualified state library desires exchange status, the priority will be given to an institution expressing an interest in Illinois publications.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 3020.210 Retention and Disposal of Publications

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- a) The Illinois State Library shall keep all depository materials indefinitely, except for ephemeral materials. The Illinois State Library shall retain one copy of superseded material. The Illinois State Library shall retain ownership of Illinois publications deposited in its depository and exchange libraries.
- b) Each depository must keep all publications for five years except ~~for ephemeral and~~ superseded materials ~~received for five years~~. At the end of that time, a depository may send a list of unneeded publications ~~onto~~ the Government Documents ~~List Manager, Illinois State Library, Gwendolyn Brooks Building, 300 South Second, Springfield IL 62701-1796, who will circulate the list~~ to other depository libraries for their selection. If other libraries request any publications on the list, the discarding library will forward the publications to them, by the least expensive method, at the selecting library's expense. Publications not selected by other depositories may be disposed of or destroyed.
- c) A depository may discard a publication that is published in a tangible format and deposited in the electronic depository if it retains the tangible format for the current and previous year.
- d) A depository is permitted to replace tangible versions with electronic equivalents of publications provided the electronic version is complete and permanently accessible. The Illinois State Library will provide a list on its website of titles that meet these requirements.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 3020.220 Citizen Access to Publications

- a) The depository library must make reference service available not only to the library's primary users but to all Illinois citizens. Cataloging of the publications, ~~except for ephemera~~, is required in order to make State publications easily accessible and retrievable.
- b) Depository libraries shall permit all Illinois citizens access to the depository publications in their collection. Access is "adequate" if it meets the following standards: Non-circulating material and circulating material that is not currently charged to a patron will be made available within 48 hours after a citizen request; circulating material that is currently charged to a patron will be made available to

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fill a citizen request within 24 hours after its return to the depository library.

- c) The Illinois State Library shall work with issuing State agencies *to make published materials available to the public, by means of access, by way of the largest nonproprietary nonprofit cooperative public computer network* [15 ILCS 320/7].

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 3020.230 Inspection of Depositories (Repealed)

- a) ~~The Director of the Illinois State Library, or a designated representative, shall visit and inspect the depositories every five years to assure the State Library that the depository is providing public access to and adequate maintenance of the publications. Maintenance is adequate if it does not contribute to the physical deterioration of the deposited material.~~
- b) ~~The Director of the Illinois State Library shall also receive, in conjunction with the inspections, written reports from the depository libraries containing the program of administration for access and maintenance of the publications. The written report shall include information concerning library personnel, depository publication statistics, circulating rules, cataloging and processing procedures, and equipment and storage facilities.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 3020.240 Termination of Depository Status

- a) A depository has the right to terminate its status as a depository by a letter from the depository's governing authority to the Director of the Illinois State Library. The Director may terminate the status of a library as a depository if the requirements of Section 3020.210 and 3020.220-3020.230 are not met. At termination, the library will request instructions from the State Library about the disposition of the depository publications on hand.
- b) If a depository library wishes to challenge the termination of its depository status, the depository must request a hearing within one month after termination notice from the State Library. The members of the hearing committee will be the Director of the State Library, the Government Documents Coordinator, ~~the~~

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~~Director of the library system to which the depository library belongs, and two representatives~~a representative from ~~two separate depositories~~a depository in a ~~non-adjacent library system~~, who ~~have~~has been mutually agreed upon by the Director of the Illinois State Library and the depository library challenging termination. The majority decision of this committee concerning the termination of the depository library will be final.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Insect Pest and Plant Disease Act
- 2) Code Citation: 8 Ill. Adm. Code 240
- 3) Section Number: 240.140 Adopted Action:
Amendment
- 4) Statutory Authority: The Insect Pest and Plant Disease Act [505 ILCS 90]
- 5) Effective Date of Amendment: November 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: May 13, 2011; 35 Ill. Reg. 7439
- 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department is amending the fee for an original certificate from the current rate of \$75 per certificate to \$100 per certificate to more closely mirror the recent change to the fee associated with federal issuance of such certificates. Beginning October 1, 2010, the fee for a federally-issued phytosanitary certificate became \$104 per certificate and on October 1, 2011, the rate was scheduled to increase to \$106 per certificate.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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

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

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

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

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

SUBPART B: QUARANTINE

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

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Agreements

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

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

SOURCE: Rules and Regulations Relating to the Insect Pest and Plant Disease Act, filed October 25, 1974, effective November 2, 1974; codified at 5 Ill. Reg. 10523; amended at 6 Ill. Reg. 3041, effective March 5, 1982; amended at 7 Ill. Reg. 1764, effective January 28, 1983; amended at 12 Ill. Reg. 8299, effective May 2, 1988; amended at 26 Ill. Reg. 14661, effective September 23, 2002; amended at 30 Ill. Reg. 133, effective January 1, 2006; amended at 33 Ill. Reg. 203, effective January 1, 2009; amended at 34 Ill. Reg. 3743, effective March 15, 2010; amended at 35 Ill. Reg. 19138, effective November 1, 2011.

SUBPART A: NURSERY AND NURSERY STOCK; INSPECTION; CERTIFICATES

Section 240.140 Fee Schedule

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

- a) Nursery Inspection
 Nursery inspection fees shall be as follows:
- | | |
|--|----------|
| 1 acre or less | \$25.00 |
| over 1 acre but less than or equal to 5 acres | \$30.00 |
| over 5 acres but less than or equal to 10 acres | \$40.00 |
| over 10 acres but less than or equal to 50 acres | \$50.00 |
| over 50 acres but less than or equal to 100 acres | \$75.00 |
| over 100 acres but less than or equal to 250 acres | \$150.00 |
| over 250 acres but less than or equal to 500 acres | \$180.00 |
| over 500 acres (per acre) | \$0.50 |
- b) Greenhouse Inspection
 Greenhouses that request inspection shall be charged the special inspection and certificate fees in subsection (d).

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- c) Nursery Dealer Certificates
- 1) Effective January 1, 2003 through December 31, 2005, the rate for a nursery dealer certificate shall be \$25.
 - 2) Effective January 1, 2006, the rate for a nursery dealer certificate shall be \$50.
- d) Special (Requested) Inspections
Effective January 1, 2003, the inspection rate charged for special inspections shall be \$25 per hour and the rate charged for individual certificates for special inspections shall be \$25 per certificate.
- e) Original certificates are required to accompany nursery stock and/or plants and plant products for shipment or sale verifying they are free of insect pests and plant diseases.
- 1) Effective January 1, 2003 through December 31, 2005, the rate for original certificates shall be \$25 each.
 - 2) Effective January 1, 2006 through June 30, 2010, the rate for original certificates shall be \$50 each.
 - 3) Effective July 1, 2010 through December 31, 2011, the rate for original certificates shall be \$75 each.
 - 4) Effective January 1, 2012, the rate for original certificates shall be \$100 each.
- f) Firewood Importer Certificates
Effective January 1, 2009, the rate for a firewood importer certificate shall be \$25.

(Source: Amended at 35 Ill. Reg. 19138, effective November 1, 2011)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: General Operations of the State Fairs and Fairgrounds
- 2) Code Citation: 8 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
270.10	Amendment
270.375	Amendment
270.380	Amendment
270.410	Amendment
270.415	Amendment
270.420	Amendment
270.430	Amendment
270.440	Amendment
270.445	Amendment
270.455	Amendment
270.465	Repeal
270.470	Amendment
270.480	Amendment
270.495	Amendment
270.505	Amendment
270.510	Amendment
270.515	Amendment
270.525	Amendment
270.540	Amendment
270.555	Amendment
270.560	Amendment
270.565	Amendment
270.570	Amendment
270.575	Amendment
270.580	Amendment
270.585	Amendment
270.595	Amendment
270.600	Amendment
270.605	Amendment
270.610	Amendment
270.615	Amendment
270.620	Amendment
270.625	Amendment
270.630	Amendment

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270.640	Repeal
270.645	Amendment
270.665	Amendment
270.670	Amendment
270.685	Amendment
270.690	Amendment

- 4) Statutory Authority: State Fair Act [20 ILCS 210]
- 5) Effective Date of Amendments: December 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: March 25, 2011; 35 Ill. Reg. 4707
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Non-substantive changes agreed to between the Agency and JCAR as well as the following changes:

In Section 270.375 (Non-Fair Availability Dates) "at the discretion of the Director" has been added in subparagraphs a) and b).

In Section 270.445 (Clean-Up) "an approved clean-up service" has been added in subparagraph a).

In Section 270.505 (Rate Schedules) a new subparagraph e) is added as follows: "The Department may submit a bid to host Non-Fair events on the State Fairgrounds, at the discretion of the Director based upon the availability of the State Fairgrounds and fiscal impact to the Department."

In Section 270.595 (Eligibility) "or standardbred" has been added in subparagraph a) in addition to thoroughbred, quarter horses or lead ponies.

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In Section 270.610 (Rental and Rates for Other Services) the new section reads as follows: "The space rental and use fees for camping in the backstretch on the State Fairgrounds shall be \$150 per month plus metered electric service payable to the Department."

In Section 270.620, the title has changed from "Rates" to "Horse Stabling Space Rental and Rates", and the new section reads as follows: "a) Space for stabling horses may be rented at the backstretch in the State Fairgrounds at Springfield, excluding the month of August. This exclusion applies regardless of provisions to the contrary in Section 270.370." and "b) The space rental and use fees for horses tabled in the backstretch on the State Fairgrounds shall be \$35 per month plus metered electric service and the contracted amount for manure removal payable to the Department."

In Section 270.625 (Rent Payable) "the Space Rental Fee Schedule" is deleted and replaced with "Section 270.620."

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Updating rules related to the non-fair usage and leasing of facilities on the Illinois State Fairgrounds.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Linda Rhodes
Illinois Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield, Illinois 62794-9281

Telephone: 217/785-5713
Facsimile: 217/785-4505

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER j: FAIRS

PART 270

GENERAL OPERATIONS OF THE STATE FAIRS AND FAIRGROUNDS

SUBPART A: DEFINITIONS: POLICY: VIOLATION

Section	
270.10	Definitions
270.15	Policy
270.20	Violation of Rules; Administrative Hearings

SUBPART B: CONCESSIONS AND EXHIBITS AT THE STATE FAIR

Section	
270.25	Categories of Exhibits
270.30	Privilege to Operate a Concession or Exhibit
270.35	Application for Reassignment of Space
270.40	New Applications for Space Rental
270.45	Substitute Locations or Discontinuance of Contracts
270.50	Reassignment of Space by Department
270.55	Number of Stands Permitted
270.60	Policy Governing Exhibits/Concessions and Approval to Conduct Business
270.65	Policy of Permitting Space Without Monetary Charge
270.70	Exercising Constitutional Freedoms
270.75	Assignment of Contracts
270.80	Inspection of Premises
270.85	Removal or Denial of Acceptance
270.90	Concessions and Exhibits Prohibited
270.95	Liquified Petroleum Gas
270.100	Merchandising Permits
270.105	Measuring Space
270.110	Electricity
270.115	Broadcasting Devices
270.120	Display of Exhibit or Concession Number
270.125	Protection of the Public and Lessee's Property
270.130	Distributing Literature or Display Advertising

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270.135	Payment of Space Rental Contract
270.140	Operational Hours
270.145	Sales Prior to the State Fair
270.150	Sales During the State Fair
270.155	Property Shipped to the State Fair
270.160	Removal of Property
270.165	Gambling, Raffles, Prizes, Games of Chance, Intoxicating Beverages
270.170	Inside Exhibits
270.175	Posting Food Prices
270.180	Clean-Up
270.185	Public Health
270.190	Food and/or Drink Service Operations
270.195	Release Procedure
270.200	Security
270.205	Liability
270.210	Concessionaire's or Exhibitor's Trailers
270.215	Failure to Abide by Rules or Contract Provisions
270.220	Lessee's General Standard of Conduct
270.221	Emergency Closing

SUBPART C: HORSE RACING AT THE STATE FAIR

Section	
270.225	Categories of Horse Racing
270.230	State Fair Colt Stakes Races
270.235	Review Futurity Races
270.240	Illinois Trotting and Pacing Colt Races
270.245	Quarter Horse Races

SUBPART D: PREMIUMS AND RULES GOVERNING EXHIBITS OR EVENTS

Section	
270.250	Premiums Offered
270.255	Premium Books
270.260	Payment of Premiums
270.261	Land of Lincoln Breeders Awards for Purebred or Registered Livestock

SUBPART E: JUDGES: STATE FAIR

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- Section
- 270.265 Professional and Artistic Contracts
- 270.270 Judge's Salary
- 270.275 Selection of Judges

SUBPART F: CERTIFICATES OF AWARD: STATE FAIR

- Section
- 270.280 Certificates, Ribbons and Trophies

SUBPART G: FEES FOR ADMISSION TO THE STATE FAIR

- Section
- 270.285 Daily Admission Charge
- 270.290 Special Events
- 270.295 Designated Days
- 270.300 Gate Admission Charge Waived
- 270.305 Schedule of Admission Charges and Fees
- 270.310 Admission of Motor Vehicles
- 270.315 Employees of Exhibitor/Concessionaire

SUBPART H: TRAFFIC CONTROL, PARKING AND CAMPING: STATE FAIR

- Section
- 270.320 Camping Location
- 270.325 Fee for Camping
- 270.330 Camping Sticker
- 270.335 Removal of Illegally Parked Vehicles
- 270.340 Extension Cords
- 270.345 Traffic Control and Parking; Spraying Livestock Trucks

SUBPART I: MISCELLANEOUS RULES GOVERNING
THE OPERATION OF THE STATE FAIR

- Section
- 270.350 Pets
- 270.355 Structures of Lessee
- 270.360 Restrictions
- 270.365 Intoxicating Beverages

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- 270.370 Grandstand Ticket Refunds
270.371 Leasing Facilities During the State Fair

SUBPART J: NON-FAIR SPACE RENTAL:
BASIC RULES APPLICABLE TO ALL RENTALS

Section

- 270.375 Non-Fair Availability Dates
270.380 Application for Space
270.385 Reassignment
270.390 Compliance with State Law and Regulations
270.395 Removal Rights or Denial of Acceptance
270.400 Assigned Space
270.405 Inspection
270.410 Payment
270.415 Tickets
270.420 Facility Availability
270.425 Parking
270.430 Security
270.435 Fire Regulations
270.440 Tables and Chairs
270.445 Clean-Up
270.450 Alterations
270.455 Insurance
270.460 Discrimination
| 270.465 Camping (Repealed)
270.470 Concessions
270.475 Delinquency
270.480 Gambling, Raffles, Prizes, Games of Chance, Intoxicating Beverages
270.485 Non-Exclusivity (Repealed)
270.490 Lessee's General Standard of Conduct
270.495 Criteria for Grant of Privileges
270.500 Waiver of Applicable Rules (Repealed)
270.505 Rate Schedules
270.510 Limit on Duration of Contract
| 270.515 Liquefied~~Liquified~~ Petroleum Gas

SUBPART K: NON-FAIR CONCESSIONS

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AUTHORITY: Implementing and authorized by the State Fair Act [20 ILCS 210]; implementing Section 40.14 and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16 and 40.14].

SOURCE: Adopted at 4 Ill. Reg. 25, p. 34, effective June 11, 1980; amended at 5 Ill. Reg. 1332, effective January 29, 1981; codified at 5 Ill. Reg. 10532; amended at 6 Ill. Reg. 8958, effective July 9, 1982; amended at 8 Ill. Reg. 6103, effective April 25, 1984; emergency amendments at 10 Ill. Reg. 13370, effective July 28, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14282, effective August 20, 1986; amended at 10 Ill. Reg. 20468, effective November 26, 1986; amended at 11 Ill. Reg. 2228, effective January 20, 1987; amended at 15 Ill. Reg. 455, effective January 2, 1991; amended at 18 Ill. Reg. 9400, effective June 12, 1994; amended at 19 Ill. Reg. 9400, effective June 29, 1995; amended at 21 Ill. Reg. 5530, effective April 22, 1997; amended at 22 Ill. Reg. 11374, effective June 22, 1998; amended at 34 Ill. Reg. 8996, effective July 1, 2010; amended at 35 Ill. Reg. 19143, effective December 1, 2011.

SUBPART A: DEFINITIONS: POLICY: VIOLATION

Section 270.10 Definitions

Unless the context otherwise requires, the terms shall have the following meanings:

"Authorized ~~Vehicle~~vehiele" is an on-road or off-road vehicle operated by the Department of Agriculture.

"Business Day" is a day that the State of Illinois is open for operations.

"Calendar Day" is the period of time from one midnight to the following midnight.

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"Concessionaire/Commercial Exhibitor" means any person selling directly to the public or taking orders for future sales pursuant to an annual space rental contract.

"Division" means the Division of Fairs and Promotions, Department of Agriculture, State Fairgrounds, Springfield, Illinois 62794-9281.

"DuQuoin State Fair" means only that annual event at DuQuoin.

"Exhibitor" means any person who displays his/her goods, displays his/her person, or distributes information and is not engaged in sales pursuant to an annual space rental contract, or participates in programs offered by the Department.

"Illinois State Fair" means only that annual event at Springfield.

"Person" means any individual, partnership, corporation, association, governmental or religious entity.

"Space Rental Contract" means a written contract entered into between the ~~persons~~~~person(s)~~ desiring to put on an exhibit or operate a concession and the Department.

"Space Rental ~~Office~~~~office~~" means the office in charge of space rental, Division of Fairs and Promotions, Department of Agriculture, State Fairgrounds, Springfield, Illinois 62794-9427 or the office in charge of space rental for the DuQuoin State Fair, Division of Fairs and Promotions, Department of Agriculture, Fairgrounds, DuQuoin, Illinois 62832.

"Special Agreement" means a multiple year or single year lease subject to a negotiated rate. This type of agreement would include persons building permanent structures, multiple year off season rentals, single or multiple year fair-time leases, etc.

"State Fair" means the annual event that is held at Springfield or the annual event that is held at DuQuoin for the purposes as set forth in Section 270.15.

"State Fairgrounds" means all the land and water areas, including all buildings and facilities located thereon, known as the State Fairgrounds at Springfield or

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DuQuoin.

"State Fairgrounds at DuQuoin" means only the State Fairgrounds at DuQuoin.

"State Fairgrounds at Springfield" means only the State Fairgrounds at Springfield.

"Superintendent of the Division of Fairs and Promotions" means the Superintendent of the Division of Fairs and Promotions, Department of Agriculture, State Fairgrounds, Springfield, Illinois 6279467294-9281.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

SUBPART J: NON-FAIR SPACE RENTAL:
BASIC RULES APPLICABLE TO ALL RENTALS

Section 270.375 Non-Fair Availability Dates

- a) The State Fairgrounds at Springfield are available for facility rental from September 1 of each year until July 15 of the following year. These dates are established to insure proper preparedness for the Illinois State Fair and subsequent clean-up of buildings, barns and grounds. The facilities may be rented between July 15 and September 1, at the discretion of the Director based upon the impact on preparation and tear down of the Illinois State Fair.
- b) The State Fairgrounds at DuQuoin are available for facility rental from September 10 of each year until August 15+ of the following year. These dates are established to insure proper preparedness for the DuQuoin State Fair and subsequent clean-up of buildings, barns and grounds. The facilities may be rented between August 15 and September 10, at the discretion of the Director based upon the impact on preparation and tear down of the DuQuoin State Fair.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.380 Application for Space

A request~~An application~~ for facility rental should be filed in writing (via letter, e-mail or fax) with the Space Rental Office as soon as possible before an event. Final contracts are mailed to the requestor~~applicant~~ for signatures. no more than two months prior to any desired event.

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~~Priority for space shall be on a first come basis in accordance with the date stamp of the Department indicating receipt. In the event of simultaneous date stamps, space shall be granted by lottery.~~

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.410 Payment

- a) ~~Space rental at the State Fairgrounds at Springfield must be paid in full 15 business days before the first day of the event unless the Department approves an alternative payment plan in writing. Any alternative payment plan shall require the full space rental fee to be paid no later than the first day of the event. A non-refundable down payment of 30% of the space rental fee or \$150, whichever is greater, shall be paid by the lessee at the time of confirmation of the booking, on or before the first day of the event.~~ All payments must be made by cash, check, credit card, debit card, cashier's check or money order. When a "percentage contract" is involved, full reconciliation and accounting must be made by the lessee within ~~30~~three days following the event. The payment of any fees or charges for the use of the State Fairgrounds or facilities by any department of State Government or other governmental entity shall be waived unless the Director determines usage demonstrates financial hardship to the Department. Lessee shall be responsible for all electric, equipment, labor and janitorial fees associated with the facility rental.
- b) Space rental at the State Fairgrounds at DuQuoin must be paid in full 10 business days before the first day of the event unless the Department approves an alternative payment plan in writing. Any percentage fees or additional charges must be paid within 10 business days after the event.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.415 Tickets

~~When~~Where tickets are used and the Department, per contract, receives a percentage of sales, lessee will furnish all necessary tickets at its own expense, and ~~thesaid~~ tickets and manifest of tickets shall be examined by the Department before any sale. ~~The lessee~~Lessee shall provide all ticket sellers and ticket takers at its expense. ~~The lessee~~Lessee will provide to the Department~~include in the accounting,~~ after the event, a manifest of all tickets sold and unsold in connection with the event. ~~The manifest~~This accounting must be made no more than 10

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calendar~~3~~ days following the conclusion of the event. After the event, the Department may request all ticket stubs ~~will become property of the Department.~~

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.420 Facility Availability

The Department will determine the availability of the State Fairgrounds for non-fair events, including move-in and move-out dates.

a) ~~The following items are set and must be observed:~~

Event	Facility Available	Facility Vacated
Horse Shows/Sales	1 day prior	1 day after
Cattle Sales	2 days prior	2 days after
Machinery Sales	5 days prior	5 days after

b) ~~All other lessees must pre-arrange move-in and move-out dates with the Division.~~

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.430 Security

The lessee~~Lessee~~ is responsible for security relating to the event contracted on the State Fairgrounds. The lessee~~Lessee~~ will be required to provide security guards as stated in the contract or if notified by the Department in writing ~~no less than 3 days~~ prior to the event that ~~such~~ security ~~will~~shall be required. Additional security will be required as needed, based upon the nature of the event, the nature of other events going on, the type of property involved and the Department's personnel resources. The security guards are to be at the lessee's sole expense and are subject to authority of the head of security for the State Fairgrounds. The requirements of this Section~~rule~~ are in addition to the general powers of the Department to secure and police the State Fairgrounds, ~~which~~ security for which the Department maintains on a regular basis without guaranteeing, in any method or manner, the safety and security of the lessee, its property or persons. The lessee~~Lessee~~ is required to notify State Fairgrounds~~Fairground~~ security no less than 3 days prior to the event regarding times that a gate, other than the Main Gate, should be open.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

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Section 270.440 Tables and Chairs

- a) Tables and chairs ~~may be made~~are available ~~from the grounds office~~ for ~~use off of~~ the Stateoutside Fairgrounds ~~by usage only for functions of State and other~~ government entities, ~~at the discretion of the Director based upon the impact on tables and chairs needed for non-fair events, Illinois State Fair, or DuQuoin State Fair. Additionally, the nature of the usage and wear and tear on the tables and chairs will be taken into account.~~ The person desiring the use of the chairs and tables is responsible for setting them up, taking them down, and redelivering them in the same condition in which they were found.
- b) ~~The number~~Usage of tables and chairs ~~provided~~ for events held on the State Fairgrounds ~~are specified by facility/building in the Fee Schedule; however, if any additional tables and chairs are needed, charges will be assessed~~shall be charged to the ~~persons~~person(s) using them as specified in the Fee Schedule ~~which is~~ available from the Space Rental ~~Office~~office.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.445 Clean-Up

- a) All rental agreements shall contain a provision that the lessee shall contract with an approved clean-up service for ~~clean-up or provide for clean-up~~ after the event on the State Fairgrounds at Springfield. If ~~the~~ lessee fails to enter a contract for clean-up services~~perform this service~~, the Department shall contract for the clean-up service and bill the lessee. The lessee shall contract with a clean-up service, as provided in the list of approved clean-up services. This list shall be available from the Space Rental ~~Office~~office upon request. Contractors shall indicate in writing to the Department that they would like to be on the list as an approved clean-up service. Failure to perform the services as outlined in the contract will cause a contractor to be removed from the approved list of clean-up services. A contractor's performance will be reviewed by the Department's Bureau of Business Services and/or Bureau of Buildings and Grounds~~Division of Administrative Services~~. Approved clean-up service contractors that do not perform at the Department's standards will be notified in writing of removal of their name from the approved clean-up list.
- b) The State Fairgrounds at DuQuoin shall provide clean-up services for lessees and will invoice the lessee accordingly at the conclusion of each event, consistent with

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prevailing wages.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.455 Insurance

- a) ~~The lessee~~Lessee shall obtain public liability insurance insuring both lessee and the Department in the minimum amounts of ~~One Hundred Thousand and 00/100~~ ~~\$300,000~~(\$100,000) Dollars per person, ~~Five Hundred Thousand and 00/100~~ (\$500,000) Dollars per occurrence and ~~Fifty Thousand and 00/100~~ (\$50,000) Dollars property damage. ~~The, which said~~ insurance shall insure claims arising out of or in conjunction with the lessee's operations and shall also cover any claim arising out of or in connection with the use of any automobiles or trucks operated by lessee or its agents, servants or employees in connection with the lessee's operations. The Department shall reserve the right to require additional insurance if deemed necessary by the ~~Department's General Counsel~~Superintendent of the ~~Division~~ or his ~~or her~~ designated representative. The Department shall require additional insurance coverage at all auto races, tractor pulls, mechanical events, events where alcoholic beverages are served, or events in which crowd size could present a substantial liability to the sponsor of the event, ~~such as the Street Machines Nationals~~. Lessee shall supply ~~asaid~~ policy of public liability insurance to the Department ~~15 business dayson or before one week~~ prior to the event and ~~thatsaid~~ policy shall name the Illinois Department of Agriculture and, its officers, employees, agents and directors as additionally insured.
- b) It is specifically understood and agreed that the Department will not be liable for injuries to lessee and lessee's agents or property. Neither shall the Department be liable for any damage caused by an Act of God, ~~or national~~National or State emergency. The lessee further agrees to accept all liability for any injury sustained by the public on ~~thethat~~ area leased by ~~thesaid~~ lessee and further agrees to indemnify the Department from any actions or claims resulting from personal injury or property damage on or near the premises described ~~herein~~.
- c) It is understood and agreed that any damage done to any property, either real or personal, owned by the Department during the duration of any Agreement, regardless of the cause of ~~thesaid~~ damage, shall be the sole responsibility of the lessee and the lessee shall be responsible to the Department for the full amount of ~~thesaid~~ damage and, upon being supplied with proof of loss, agrees to fully reimburse the Department for ~~thesaid~~ damage within ~~ten~~(10) days ~~after~~of receipt

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of ~~thesaid~~ proof of loss.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.465 Camping (Repealed)

~~It is the responsibility of the lessee to administer camping for participants, and to comply with Subpart L of Part 270 regulating all camping on the grounds. Lessee will be billed for all campers at the rate specified in the current Space Rental Fee Schedule.~~

(Source: Repealed at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.470 Concessions

a) At the State Fairgrounds at Springfield, the Department's facility usage application that is completed by~~The negotiated contract between~~ the lessee and the Department shall indicate if the lessee is to secure concessions at the event sponsored by the lessee.; ~~Any~~however, any concessionaire ~~so~~ selected by the lessee is subject to the express written approval of the Department. The Department shall not unreasonably withhold approval of any concessionaire, but reserves the right to disapprove a concessionaire on any basis set forth in Section 270.495. It is understood that, for all events, the Department shall require the concessionaire to a concessionaire, even if secured by the lessee, shall enter into a contract with the Department. Lack of a current and valid concession contract will cause any party attempting to operate a concession on the premises to be considered a trespasser.

b) At the State Fairgrounds at DuQuoin, 20% of all concession sales will be collected for events unless determined otherwise by the Director or his/her designee.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.480 Gambling, Raffles, Prizes, Games of Chance, Intoxicating Beverages

a) The lessee will neither use nor permit to be used any games of chance or skill, raffles, selling tickets, taking donations or gambling devices unless approved by the ~~Department~~Superintendent of the Division. Unless specifically prohibited by the Department, requested activities that are~~Approval shall be granted if it is not~~

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prohibited by Article 28 of the Criminal Code of 1961 (~~Ill. Rev. Stat. 1991, ch. 38, pars. 28-1 et seq.~~) [720 ILCS 5/Art. 28] shall be permitted. ~~However, and if~~ the lessee agrees to comply with Subpart J of ~~the rules of~~ this Part and with subsection (b) of this Section.

- b) The lessee shall abide by the following requirements when permitted to solicit on the State Fairgrounds for prizes to be given through drawings:
- 1) The ~~drawings~~drawing(s) and solicitation must be approved by the ~~Department Superintendent of the Division~~ or a duly authorized representative and so stated on the contract. Approval of the drawing time, place and date will be based on the fact that there is no conflict with or detrimental effect on other events or exhibits.
 - 2) The ~~prizes~~prize(s) shall be on display for the entire length of the contracted event.
 - 3) The date and time of the drawing shall be advertised in advance so the participants and other interested persons may witness the drawing.
 - 4) When requested by the public, the Department shall request the lessee who held the ~~drawings~~drawing(s) to furnish to the Space Rental Office, the name, address and telephone number of the ~~winners~~winner(s).
- c) The ~~facility usage applications~~space rental contract shall state if any intoxicating beverages are to be present at the event. No intoxicating beverages shall be dispensed or consumed, unless in accordance with the Liquor Control Act of 1934.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.495 Criteria for Grant of Privileges

The Director, or a duly authorized representative, reserves the right to determine for what purposes and to which individuals, groups, corporations or associations the facilities on the State Fairgrounds shall be rented or the privilege of a contract granted. In exercising this discretion, the Director shall consider one or more of the following factors in determining whether to grant any privilege or contract to a prospective lessee:

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- a) The availability of the physical plant or plants on the State Fairgrounds, taking into consideration the priority of preparation for the actual holding of the State Fair and the priority granted to long term tenants or users of the premises;
- b) The physical limitations and availability of space when considered in conjunction with the proposed usage and number of participants, expected visitors or patrons to the event conducted by the lessee;
- c) The security of both the physical premises and persons upon the premises of the State Fairgrounds;
- d) The costs and expenses ~~ultimately incurred by~~ the Department in hosting the event, including providing security for any operations of lessee;
- e) Reasonably foreseeable problems with security caused by either the nature of the usage or the identity of the proposed lessee or his/her patrons;
- f) A major consideration will be the potential profit to be derived after examination of revenues versus expenses by the Department, including any budgetary constraints on the Department;
- g) The welfare of the general community;
- h) The public service to the general community offered by the proposed usage.
- i) The financial responsibility of the proposed lessee and his/her ability to provide any special requirements that may be necessary to insure the safe, healthy and efficient usage of the premises;
- j) The legality of the proposed use of the premises;
- k) Prior experience either with a specific lessee or a specific usage to the extent that ~~such~~ prior experience illustrates a failure, refusal or inability of the proposed lessee to comply with ~~the rules of~~ this Part and/or the prior experience with a particular usage to the extent ~~the~~such usage results in violation of ~~the rules of~~ this Part or affects the general good and welfare of the Department;
- l) The safety of the public and participants and of any equipment proposed to be used by lessee;

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- m) The reputation of the proposed lessee in ~~both~~ the local community and/or in the service or trade community in which he/she does business.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.505 Rate Schedules

- a) For the State Fairgrounds at Springfield, all~~All~~ charges for the Non-Fair usage of the Grandstand, the Grandstand In-field, Multi-Purpose Arena, all areas including and adjacent to the one mile track and half mile track, the Coliseum and all other outdoor and non-building areas shall be subject to negotiation as to the fee for that area's use, and for other fees or expenses directly related to the use ~~thereof~~. In negotiating a contract for use of the foregoing areas, the Department shall consider, in its negotiations, the same factors ~~that~~which have been set forth in Section 270.495.
- b) All contracted events that utilize members of trades staff shall be subject to current prevailing wage and prevailing overtime or weekend hourly rate at union scale.
- ~~cb~~) All contracts for the use of any building shall be subject to a charge for over-time electrician charges, which sum shall be equal to the current and prevailing over-time or weekend hourly rate for electricians at union scale if ~~thosesuch~~ services are used.
- ~~de~~) The remaining buildings on the premises of the State Fairgrounds ~~that~~which may be rented shall be subject to the fee schedule for a daily fee rate as specified in the Space Rental Fee Schedule.
- e) The Department may submit a bid to host Non-Fair events on the State Fairgrounds, at the discretion of the Director based upon the availability of the State Fairgrounds and fiscal impact to the Department.
- ~~fd~~) All rentals of any buildings ~~that~~which may be rented or used, including all contracts for areas ~~that~~which are subject to negotiated contracts, shall be subject to Section 270.445.
- ~~ge~~) All camping fees shall be as established in the Space Rental Fee Schedule.

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- f) ~~All house trailer rentals shall be subject to the fees and charges as set forth in the Space Rental Fee Schedule.~~
- hg) All barn, stall and tack room rates and individual rentals shall be as established in the Space Rental Fee Schedule.
- ih) Any and all use of the premises not covered under this ~~Subpart~~Rule shall be subject to a negotiated written contract, which contract shall be subject to such terms and conditions as the Director or a duly authorized representative may direct.
- j) For the State Fairgrounds at DuQuoin, the following permanent areas have established rates for rentals: Exhibition Building, Grandstand and Stage, Grandstand and Track, Southern Illinois Center, First Heat, Second Heat, Covered Barns, Show Arena, Show Horse Barn, Race Horse Barns, Pavilion Rentals, Bridge, Ashgrove Pavilion, SIU Dome, Labor Pavilion and Corral Pavilion. Additional fees for the half mile track area, parking lots or any other areas not defined or covered below are subject to negotiation for fees relating to that area by the Director or his/her designee.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.510 Limit on Duration of Contract

Date requests for future events will be accepted on a first-come, first-served basis, except priority for event dates shall be given to events held in previous calendar year (provided all contractual obligations were successfully fulfilled). ~~No space rental commitment will be considered nor any annual~~ concession or exhibitor contract will be entered into in excess of one year from the date of the proposed usage. ~~The~~Notwithstanding anything in this Section, the Department reserves the right to enter into multiple year special agreements pursuant to a negotiated rate for ~~concession~~concession or exhibits.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.515 ~~Liquefied~~Liquified Petroleum Gas

No ~~liquefied~~liquified petroleum gas installations will be allowed on the State Fairgrounds until the lessee has received approval from the State Fire ~~Marshal~~Marshall (see 41 Ill. Adm. Code

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200). This approval, in writing, must be placed on file in the Space Rental ~~Office~~ before the business will be allowed to open. No ~~liquefied~~ liquified petroleum gas will be allowed in any State building at any time.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

SUBPART K: NON-FAIR CONCESSIONS

Section 270.525 Contract

All concessions must have a current and valid contract with the Department. Concessionaires must have current and valid contracts with sub lessees. Any concession or concessionaire without ~~asaid~~ contract will be removed from the grounds, and any lessee shall maintain a copy of its written contract at all times as evidence of authority to use the facilities.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.540 Health Laws

All food and/or drink stands and concessions must be operated in compliance with the Illinois Food, Drug and Cosmetic Act (~~Ill. Rev. Stat. 1991, ch. 56½, par. 501 et seq.~~) [410 ILCS 620], the Sanitary Food Preparation Act (~~Ill. Rev. Stat. 1991, ch. 56½, par. 67 et seq.~~) [410 ILCS 650], and the rules relating to Food Service Sanitation (77 Ill. Adm. Code 750) enforced by the Illinois Department of Public Health. If a concession is closed by the Department of Public Health, the ~~lessee shall have no refund due from the~~ Department of Agriculture will not refund space concession fees.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.555 Payment Due

Payment of the concession fee is due no later than 10 business days prior to the event~~3 days following the close of the operation of the concession.~~ If the contracted event is responsible for the concession fee, the fee is due to the Department within 20 days after the invoice date.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

SUBPART L: CAMPING: NON-FAIR

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Section 270.560 Who May Camp

- a) Camping is permitted at any time, other than during an event that has leased the entire fairgrounds, on the State Fairgrounds at DuQuoin. When camping is permitted, pets are permitted only in campground areas on the State Fairgrounds at DuQuoin designated by the Division administrator or his or her designee.
- b) Any property remaining in the camping area on the State Fairgrounds after a 5 day written notice by the Department demanding removal of a person and/or property shall constitute an abandonment, and give the Department the right of assignment and sale of all ~~said~~ personal property to the Illinois Department of Agriculture without any additional consideration.
- c) The Department shall operate a campground on the State Fairgrounds at Springfield throughout the calendar year with limited availability from November-March.
- d) The campground at the State Fairgrounds at Springfield is open to the public; however, anyone participating or attending a Non-Fair event has first rights to the campground. The Department reserves the right to close the campground at the State Fairgrounds at Springfield for special events.
- e) The Department has the right to implement a reservation system for Non-Fair events.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.565 Location

Overnight camping ~~for campers, trailers, goosenecks or tents~~ is allowed in camping areas as may be designated from time to time by the Department. Camping is restricted to designated areas only.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.570 Fee

The fee for overnight camping ~~for self-contained motor or trailer units~~ shall be as established in the Space Rental Fee Schedule and payable to the Illinois Department of Agriculture in advance.

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(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.575 Camping Facilities

Water ~~and~~, sewer ~~and electrical~~ connections are available ~~April 1-October 31 in non-freezing months as determined by the Department.~~ Electrical connections are available year round. Restrooms and shower facilities are also available in the camping ~~areas~~.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.580 PermitSticker

Persons wishing to camp overnight must obtain a camping ~~permit that~~sticker which is issued upon payment of applicable fees. Camping ~~permits~~stickers shall be prominently displayed near the entrance to the living quarters or on the vehicles.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.585 Penalty

Any vehicle not in the proper location or not displaying a camping ~~permit~~sticker will be towed from the State Fairgrounds at the owner's expense.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

SUBPART M: BACKSTRETCH CAMPINGHOUSE TRAILERS: NON-FAIR

Section 270.595 Eligibility

- a) Eligibility to keep ~~campers (motor homes, fifth wheels, trailers)~~house trailers on the State Fairgrounds shall be determined by the Director or a duly authorized representative on the basis of availability of allocated space for ~~camper~~trailers, proposed location of ~~camper~~trailers, security provided by persons being present with their property, and the quantity of horses being kept on the State Fairgrounds premises. Eligibility will only be granted to individuals training or racing standardbred horses on the State Fairgrounds at Springfield. Eligibility will only be granted to individuals training or racing thoroughbred or standardbred horses, quarter horses, or lead ponies on the State Fairgrounds at DuQuoin.

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- b) Exact location of ~~campershouse trailers~~ will be determined by the Department and may be changed if the present location interferes with the long range use or Capital Development Plan for the State Fairgrounds~~fairgrounds~~, preparation therefor, or activities of other lessees. ~~It is the policy to keep the number of house trailers to a minimum, therefore, no new leases will be granted except to present tenants and their successors in interest.~~
- c) Design and materials of skirting, fences, cabanas, porches, awnings, and car ports, either temporary or permanent, must be approved by the Department before installation or construction. The Department shall approve changes ~~that~~which are consistent with the long range operational and building use programs for the State Fairgrounds and the Department's duty to maintain the State Fairgrounds~~fairgrounds~~ and preserve order. It is agreed that each occupant is required to keep his/her lot in a clean, neat, orderly condition at all times. ~~Regular lawn mowing is necessary. Lawns left uncaared for shall be kept in order at the expense of the tenant as established in the Space Rental Fee Schedule. Payment for any maintenance performed by the Department is due and payable upon presentation of a bill.~~All refuse, rubbish or garbage must be placed in sealed containers. No litter will be permitted. No activities ~~that~~which impose upon neighboring tenants will be tolerated. After ~~two~~(2) written notices regarding violation of ~~this subsection~~these rules, the tenant shall remove the trailer from the State Fairgrounds.
- d) All persons desiring to ~~maintain a camperhouse trailers~~ on the State Fairgrounds~~fairgrounds~~ shall be required to enter into a Backstretch Camping Agreement~~contract~~ with the Department prior to arriving on the Illinois State Fairgrounds.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.600 Misconduct

Any misconduct on the ~~leased site~~part of any occupant of a trailer will result in the lessee's expulsion from the State Fairgrounds and will void any space rental agreement. Misconduct shall be deemed to mean failure to comply with or violation of any of the provisions of Section 270.490.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

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Section 270.605 Liability

- a) ~~The~~ It is understood and agreed by both parties to any trailer agreement that the Department is not ~~to be held~~ responsible for any accidents, loss, or damage to property, occupants, visitors or guests that might occur during the stay at the assigned campsite~~house trailer~~ on the State Fairgrounds.
- b) ~~If it is further agreed that if~~ there is any damage done to any State property as a result of any act ~~on~~ or neglect by any person at the assigned campsite, an occupant of any trailer the repair of all damage is the responsibility of the lessee~~occupant~~ without any expense to the Department.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.610 Rent and Rates ~~for~~ For Other Services

The space rental and use fees for camping in the backstretch on the State Fairgrounds shall be \$150 per month plus metered electric service payable to the Department. The rent, electric, water service, sewage and other services shall be payable to the Department on a basis of the rates as set forth in the Space Rental Fee Schedule.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.615 Payment Method

Payment by the lessee of the space rental and electricity charges~~fee~~ for a camper~~house trailer~~ is to be made within 30 calendar days after the invoice date on the State Fairgrounds at Springfield and within 10 calendar days after the invoice date on the State Fairgrounds at DuQuoin.~~in advance on the first day of each month.~~

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

SUBPART N: ~~BACKSTRETCH HORSE OR CATTLE BARN~~, STALL AND TACK
ROOM RENTAL: NON-FAIR

Section 270.620 Horse Stabling Space Rental and Rates

- a) Space for stabling horses may be rented at the backstretch in the State

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NOTICE OF ADOPTED AMENDMENTS

Fairgrounds at Springfield, excluding the month of August. This exclusion applies regardless of provisions to the contrary in Section 270.370.

- b) The space rental and use fees for hours stabled in the backstretch on the State Fairgrounds shall be \$35 per month plus metered electric service and the contracted amount for manure removal payable to the Department.

~~The space rental and use fees, such as, water, sewage, electric, and fees for other services provided, for horses and cattle stabled on the State Fairgrounds shall be made on the basis of the rates set forth in the Space Rental Fee Schedule.~~

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.625 Rent Payable

- a) Contract payments are payable to the Space Rental Office within 30 calendar days after the invoice date, according to the following schedule:
- 1) ~~Any barn or stall rental of 7 days or more is payable in advance by the first working day of each month.~~
 - 2) ~~Barn or stall rental of 6 days or less (for transient horses) is payable in advance at the time of arrival on the Fairgrounds.~~
 - 3) ~~Horse Show/Sale or Cattle Show/Sale barn or stall rental is payable no later than three days following the event.~~
- b) Any additions to the number of rented stalls or tack rooms during the period of any agreement will be charged as set forth in Section 270.620~~the Space Rental Fee Schedule~~. Payment for additional stalls and tack rooms will be made within 30 calendar days after the invoice date for stall rentals and utilities, succeeding months will be made on the first working day of each month and acceptance of payment by the Department will constitute the renewal of the contract with the lessee.
- c) The Department is not obligated to accept such payment for additional stalls and tack rooms, and may ~~thus~~ refuse to renew the lease at the end of any month in accordance with ~~provisions of~~ Section 270.495. Lack of a lease is grounds for removal from assigned space and from the ~~Illinois~~-State Fairgrounds at

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Springfield in conformance with Article IX of the Code of Civil Procedure (Forcible Entry and Detainer) (~~Ill. Rev. Stat. 1991, ch. 110, par. 9-101 et seq.~~) [735 ILCS 5/Art. IX], or other applicable laws of the State of Illinois.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.630 General Stabling Rules (Non-Contractual Events)

~~a)No horse stabling will be permitted in the barns south of Central Avenue or west of Calvary Street;b)No horses will be permitted south of Barn 38 or west of Barn 78;~~e)No stall rentals shall be made for pleasure or show horses on the State Fairgrounds at DuQuoin. The provisions of this subsection shall not apply to ~~standardbred~~standard-breed, thoroughbred or racing quarter horses and lead ponies for which individual stall rentals shall be available. Pleasure or show horses shall mean all other horses not falling within the definition of standardbred, thoroughbred or racing quarter ~~horses~~horse and lead ponies. General horse stabling locations will be determined by the Director.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.640 Lessee Collection of Fees (Repealed)

~~The horse show management is responsible for the collection of rental rates as established in the Space Rental Fee Schedule. Class sheets will be audited during or immediately after the event in order to determine the accuracy of the number of entries shown.~~

(Source: Repealed at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.645 Stall Use

Stalls are rented for the purpose of housing horses. Stalls used for other purposes (e.g., feed) will be subject to the same rates charged for stalls used as tack rooms as established in Section 270.620~~the Space Rental Fee Schedule~~.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.665 Restrictions

- a) All sleeping, cooking, smoking or residing in the horse/cattle barns and stall areas located on the State Fairgrounds is prohibited. This policy will apply to horse

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owners, trainers, grooms, assistants, friends, relatives and strangers. Failure to comply with this Section is grounds for immediate removal from the State Fairgrounds. The only quarters acceptable for housing will be those campers that house trailers and/or camper trailers which are located in an area designated for campers house trailers or camping and for which the lessees are current with the payment of their Backstretch Camping Agreements space rental contract.

- b) Storing of sawdust, straw, feed or any other material will not be permitted in the aisle of any barn. Blockage of aisles with tack or carts will not be permitted.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.670 Quarantine Provisions

Once it has become known to the Department that any equine present on the State Fairgrounds are infected or suspected of being infected with any contagious or infectious disease or contaminated with any chemical or radiological substance, the Department shall have the authority to quarantine and cause proper examination to be made of the suspected equine. All infected or suspected equine shall be isolated in the Quarantine Barn designated by the Department. All horses not connected with a show or sale, staying on the State Fairgrounds for 6 or fewer days, must use the Quarantine Barn, as designated by the Department.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

Section 270.685 Track Usage

The use of the tracks Coliseum and track(s) is not a guaranteed condition of the Backstretch Barn and Stall Rental Agreement or any other contract. The Department reserves the right to close the track at certain times throughout the year. The Department will make every effort to keep all facilities in usable condition. Only horses in the backstretch area barns in the northeast corner of the grounds north of the poultry building and west and south of the trailer park will be permitted to use the mile track or the cinder half mile track. Riding or leading horses on streets, except in route to a practice area, is prohibited. Only authorized vehicles shall be permitted on the track. Vehicles operated by non-Department personnel must obtain permission from the Department Superintendent of the Division of Fairs and Promotions, or a duly authorized Department representative, to operate a vehicle on the track. Unauthorized vehicles on the track will be cause for cancellation of a contract or lease.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

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Section 270.690 Restrictions on Barn Use

- a) All horses stabled on the State Fairgrounds at Springfield shall be removed by July 1 preceding that year's Illinois State Fair. The removal of ~~said~~ horses shall take place in order to use rodenticides ~~and~~, pesticides and ~~to~~ make ~~minor~~ repairs in preparation for that year's Illinois State Fair. ~~The Department shall permit temporary stabling after July 1 upon submission of a written request and justification of need for temporary stabling. Typical requests that would be honored by the Department would be horses in transit that require stabling for a short period of time, any Act of God which would require alternative stabling arrangements on a temporary basis and other requests of a similar type.~~ One week's notice will be given to vacate the barns for Illinois State Fair preparation purposes. Also, the Department may close any barn at any time and resettle lessees in similar facilities at the Department's discretion when barn closure is required for maintenance or when ~~thesaid~~ barns are required for special contractual events or uses.
- b) All horses stabled on the State Fairgrounds at DuQuoin may be moved to another area or removed from the fairgrounds prior the DuQuoin State Fair as determined by the Director or his or her designee.

(Source: Amended at 35 Ill. Reg. 19143, effective December 1, 2011)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Programmatic and Fiscal Requirements for Administering Funds under the Violent Crime Victims Assistance Act
- 2) Code Citation: 89 Ill. Adm. Code 1100
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1100.10	Repealed
1100.20	Repealed
1100.30	Repealed
1100.40	Repealed
1100.50	Repealed
1100.60	Repealed
1100.100	Repealed
1100.110	Repealed
1100.120	Repealed
1100.122	Repealed
1100.124	Repealed
1100.130	Repealed
1100.140	Repealed
1100.200	Repealed
1100.210	Repealed
1100.218	Repealed
1100.220	Repealed
1100.230	Repealed
1100.240	Repealed
1100.250	Repealed
1100.260	Repealed
- 4) Statutory Authority: Implementing and authorized by the Violent Crime Victims Assistance Act [725 ILCS 240]
- 5) Effective Date of Repealer: November 4, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

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NOTICE OF ADOPTED REPEALER

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file and is available for public inspection in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 17939; November 29, 2010
- 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: As a result of amendments to the Violent Crime Victims Assistance Act by Public Act 90-139, and to the Grant Funds Recovery Act by Public Act 96-795, and the need to update the underlying regulatory standards, the Attorney General has repealed the original Part 1100, while simultaneously promulgating a replacement regulation under the same Part number. The Attorney General's replacement Part 1100 also appears in this Illinois Register for adoption.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Cynthia M. Hora, Chief
Crime Victim Services Division
Office of the Attorney General
100 West Randolph, 13th Floor
Chicago, IL 60601

312/814-1427
312/814-7105 (fax)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Programmatic and Fiscal Requirements for Administering Funds under the Violent Crime Victims Assistance Act
- 2) Code Citation: 89 Ill. Adm. Code 1100
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1100.10	New Section
1100.15	New Section
1100.17	New Section
1100.20	New Section
1100.30	New Section
1100.40	New Section
1100.50	New Section
1100.60	New Section
1100.70	New Section
1100.100	New Section
1100.110	New Section
1100.120	New Section
1100.122	New Section
1100.124	New Section
1100.130	New Section
1100.200	New Section
1100.210	New Section
1100.218	New Section
1100.220	New Section
1100.230	New Section
1100.240	New Section
1100.250	New Section
1100.260	New Section
1100.270	New Section
1100.280	New Section
1100.300	New Section
1100.310	New Section
1100.320	New Section
1100.330	New Section
1100.340	New Section
1100.350	New Section

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- 4) Statutory Authority: Implementing and authorized by the Violent Crime Victims Assistance Act [725 ILCS 240]
- 5) Effective Date of Rules: November 4, 2011
- 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 and is available for public inspection in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 17977; November 29, 2010
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Sections 1100.15 and 1100.17 were added at the request of JCAR. Section 1100.15, entitled "Definitions," defines various key terms used throughout the rules. Section 1100.17, entitled "Statutes Referenced," contains a listing of the State and federal statutes referred to in the rules. A number of technical changes were made to sections 1100.10, 1100.70, 1100.100, 1100.110, 1100.120, 1100.122, 1100.124, 1100.210, 1100.230 and 1100.340 to make the terminology consistent with the "Definitions" section and to avoid repetitive terminology. Section 1100.70(b) was added to address crime victim services training. Section 1100.122 was modified to add contact information for the National Children's Alliance. Section 1100.210(a)(6) was modified to refer to the Office of Attorney General, rather than the Attorney General. In addition, various typographical, grammatical and form changes were made in response to comments from JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule: The Violent Crime Victims Assistance Act [725 ILCS 240] creates a mandatory fine to be imposed on those convicted of criminal offenses.

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Fine proceeds are deposited into a special fund administered by the Attorney General. Grants are awarded from the special fund to government agencies and non-profit organizations that provide services to victims of and witnesses to violent crimes. Public Acts 90-139 and 96-795 required extensive updates to Part 1100 to address amendments to the indicated Acts. As a result, The Attorney General has repealed the original Part 1100 and replaced it with this new Part 1100.

The rules are designed to provide for the effective administration of the grant program and to ensure accountability of grantees. The rules address the eligible applicants, proposal procedures and content, the criteria for review and approval of the proposals, and the fiscal and monitoring requirements for the awarded grants.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Cynthia M. Hora, Chief
Crime Victim Services Division
Office of the Attorney General
100 West Randolph, 13th Floor
Chicago, IL 60601

312/814-1427
312/814-7105 (fax)

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

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NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER IX: ATTORNEY GENERAL

PART 1100

PROGRAMMATIC AND FISCAL REQUIREMENTS FOR ADMINISTERING FUNDS
UNDER THE VIOLENT CRIME VICTIMS ASSISTANCE ACT

SUBPART A: GENERAL ADMINISTRATIVE PROVISIONS

Section

1100.10	Administration of the Grant Program of the Violent Crime Victims Assistance Act
1100.15	Definitions
1100.17	Statutes Referenced
1100.20	Eligible Agencies
1100.30	Conflict of Interest
1100.40	Grant Application Requirements
1100.50	Funding Priorities
1100.60	Agency-Community Relations
1100.70	General Program and Staffing Requirements

SUBPART B: SPECIFIC PROGRAMS FOR VICTIM POPULATIONS

Section

1100.100	Victim/Witness Programs
1100.110	Sexual Assault Programs
1100.120	Domestic Violence Programs
1100.122	Child Sexual Assault/Child Abuse Programs
1100.124	Senior Victim Programs
1100.130	Programming for Other Victim Populations

SUBPART C: FISCAL AND MONITORING REQUIREMENTS

Section

1100.200	Accounting Requirements
1100.210	Allowable and Non-allowable Expenses
1100.218	Interest
1100.220	Audits
1100.230	Grant Agreement

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1100.240	Payment
1100.250	Termination of Grant Agreement
1100.260	Lapsed Funds
1100.270	Quarterly and Staff Reporting Forms
1100.280	On-site Visits and Inspection of Records and Policies

SUBPART D: SPECIAL PROJECT FUNDING

Section

1100.310	Special Projects
1100.310	Eligible Agencies
1100.320	Special Project Grant Application Requirements
1100.330	Funding Priorities
1100.340	Grant Agreements
1100.350	Fiscal and Monitoring

AUTHORITY: Implementing and authorized by the Violent Crime Victims Assistance Act [725 ILCS 240].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 5710, effective April 12, 1985, for a maximum of 150 days; emergency expired September 8, 1985; adopted at 9 Ill. Reg. 19654, effective December 9, 1985; amended at 11 Ill. Reg. 2705, effective January 27, 1987; amended at 22 Ill. Reg. 17438, effective September 28, 1998; old Part repealed at 35 Ill. Reg. 19172 and new Part adopted at 35 Ill. Reg. 19174, effective November 4, 2011.

SUBPART A: GENERAL ADMINISTRATIVE PROVISIONS

Section 1100.10 Administration of the Grant Program of the Violent Crime Victims Assistance Act

The Attorney General is charged with administering the disbursement of monies from the Violent Crime Victims Assistance Act fund, including the selection of qualified applicants to receive funding for the establishment and operation of Victim and Witness Assistance Centers.

Section 1100.15 Definitions

As used in this Part, unless the context otherwise requires, the term:

"Administrator" means the Illinois Attorney General.

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"Advocacy" means supporting and promoting the interest of another person and providing education, information and referrals.

"Authorized official" means the person to whom the agency has granted the legal authority to submit grant proposals and enter into grant agreements, such as the Chief Executive Officer, the Chief Financial Officer, the State's Attorney or the Executive Director.

"Child" or "minor" means any person under 18 years of age.

"Children's Advocacy Center" means a center established pursuant to and in compliance with the Children's Advocacy Center Act.

"Counseling" means the provision of advice, guidance or instruction on the part of a knowledgeable person with the goal of meeting the specific needs of victims of violent crimes.

"Court advocacy" means accompaniment of the victim to criminal or civil court proceedings or administrative proceedings.

"Domestic violence" means abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Family" or "family member" means a spouse, former spouse, parent, child, sibling or stepparent.

"Forensic interview" means a fact-finding interview of a child performed by someone who is specially trained in techniques for interviewing children who may be victims of sexual or physical abuse.

"Non-offending" means a family member or significant other of a victim who is not alleged to have committed the violent crime against the victim.

"Grantee" or "grant recipient" means an agency that has been awarded a grant.

"Legal advocacy" means advocacy related to criminal, civil or administrative remedies for victims.

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"Medical advocacy" means advocacy related to issues arising in a health care setting.

"Referral" means the process by which a person is directed to an agency, program or resource for further service, information or assistance.

"Senior" means any person 60 years of age or older.

"Sexual assault" means non-consensual sexual conduct or non-consensual sexual penetration as those terms are defined in Section 103 of the Civil No Contact Order Act.

"Sibling" means a brother, sister, half-brother, half-sister, stepbrother or stepsister of the victim.

"Significant other" means any person who the victim perceives to be close to the victim and who has been affected by the violent crime.

"Social service advocacy" means advocacy related to securing services provided by local, state and federal agencies and programs.

"Therapy" means intensive, professional treatment by a licensed psychiatrist, licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor.

"Victim" means:

any person who has suffered direct physical, emotional or psychological harm as a result of the commission or attempted commission of a violent crime;

a family member of any person killed as a result of a crime of violence; or

a child against whom a violent crime has been perpetrated.

"Victim and witness assistance center" or "victim and witness assistance program" or "center" or "program" means an agency that provides one or more of the services set forth in Section 8 of the Violent Crime Victims Assistance Act to

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victims of violent crime and promotes one or more of the goals set forth in Section 2 of the Violent Crime Victims Assistance Act.

"Violent crime" means:

a crime of violence as defined in Section 2 of the Crime Victims Compensation Act;

a violent crime as defined in Section 3 of the Rights of Crime Victims and Witnesses Act;

domestic violence;

sexual assault; and

neglect or abuse as defined in Section 2-3 of the Juvenile Court Act of 1987.

"Violent Crime Victims Assistance Act fund" or "fund" means the fund created by Section 10 of the Violent Crime Victims Assistance Act.

"Witness" means any person who personally observed the commission of a violent crime or who will be called to testify at a criminal court proceeding about a violent crime.

Section 1100.17 Statutes Referenced

The following State and federal laws are referenced in this Part:

- a) Illinois Statutes
 - 1) Abused and Neglected Child Reporting Act [325 ILCS 5];
 - 2) Elder Abuse and Neglect Act [320 ILCS 20];
 - 3) Charitable Trust Act [760 ILCS 55];
 - 4) Children's Advocacy Center Act [55 ILCS 80];

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- 5) Civil No Contact Order Act [740 ILCS 103];
 - 6) Crime Victims Compensation Act [740 ILCS 45];
 - 7) Elder Abuse and Neglect Act [320 ILCS 20];
 - 8) Illinois Domestic Violence Act of 1986 [750 ILCS 60];
 - 9) Illinois Grant Funds Recovery Act [30 ILCS 705];
 - 10) Juvenile Court Act of 1987 [705 ILCS 405];
 - 11) Rights of Crime Victims and Witnesses Act [730 ILCS 120];
 - 12) Solicitation for Charity Act [225 ILCS 460];
 - 13) Violent Crime Victims Assistance Act [725 ILCS 240].
- b) Federal Statutes
- Internal Revenue Code (26 USC 1 et seq.).

Section 1100.20 Eligible Agencies

The following types of agencies may apply for funding under the Violent Crime Victims Assistance Act.

- a) An agency of the United States, the State of Illinois, or a unit of local government that provides, operates or coordinates victim and witness assistance programs.
- b) A private non-profit agency that provides, operates or coordinates a victim and witness assistance program, if it:
 - 1) Has a tax exempt ruling from the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code (26 USC 501(c)(3)), and
 - 2) Is compliant with the Charitable Trust Act and the Solicitation for Charity Act or is exempt from these Acts.

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Section 1100.30 Conflict of Interest

- a) Applicants for grants under this Part shall have rules to govern themselves when conflict of interest situations arise and shall incorporate those rules in their constitution or bylaws, or publish those rules as agency policy.
- b) Rules governing conflicts of interest shall prohibit staff members of the Administrator's Crime Victim Services Division and management of the Administrator above the Division Chief level from serving on boards of agencies that apply for or receive funding.

Section 1100.40 Grant Application Requirements

In order to be considered for an award of grant funds under this Part, applicants must, on or before the first Friday of February preceding the fiscal year for which funding is requested, submit a properly completed grant application form provided by the Administrator. The application shall include at a minimum:

- a) The information required under the Illinois Grant Funds Recovery Act [30 ILCS 705];
- b) The agency's Illinois Charitable Trust registration number;
- c) A description of the applicant and the services it provides;
- d) A description of existing needs of the community to be served in relation to crime victims and witnesses;
- e) A proposal describing the services to be provided with grant funding;
- f) A request for a specific dollar amount, along with a detailed budget showing income and expenses on the forms prescribed by the Administrator;
- g) A description of all funding sources, including in-kind contributions, and the amount provided by sources in the prior fiscal year;
- h) A signed certification, with respect to each of the following items, that the applicant has either put in place and is implementing written policies or that the requirement does not apply:

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- 1) A reasonable accommodation policy for persons with disabilities;
 - 2) Drug free workplace policies as required by law;
 - 3) Non-discrimination;
 - 4) Client intake;
 - 5) Client rights;
 - 6) Volunteer training;
 - 7) Personnel policies and procedures;
 - 8) Conflict of interest rules; and
 - 9) A fee schedule with details of charges for specific services (copy to be attached to the application);
- i) A copy of the current job description for the positions for which funding is requested;
 - j) A copy of the most recent fiscal audit and management letter, as required by Section 1100.220;
 - k) Three distinctly-worded letters of support specific to the program for which funding is requested stating the interaction with program and dated no more than six months before the date of the application; and
 - l) A certification, signed by the authorized official of the agency, that the statements in the application are true and correct and submitted in proper format.

Section 1100.50 Funding Priorities

- a) The Administrator shall consider the following factors in determining whether and how much to fund a given applicant:
 - 1) The extent to which a program implements the recommended services set

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forth in Sections 1100.100, 1100.110, 1100.120, 1100.122, 1100.124 and/or 1100.130;

- 2) The extent to which the applicant's stated goals are consistent with the delivery of services enumerated in Section 8 of the Violent Crime Victims Assistance Act;
 - 3) The commitment and ability to provide the services for which funding is sought. Evidence of commitment and ability includes: programmatic expertise (i.e., qualifications, training, including in-service training for staff and volunteers, and experience of agency staff), level of resources available to the program and past grant compliance;
 - 4) The number of people served, types of services provided and needs of the community as described in the grant application;
 - 5) Evidence of community support exhibited by the grant application;
 - 6) The organizational structure of the agency;
 - 7) The extent to which the applicant proposes to maximize the use of volunteers and student interns;
 - 8) The applicant's history of compliance with reporting, accounting and other requirements pertaining to grants awarded under this Part or under any other governmental program.
- b) The Administrator shall compare and contrast the applicants' proposed programs to determine which applicants in a given geographic area are best able to maximize the number of victims and witnesses served and the types of services available to victims and witnesses.
 - c) The Administrator shall select applicants so as to maximize the number of victims and witnesses served and the types of services available to victims and witnesses statewide, as well as to provide opportunities for specialized services and training.
 - d) Grants will be made for a term of one year corresponding to the State's fiscal year, unless the Administrator determines that a shorter term is appropriate.

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Section 1100.60 Agency-Community Relations

- a) Applicants are encouraged to develop community support and active involvement in the planning, development, operation and/or funding of victim and witness services.
- b) Applicants should engage in ongoing efforts toward publicizing their programs, functions, and locations (except when the nature of the services requires that the location not be publicized), to all segments of the community.
- c) Applicants are encouraged to use volunteers and student interns.
- d) Support of victim and witness services in the form of local revenue, voluntary cash contributions, or "in-kind" contributions indicates local support.
- e) Applicants are encouraged to be members of multidisciplinary organizations or coalitions.
- f) Applicants should have networking agreements with other agencies in the community.
- g) Agencies may contact the Office of the Attorney General, Violent Crimes Victims Assistance Program for technical assistance in relation to developing, maintaining or expanding a planned, organized and coordinated network for the delivery of victim and witness services.

Section 1100.70 General Programming and Staffing Requirements

- a) Program Requirements
 - 1) A program shall deliver services to violent crime victims and witnesses within a defined geographic area. Any limitations on the population served will be determined by the geographic boundaries, existing services and location of the program. (For example, a program may serve a single county or multiple counties.)
 - 2) All programs shall provide services to victims and witnesses of crime consistent with the criteria set forth in Section 8 of the Violent Crime Victims Assistance Act.

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- 3) All programs must provide, to all victims and witnesses to be served, information regarding the following:
 - A) Any available financial assistance, including but not limited to the right to restitution in a criminal case and the funds available under the Crime Victims Compensation Act [740 ILCS 45].
 - B) Their rights under Article I, Section 8.1 of the Illinois Constitution and under the Rights of Crime Victims and Witnesses Act [725 ILCS 120] and how to assert those rights.
 - C) The availability of the Illinois Automated Victim Notification System, or any other available notification systems, to obtain information regarding offender custody and case status.
- 4) Grantees shall not charge victims or witnesses for the services funded by the Violent Crimes Victim Assistance fund.
- 5) Grantees must have in place written policies and procedures pertaining to client rights, including the release of information about a client. For purposes of this subsection (a)(5), the term "client rights" shall in all cases include, but not be limited to, the right to confidentiality and the right of personal privacy.
- 6) Grantees shall not deny services to clients on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, citizenship status, marital status, unfavorable military discharge, military status, or physical, mental or perceived handicap.
- 7) Client intake policies and procedures shall be set forth in writing and be available for review by the Administrator to verify that the agency's services are being provided to the population described in the grant application.
- 8) Grantees shall comply with the mandatory reporting requirements of the Abused and Neglected Child Reporting Act [325 ILCS 5] and the Elder Abuse and Neglect Act [320 ILCS 20].

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- 9) A private non-profit agency seeking funding under the Violent Crime Victims Assistance Act shall provide for administration and management of its program by an executive appointed by its Board of Directors.
- b) Staffing Requirements
- 1) A program shall use paid staff for administrative functions, fiscal management, therapy, counseling and training.
 - 2) Grantees shall not discriminate in the hiring or promotion of staff based on race, color, national religion, sex, sexual orientation, national origin, ancestry, citizenship status, age, marital status, unfavorable military discharge, military status, or physical, mental or perceived handicap.
 - 3) Personnel policies shall be set forth in writing and demonstrate compliance with equal employment and drug free workplace requirements.
 - 4) A program should use volunteers and student interns in every aspect of service delivery possible, provided that they are supervised by a staff member with experience in the type of service the volunteer or student intern is providing and receive ongoing training.
 - 5) Training procedures for volunteers and student interns shall be set forth in writing.
 - 6) Grantees shall maintain time and attendance records for positions funded by the Grant Agreement on a form prescribed or approved by the Administrator. The records shall reflect the dates and hours the services specified in the Grant Agreement are provided and must be signed by funded staff and a supervisor.
 - 7) The Administrator may require staff funded by the grant to apply for and, if accepted, attend one crime victim services training during the grant period. Crime victim services training includes, but is not limited to, the Illinois Victim Assistance Academy, the Advanced Illinois Victim Assistance Academy, and trainings approved by state-wide coalitions or organizations that provide services to crime victims.

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- c) **Technical Assistance**
Agencies may contact the Office of the Attorney General, Violent Crimes Victims Assistance Program for technical assistance in relation to developing, maintaining or expanding services to victims and witnesses.

SUBPART B: SPECIFIC PROGRAMS FOR VICTIM POPULATIONS

Section 1100.100 Victim/Witness Programs

- a) **Target Populations**
Programs shall aid violent crime victims and witnesses in their contacts with the criminal justice system and with problems resulting from their victimization.
- b) **Mandatory Services for all Victim/Witness Programs**
In addition to providing the services set forth in Section 1100.70(a)(3), programs intending to apply for funding to serve all types of violent crime victims and witnesses must:
 - 1) Provide information to victims and witnesses periodically throughout the case investigation, arrest, charging procedures and court process.
 - 2) Provide supportive listening and advocacy to victims and witnesses in all cases upon request of the victim or witness.
 - 3) Coordinate its services with other community resources in order to promote the effectiveness of assistance to crime victims.
- c) **Additional Mandatory Services for Programs in Prosecution Offices**
Programs in prosecution offices, in addition to the mandatory services set forth in subsection (b), must:
 - 1) Provide for notification of victims and witnesses in advance of court dates to minimize inconvenience and unnecessary court appearances whenever possible. A program should utilize an on-call system for victims and witnesses.
 - 2) Establish procedures to aid violent crime victims in the prompt return of their property.

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- 3) Provide information to a crime victim to assist in preparing a victim impact statement as provided in Section 6 of the Rights of Crime Victims and Witnesses Act.
 - 4) Provide employer and school intervention services relating to loss of time from work or school due to court appearances or victim recovery.
- d) **Recommended Services**
The following list is intended to serve as recommendations for the development of a comprehensive victim and witness program. Not all programs will be able to provide all of the listed services, and some programs may be able to provide services in addition to those listed. For a victim and witness program to comprehensively address the needs of crime victims and witnesses, however, these service elements should be provided in addition to the required services:
- 1) Staff to respond to crime scenes and provide intervention and support for victims and witnesses.
 - 2) Bilingual services; interpretive services for those who have a speech, sight or hearing disability; and promotion of culturally competent responses to victims and witnesses.
 - 3) Special efforts to reduce the burdens that prevent victims and witnesses from participating in the criminal justice system. Appropriate services may include, but need not be limited to, transportation, language interpretation, secure waiting areas, child care, lodging arrangements for out-of-town witnesses and parking.
 - 4) Training to individuals who have direct contact with a victim in order to increase their sensitivity and effectiveness in relation to the consequences of victimization and the problems of victim recovery.
 - 5) Public education to increase public awareness of the problems of crime victims in order to improve the relationship between victims and the criminal justice system.

Section 1100.110 Sexual Assault Programs

- a) Target Population

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Programs shall provide direct services to persons victimized by sexual assault, their family members and significant others, and witnesses.

b) Mandatory Services

In addition to providing the services listed in Section 1100.70(a)(3), programs intending to apply for funding to serve victims of sexual assault must:

- 1) Make available a 24-hour crisis intervention hotline to victims to provide information, referral, crisis intervention and support. Direct response is preferred but not required.
- 2) Provide supportive listening and advocacy at both a personal and system level to assist in the proper care and treatment of victims of sexual assault, affected family members and significant others during medical, police or criminal justice proceedings.
- 3) Provide 24-hour medical advocacy.
- 4) Provide individual counseling for victims, affected family members and significant others as appropriate. Any professional providing counseling should have specialized training in the dynamics and treatment of sexual assault and sexual abuse.
- 5) Provide referrals to appropriate resources within the community to meet the specific needs of the victim, affected family members and significant others.
- 6) Provide follow-up services, upon request, to the victim, affected family members and significant others.

c) Recommended Services

The following list is intended to serve as recommendations for the development of a comprehensive sexual assault program. Not all programs will be able to provide all of the listed services, and some programs may be able to provide services in addition to those listed. For a sexual assault program to comprehensively address the needs of victims of sexual assault, their family members and significant others, and witnesses, these service elements should be provided in addition to the required services.

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- 1) Therapy for child and adult victims, which should be provided by licensed professionals who have received specialized training in the dynamics and treatment of sexual assault and sexual abuse.
- 2) Group counseling and support sessions on both formal and informal levels. Counseling should be accessible to both recently and previously traumatized victims, affected family members and significant others.
- 3) In-service training programs for professionals, staff, volunteers and student interns who may be working with, or who may come in contact with, victims of sexual assault, affected family members or significant others.
- 4) Provision of educational materials to the general public regarding the personal and societal consequences of sexual assault and abuse, prevention and protective techniques, and program services available for victims, affected family members and significant others.
- 5) Assistance to victims in obtaining necessary transportation to secure services and assistance.
- 6) Direct and indirect provision of clothing or emergency funds to sexual assault victims to meet immediate needs.
- 7) Employer and school intervention services relating to loss of time from work or school due to victim recovery.
- 8) Bilingual services; interpretive services for those who have a speech, sight or hearing disability; and promotion of culturally competent responses to victims and witnesses.

Section 1100.120 Domestic Violence Programs

- a) Target Population
Programs shall provide direct service to victims of domestic violence, their non-offending family members, and witnesses.
- b) Mandatory Services
In addition to providing the services in Section 1100.70(a)(3), programs intending

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to apply for funding to serve victims of domestic violence, their non-offending family members and witnesses must:

- 1) Make available a 24-hour crisis intervention hotline to victims to provide information, referral, crisis intervention and support. Direct response is preferred but not required.
 - 2) Provide counseling to victims, family members and witnesses. Any professional providing counseling should have specialized training in the dynamics of domestic violence.
 - 3) Provide supporting listening and advocacy at both a personal and system level to facilitate access to, and proper treatment by, other agencies and systems affecting victims of domestic violence, such as law enforcement, the medical community, social services, the courts and governmental agencies.
 - 4) Provide safe shelter whenever it is feasible to do so.
 - 5) Provide referrals to the appropriate sources within the community to meet the specific needs of the victim. When possible, programs should provide assistance in the areas of education and job training for victims.
 - 6) Provide group counseling and support sessions on both a formal and an informal level in order to provide an opportunity for victims and their families to share experiences and knowledge as they deal with their situations.
 - 7) Provide follow-up services to victims and non-offending family members in a manner appropriate to their needs and life situations.
- c) **Recommended Services**
The following list is intended to serve as recommendations for the development of a comprehensive domestic violence program. Not all programs will be able to provide all of the listed services, and some may be able to provide services in addition to those listed. For a domestic violence program to comprehensively address the needs of victims of domestic violence, their non-offending family members and witnesses, these service elements should be provided in addition to the required services.

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- 1) Assistance to victims in obtaining transportation necessary to secure services and assistance.
- 2) Ongoing efforts to inform both victims and the public about the causes and consequences of domestic violence.
- 3) Address the trauma experienced by children who live or have lived in a violent domestic environment. Qualified professionals should be utilized whether through the agency itself or by referral.
- 4) Direct and indirect assistance to victims who are unable to escape a violent environment due to immediate lack of funds or short-term material needs.
- 5) Training to others who may come into contact with domestic violence victims and their families.
- 6) Employer and school intervention services relating to loss of time from work or school due to victim recovery.
- 7) Bilingual services; interpretive services for those who have a speech, sight or hearing disability; and promotion of culturally competent responses to victims and witnesses.

Section 1100.122 Child Sexual Assault/Child Abuse Programs

- a) **Target Population**
Programs shall provide direct services to child victims of sexual assault and abuse, as well as to non-offending parents and minor siblings.
- b) **Accreditation**
A Children's Advocacy Center program should be accredited by or actively engaged in the accreditation process of the National Children's Alliance, 1516 C Street, NE, Washington, D.C. 20002.
- c) **Mandatory Services**
In addition to providing the services in Section 1100.70(a)(3), programs intending to apply for funding to serve child sexual abuse/assault victims and their non-offending parents and minor siblings must:

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- 1) Provide crisis phone counseling for victims and for non-offending parents and siblings of victims.
 - 2) Ensure that forensic interviews are conducted in a neutral, fact-finding manner representing a multidisciplinary approach to avoid duplicative interviews.
 - 3) On behalf of victims and non-offending parents and minor siblings, advocate with law enforcement, medical providers, the judiciary, educational institutions, Department of Children and Family Services, Department of Healthcare and Family Services, and other government agencies and social service systems.
 - 4) Provide information and referral services for victims and non-offending parents and minor siblings to appropriate resources within the community to meet their specific needs.
 - 5) Network with other community agencies and participate in coalitions and community groups providing related services to children in order to promote the development of a more effective comprehensive response to the needs of victims and their families.
- d) Recommended Services
- The following list is intended to serve as recommendations for the development of a comprehensive child sexual assault/abuse program. Not all programs will be able to provide all of the listed services, and some programs may be able to provide services in addition to those listed. For a child sexual assault/sexual abuse program to comprehensively address the needs of child victims and their non-offending parents and minor siblings, these service elements should be provided in addition to the required services.
- 1) Individual counseling for victims in a safe, child appropriate setting.
 - 2) Individual, in-office counseling for non-offending parents and foster/custodial parents in order to ensure the most comprehensive services for the child.
 - 3) Joint counseling for non-offending parents and children when indicated.

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- 4) Group counseling, when appropriate, for both children and non-offending parents.
 - 5) Public education by making available to the general public information on the victimization of children and the effects of violence on their lives, as well as program services.
 - 6) Professional training on treatment and clinical interventions for community service agencies, hospitals, mental health centers and other social service providers in order to increase their sensitivity and their effectiveness in relation to the consequences of child victimization and recovery.
 - 7) Employer and school intervention services relating to loss of time from work or school due to victim recovery.
 - 8) Bilingual services; interpretive services for those who have a speech, sight or hearing disability; and promotion of culturally competent responses to child victims and non-offending parents.
- e) Personnel
All staff should participate in a structured training program that addresses the issues of child sexual assault/child abuse. Direct service staff dealing with children shall have, at minimum, an M.A. in social work, counseling or a related field.

Section 1100.124 Senior Victim Programs

- a) Target Population
Programs or agencies shall provide services to seniors who are victims of violent crime.
- b) Mandatory Services
In addition to providing the services in Section 1100.70(a)(3), programs intending to apply for funding to serve senior victims of crime must:
 - 1) Provide individual assessments to evaluate victim needs and work with the victim to develop a care plan to address those needs.

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- 2) Provide crisis intervention services appropriate to the victim's needs and abilities.
 - 3) Provide information on the criminal justice system, as well as assistance with pursuing legal options.
 - 4) Provide supportive listening to victims and non-offending family members.
 - 5) Educate victims about community services that are available for seniors.
 - 6) Participate in multi-disciplinary teams and other community groups and organizations dealing with senior issues.
 - 7) Provide social service, medical and legal advocacy when requested.
- c) **Recommended Services**
The following list is intended to serve as recommendations for the development of a comprehensive senior victims program. Not all programs will be able to provide all of the listed services, and some programs may be able to provide services in addition to those listed. For a senior victims program to comprehensively address the needs of senior victims, these service elements should be provided in addition to the required services:
- 1) Assistance in obtaining suitable transportation to necessary services and resources.
 - 2) In-service training programs for professionals, staff, volunteers and student interns who may work with or come in contact with senior victims in order to sensitize them to the specific needs and problems faced by seniors.
 - 3) Assistance in meeting immediate material or safety needs of victims.
 - 4) Public education to the senior population of the community by disseminating information on crime prevention, safety issues and victimization.

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- 5) Employer and school intervention services relating to loss of time from work or school due to victim recovery.
 - 6) Bilingual services; interpretive services for those who have a speech, sight or hearing disability; and promotion of culturally competent responses to victims and witnesses.
- d) Personnel
Direct services should be provided by trained staff, with qualifications being set appropriate to the services provided.

Section 1100.130 Programming for Other Victim Populations

Agencies may apply for funding for programs serving other victim populations. Program descriptions for other categories of victim populations, such as families of homicide victims, disabled victims and drunk driving victims are not detailed in this Part. Specific programs tailored to meet these needs will be evaluated on an individual basis using Section 1100.50. The Administrator will give such applicants equal consideration in the selection of agencies to be funded.

SUBPART C: FISCAL AND MONITORING REQUIREMENTS

Section 1100.200 Accounting Requirements

- a) All accounting entries of a Grantee must be supported by appropriate source documents, recorded in books of original entry, and posted to a general ledger on a monthly basis.
- b) Expenses paid with grant funds are to be identified to specific services funded by the grant. All other expenses not funded by the Administrator may be booked in total.
- c) Each Grantee shall maintain all fiscal records for five years after the end of each budget period. In instances involving unresolved issues arising from an audit, pending litigation or unresolved tax issues, records related to the unresolved issues must be at least retained until the issues are resolved.

Section 1100.210 Allowable and Non-allowable Expenses

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The Administrator provides funds for services offered by public and non-profit agencies as specified in this Section but will not be the sole funding source for any Grantee. The Administrator will only provide funds to programs for the purpose of funding certain items of expense as set forth in this Section.

- a) The following expenditures are the only allowable expenses for which grant funds may be used:
 - 1) Salaries and fringe benefits for Grantee employees;
 - 2) Contractual services;
 - 3) Equipment that is rented or leased for program use;
 - 4) General office expenses;
 - 5) Travel expenses and transportation costs for staff and clients;
 - 6) Printed or promotional materials used for informational purposes or to publicize the program. All printed materials paid for, in whole or part, with funds provided pursuant to the Grant Agreement shall include a statement that they were printed with support from the Illinois Attorney General's Office and that the views and statements expressed in those materials do not necessarily reflect the views and opinions of the Illinois Attorney General's Office.

- b) In particular, the following expenditures are among those for which grant funds may not be used, notwithstanding the potential applicability of subsection (a):
 - 1) The expenses of researching issues and programs and collecting statistics;
 - 2) Compensation to an agency board member other than payment of fair value for services rendered to the agency in a capacity other than board member;
 - 3) Individual or agency association dues or costs of attending professional meetings;
 - 4) The use, or reimbursement for use, of agency- or privately-owned

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automotive equipment by staff for personal business or non-work-related transportation;

- 5) The expenses of fund-raising activities;
- 6) Entertainment and meal expenses;
- 7) Donations of cash or in-kind services to charities, other organizations and individuals;
- 8) The repayment of any of the principal amount of, and the payment of interest on, any loan;
- 9) Lease-purchase agreements for items of equipment;
- 10) The cost of office space or other buildings;
- 11) The cost of developing supply inventories;
- 12) Any expense incurred by a Grantee for the sale of goods or services;
- 13) Reimbursement of expenses that have been funded by a grant from another funding source;
- 14) Contributions to a contingency reserve or any similar provision for unforeseen events.

Section 1100.218 Interest

- a) Interest income earned from award funds shall be used for expenses that further the provision of direct services to clients, consistent with the provision of service stated in the Grant Agreement. These expenses shall not exceed \$500 in any fiscal year. Interest income earned in excess of \$500 shall be returned to the Administrator with the next quarterly report.
- b) Interest income earned from award funds and expenses paid from that interest income shall be reported on quarterly reports as separate items from other expenses against the grant award.

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- c) In addition to the allowable expenses listed in Section 1100.210(a), interest income may be used to pay interest expenses on borrowed funds used to purchase land, buildings and/or equipment that are required to provide direct services to clients or are related to client services. The items purchased must actually be in use.

Section 1100.220 Audits

- a) Each Grantee agency shall have an annual audit of its financial statements performed at the close of its fiscal year by an independent certified public accountant licensed by the State of Illinois. The report shall contain the basic financial statements presenting the financial position of the agency, the results of its operations, and changes in fund balances. The report shall also contain the auditor's opinion regarding the financial statements taken as a whole, or an assertion to the effect that an opinion cannot be expressed. If the auditor expresses a qualified opinion, a disclaimer of opinion, or an adverse opinion, the reason must be stated.
- b) Audit Report and Management Letter
- 1) Private not-for-profit agencies must submit a copy of their most recently completed audit and management letter with the grant application.
 - 2) Governmental entities must have on site a copy of their most recently completed audit for review by the Administrator during site visits.
 - 3) Agencies with a total budget of under \$300,000, or who have been in operation less than a year at the time of filing a grant application, may request an exemption to the audit requirement, but must submit a financial statement detailing revenue sources and expenses.

Section 1100.230 Grant Agreement

- a) The Grant Agreement serves as the formal statement of mutual expectations between the Administrator and the Grantee, and shall be drafted by the Administrator. The Grant Agreement is a combination service plan and budget. It identifies what services will be provided or procured, to what target population, and within what geographical area. The authorized official of the Grantee must sign the Grant Agreement.

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- b) The Grant Agreement shall contain the certification and information required by the Illinois Grant Funds Recovery Act [30 ILCS 705].
- c) The term of the agreement shall be July 1 to June 30, unless a different term is specified in the Grant Agreement and unless sooner terminated as provided in Section 1100.250. Payments under the Grant Agreement will be made quarterly.
- d) Those sections of the Grantee's proposal that the Administrator has accepted shall be incorporated into the Grant Agreement.
- e) **Modification of Program**

The Grantee shall not change, modify, revise, alter, amend or delete any part of the services it has agreed to provide in the Grant Agreement without first obtaining written consent for the change, modification, revision, alteration, amendment, deletion or extension from the Administrator in the form of a Supplemental Agreement.

 - 1) When the Grantee has, in good faith, attempted to comply with the provisions of the Grant Agreement, but, for unforeseen circumstances, was not able to comply with the Grant Agreement, the Administrator will consider a Supplemental Agreement.
 - 2) **Procedures for a Supplemental Agreement**
 - A) The Grantee shall submit to the Administrator the following:
 - i) A written explanation of the circumstances detailing the good faith attempts to comply with the service provisions in the Grant Agreement;
 - ii) A proposed solution; and
 - iii) A request for a Supplemental Agreement.
 - B) The Administrator will grant the request if the request is consistent with the original intent of the grant award and services to victims and witnesses, and the grant funds expenditure is allowable under Section 1100.210(a).

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- C) The Administrator will prepare a Supplemental Agreement to be signed by both parties if:
 - i) The Administrator approves the Grantee's request and proposed solution;
 - ii) The Administrator proposes its own solution that is acceptable to the Grantee; or
 - iii) The parties agree on a solution.
 - D) The Administrator will notify the Grantee in writing of the denial of a request for modification of the program.
- e) Modification of Budget
- 1) The Grantee has the responsibility to identify instances when funds can not be expended in accordance with the Grant Agreement budget and to seek reallocation of those funds prior to the expiration of the Grant Agreement.
 - 2) The Grantee must utilize one of the following options in order to reallocate funds.
 - A) The Grantee may reallocate amounts less than \$1,000 of the grant funds to existing line items in the approved budget in the Grant Agreement. The Grantee must submit information relating to the reallocation on a form prescribed by the Administrator.
 - B) If the Grantee wishes to reallocate amounts less than \$1,000 of the grant funds to an expense that creates a new line item in the approved budget, the Grantee must submit to the Administrator a written request and explanation for reallocation on a form prescribed by the Administrator.
 - C) If the Grantee wishes to reallocate amounts of \$1,000 or more of grant funds, the Grantee must submit to the Administrator a written request and explanation for the reallocation on a form prescribed

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by the Administrator.

- D) The Administrator will grant a reallocation of funds when it determines that funds will be used for allowable expenses consistent with the funded services.
- E) The Administrator shall inform the Grantee of its decision within 30 days after receipt of a request.

Section 1110.240 Payment

- a) The Administrator shall complete the processing for payment of 25 percent of the grant award within 45 days after the beginning of the grant term or the execution of the Grant Agreement, whichever is later. The remaining balance of the award shall be processed in three equal installments within 30 days after the end of each of the first three quarters. Payments are subject to the continued availability of appropriated funds.
- b) A payment shall be delayed if:
 - 1) The Grantee has not complied with reporting requirements;
 - 2) The Administrator is investigating possible misstatements in the Grantee's reports or application;
 - 3) The Grantee has failed to obtain approval for modification of services or for reallocation of funds;
 - 4) The Grantee becomes non-compliant with the Charitable Trust Act or the Solicitation for Charity Act; or
 - 5) The Grantee has failed to timely submit lapsed funds from a prior grant.

Section 1110.250 Termination of Grant Agreement

- a) The Administrator may terminate the Grant Agreement for good cause, which includes, but is not limited to:
 - 1) Failure to timely submit reports to the Administrator, as required by

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Section 1100.270;

- 2) Failure to provide the services specified in the Grant Agreement;
 - 3) Material misrepresentations or misstatements in a grant application or required reports;
 - 4) Failure to comply with accounting or record-keeping requirements;
 - 5) Non-compliance with the Charitable Trust Act or the Solicitation for Charity Act;
 - 6) Use of funding for staff that does not meet the qualifications for the funded positions; and
 - 7) Misappropriation of grant funds.
- b) The Administrator will send written notification of the termination of a Grant Agreement to the Grantee 30 days prior to the termination date. The notice shall detail the reasons for termination and the procedure for the repayment of unexpended funds or monies due the Administrator.
 - c) Failure to comply with the procedures prescribed for repayment of funds due to cancellation of the Grant Agreement will result in the invocation of the provisions of the Illinois Grant Funds Recovery Act.
 - d) The Grantee may terminate the Grant Agreement by providing written notice to the Administrator. The Grantee will comply with the procedures prescribed for repayment of funds set forth in the Illinois Grant Funds Recovery Act.

Section 1100.260 Lapsed Funds

- a) Grant funds not expended or legally obligated by the end of the Grant Agreement are considered lapsed and must be returned within 45 days following the end of the Grant Agreement, as required by the Grant Funds Recovery Act.
- b) The Grantee shall identify the amount of lapsed funds in the final report submitted to the Administrator.

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- c) The Administrator shall verify the amount of lapsed funds and notify the Grantee in writing if there is a dispute within 40 days after the end of the grant period.
- d) If the Grantee fails to timely return the lapsed funds, the Administrator shall institute proceedings to recover the funds in accordance with the Grant Funds Recovery Act.

Section 1100.270 Quarterly and Staff Reporting Forms

- a) A Grantee shall submit to the Administrator financial and activity reports every three months, covering the previous three-month period, on forms provided by the Administrator.
 - 1) The financial report form shall provide a detailed statement of costs and expenditures, fiscal summary, names of funded staff persons, requested revisions and adjustments.
 - 2) The activity report form shall detail clients served, services provided and revisions, if any, of timetables and activities to reflect the current program status and future activity.
 - 3) All reporting forms must be received by the Administrator no later than 15 days following the end of the reporting period. The method of delivery shall be specified by the Administrator.
 - 4) The Administrator may grant extensions of up to 2 weeks for good cause (e.g., inability to complete report due to unavailability of responsible staff as a result of illness or personal or business emergency or due to calamity, natural disaster or weather event). The Administrator will provide written confirmation of any extension. The written confirmation shall be attached to the reporting forms when submitted.
- b) Funded Staff Reporting
 - 1) A Grantee shall submit to the Administrator the resume of any funded staff no later than October 15 of the funded year.
 - 2) If, for any reason, a Grantee finds it necessary or desirable to substitute, add or subtract personnel to perform its services under the Grant

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Agreement, the Grantee shall submit a written notice to Administrator. The notice must be on a form prescribed by the Administrator and must include the name of any substituted or additional personnel, together with the person's resume and the reason for the change. Any substitutions or additional personnel must meet the qualifications of the written job description on file with the current application.

Section 1100.280 On-Site Visits and Inspection of Records and Policies

- a) The Administrator may conduct random or for-cause on-site visits of a Grantee's program.
- b) The Grantee shall make available, and the Administrator may inspect, all financial records, audits, time and attendance records of funded staff, client contact records, and case records in connection with funded programs.
- c) The Grantee shall make available, and the Administrator may inspect, policies and procedures specified in Section 1100.70.
- d) In making case records available, the Grantee shall insure the confidentiality of each client pursuant to the Grantee's confidentiality standards.

SUBPART D: SPECIAL PROJECT FUNDING

Section 1100.300 Special Projects

The Administrator may award funds for special projects.

- a) Special projects must serve to implement an eligible service as defined in Section 8 of the Violent Crime Victims Assistance Act. Examples are the translation of educational materials from English to another language and regional or local training.
- b) A special project shall not be an ongoing service.
- c) A special project shall be of a specific duration and have a specific goal. When this goal is accomplished, the special project is completed.

Section 1100.310 Eligible Agencies

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Any eligible agency, as defined in Section 1100.20, may apply for special project funding under this Section, either separately or in addition to funding for programs described in Subparts A and B.

Section 1100.320 Special Project Grant Application Requirements

- a) Applicants must submit a grant application for a special project on a form prepared by the Administrator.
- b) The special project grant application form shall include the following information:
 - 1) The information required under the Illinois Grant Funds Recovery Act;
 - 2) Details of the target population;
 - 3) Descriptions of the services to be provided;
 - 4) Descriptions of the materials to be produced or utilized;
 - 5) Goals;
 - 6) Proposed agendas;
 - 7) Anticipated time frames;
 - 8) Income documentation as required by Section 1100.200(a);
 - 9) The agency's Charitable Trust number, or a statement that the agency is exempt;
 - 10) If a not-for-profit agency, a copy of its most recent financial audit and management letter as required by Section 1100.220; and
 - 11) The signature of the authorized official of the agency.
- c) The Administrator will verify an applicant's Charitable Trust number or exempt status.

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Section 1100.330 Funding Priorities

The Administrator shall consider the following factors in determining which applicants shall receive funding:

- a) Stated goals of applicants as contained in the grant application;
- b) Commitment and ability to provide the services described;
- c) Number of persons to be served;
- d) Demonstrated need for the project;
- e) The extent to which the project serves victims and witnesses directly.

Section 1100.340 Grant Agreements

- a) The Grant Agreement serves as the formal statement of mutual expectations between the Administrator and the Grantee and shall be drafted by the Administrator. The authorized official of the Grantee must sign the Grant Agreement.
- b) The Grant Agreement shall contain the certification and information required by the Illinois Grant Funds Recovery Act.
- c) The term of the agreement shall be specified, but will not span fiscal years.
- d) Payment terms will be specified. Grant Agreements and payments are subject to the continued availability of appropriated funds.
- e) Grant funds not expended or legally obligated by the end of the Grant Agreement are considered lapsed and must be returned within 45 days following the end of the Grant Agreement, as required by the Illinois Grant Funds Recovery Act. If the Grantee fails to timely return the lapsed funds, the Administrator shall institute proceedings to recover the funds in accordance with the Illinois Grant Funds Recovery Act.

Section 1100.350 Fiscal and Monitoring

ATTORNEY GENERAL

NOTICE OF ADOPTED RULES

The fiscal and monitoring provisions set forth in Subpart C apply to grants for special projects, unless otherwise provided in the Grant Agreement.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Heartsaver AED Grant Code
- 2) Code Citation: 77 Ill. Adm. Code 530
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
530.300	Amended
530.400	Amended
530.500	Amended
- 4) Statutory Authority: Section 2310-371.5 of the Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-371.5]
- 5) Effective Date of Rulemaking: November 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: July 15, 2011; 35 Ill. Reg. 11197
- 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? No changes were requested by JCAR.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 530.300 is being amended to include a time frame in which the AED needs to be functioning after receipt of the Heartsaver AED Fund grant monies. Reference to a contract is being deleted, as a contract is not signed because of the small amount of the grant. The rules are also being amended to change the

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address to which applications shall be submitted. The Emergency Medical Systems and Highway Safety Office has re-located to 422 South 5th Street, Springfield, IL, 62701.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 530
HEARTSAVER AED GRANT CODE

Section	
530.100	Definitions
530.200	Referenced Materials
530.300	Eligibility for Grants
530.400	Grant Requirements
530.500	Application Requirements
530.600	Review of Applications
530.700	Use of Grant Funds
530.800	Termination
530.900	Denial, Suspension or Revocation
530.1000	Grant Funds Recovery
530.1100	Hearings

AUTHORITY: Implementing and authorized by Section 2310-371.5 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-371.5].

SOURCE: Adopted at 30 Ill. Reg. 12288, effective June 28, 2006; amended at 34 Ill. Reg. 3622, effective March 2, 2010; amended at 35 Ill. Reg. 19211, effective November 1, 2011.

Section 530.300 Eligibility for Grants

To be eligible to receive a grant from the Fund, the applicant shall meet all of the following criteria:

- a) Be an Illinois *school, public park district, forest preserve district, conservation district, municipal recreation department, college, or university* (Section 2310-371.5 of the Act); ~~and~~
- b) *Demonstrate that they have the funds to pay 50% of the cost of the AEDs for which matching grant moneys are sought* as that cost is determined by the State Master Contract or by the Department (Section 2310-371.5 of the Act); ~~and-~~

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- c) Place the AED into public service within eight weeks after receipt of grant funds.

(Source: Amended at 35 Ill. Reg. 19211, effective November 1, 2011)

Section 530.400 Grant Requirements

- a) Grant recipients shall comply with all applicable provisions of the Automated External Defibrillator Act and the Automated External Defibrillator Code.
- b) Grant recipients shall match the grant award received and shall spend the grant award on the purchase of an AED to be used by the grant recipient.
- c) Grant recipients shall complete and return documentation as prescribed by the Department (e.g., Reimbursement Certification Form or Internal Revenue Service W-9 Form). Grant recipients shall return a signed contract to the Department in the specified time period and shall comply with the provisions of the contract.

(Source: Amended at 35 Ill. Reg. 19211, effective November 1, 2011)

Section 530.500 Application Requirements

- a) Applications shall be submitted to the Department through the website established for this purpose or at the following address:
- Heartsaver AED Grants
Illinois Department of Public Health
Division of Emergency Medical Systems & Highway Safety
422 South 5th Street, 3rd Floor~~500 East Monroe Street, 8th Floor~~
Springfield IL 62701
- b) Faxed and e-mailed applications will not be accepted.
- c) Applications shall be submitted on the form prescribed by the Department and shall include, at a minimum, the following:
- 1) The name, address, e-mail address and phone number of the primary contact and the secondary contact designated by the applicant to be responsible for administering the grant funds;

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- 2) The Federal Employer Identification Number (FEIN) for the applicant;
and
- 3) An agreement by the applicant that, if awarded a grant, the grant will be
matched by the grant recipient.

(Source: Amended at 35 Ill. Reg. 19211, effective November 1, 2011)

DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: Psychiatry Incentive Program Code
- 2) Code Citation: 77 Ill. Adm. Code 577
- 3)

<u>Section Number:</u>	<u>Adopted Action:</u>
577.10	New
577.20	New
577.30	New
577.100	New
577.110	New
577.120	New
577.130	New
577.140	New
577.150	New
577.160	New
577.170	New
577.180	New
577.190	New
577.195	New
577.200	New
577.210	New
577.220	New
577.230	New
577.240	New
577.300	New
577.310	New
577.320	New
577.330	New
577.340	New
577.350	New
- 4) Statutory Authority: Implementing and authorized by the Psychiatry Practice Incentive Act [405 ILCS 100]
- 5) Effective Date of Rulemaking: November 3, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

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- 8) A copy of the adopted 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 Proposed Rules Published in Illinois Register: July 15, 2011; 35 Ill. Reg. 11202.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:
- In Section 577.10, for the definition of "Eligible medical student", added a cross-reference to Section 577.210(a)(3) to specify eligibility requirements.
- In Section 577.170(c), changed:
- "Once the Department determines that applications are complete, grant proposals will be reviewed and evaluated through the Department's grant review process."
- to
- "Once the Department determines that applications are complete, grant proposals will be reviewed and evaluated based on selection criteria (see Section 577.160)."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Psychiatry Practice Incentive Act mandates that the Illinois Department of Public Health establish and administer a program of grants, loans and loan forgiveness to recruit and retain physicians who agree to establish and maintain psychiatric practices in areas of Illinois that demonstrate the greatest need for more psychiatric care. These adopted rules will establish definitions, applications standards, selection criteria, terms of performance, reporting guidelines and monitoring requirements for grants and loans that are distributed to eligible recipients.

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER g: GRANTS AND LOANS TO PROMOTE THE HEALTH PROFESSIONS

PART 577

PSYCHIATRY INCENTIVE PROGRAM CODE

SUBPART A: GENERAL PROVISIONS

Section

- 577.10 Definitions
- 577.20 Referenced Materials
- 577.30 Administrative Hearings

SUBPART B: GRANTS TO PSYCHICATRIC PRACTICE RESIDENCY PROGRAMS

Section

- 577.100 Eligibility for Grants
- 577.110 Limitations on Use of Grant Funds
- 577.120 Notice of Grant Opportunity
- 577.130 Notice of Application
- 577.140 Project Requirements
- 577.150 Application for Grants
- 577.160 Selection Criteria
- 577.170 Grant Application Evaluation Process
- 577.180 Grant Awards, Terms and Conditions
- 577.190 Reporting Requirements
- 577.195 Grant Funds Recovery

SUBPART C: PSYCHIATRIC MEDICAL STUDENT SCHOLARSHIPS

Section

- 577.200 Limitations on Use of Scholarship Funds
- 577.210 Eligibility for Application
- 577.220 Criteria for Selecting Scholarship Recipients
- 577.230 Terms of Performance
- 577.240 Scholarship Repayments

SUBPART D: EDUCATIONAL LOAN REPAYMENT FOR PSYCHIATRISTS

DEPARTMENT OF PUBLIC HEALTH

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Section

577.300	Limitations on Use of Loan Repayment Funds
577.310	Application
577.320	Eligibility
577.330	Loan Repayment Awards
577.340	Loan Repayment Award Terms and Obligations
577.350	Penalty for Failure to Fulfill Obligation

AUTHORITY: Implementing and authorized by the Psychiatry Practice Incentive Act [405 ILCS 100].

SOURCE: Adopted at 35 Ill. Reg. 19216, effective November 3, 2011.

SUBPART A: GENERAL PROVISIONS

Section 577.10 Definitions

"Academic year" means the period of time each year during which a school of medicine or school of osteopathy is open and classes are in session.

"Act" means the Psychiatry Practice Incentive Act [405 ILCS 100].

"Administrative costs" means funds that are used to control and direct an organization but are not directly identifiable with financing or operations. These costs relate to the entire organization as opposed to specific departments or units.

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings.

"Applicant" means a person who submits an application to the Department to receive either a psychiatric medical student scholarship or a physician loan repayment assistance grant, or a school of medicine or school of osteopathy in Illinois with a psychiatric practice residency program that applies for a psychiatric practice residency grant.

"Authorized representative" means a person who has authority to act on behalf of the legal entity or person that is an applicant or grantee. Authorized representatives are: for a corporation, any of its officers or members of its board

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of directors; for a limited liability company, any of its managers or members; for a partnership, any of its general partners; and for a sole proprietor, the individual who is the sole proprietor.

"Benefits" means compensation that is in addition to direct wages or salary, including paid time off, pension, social security and insurance.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Certified mail" means mail for which proof of delivery is obtained.

"Department" means the Illinois Department of Public Health. (Section 10 of the Act)

"Designated shortage area" means an area designated by the Director as a psychiatric or mental health physician shortage area, as defined by the United States Department of Health and Human Services or as further defined by the Department to enable it to effectively fulfill the purpose stated in Section 5 of the Act. Such areas may include the following:

an urban or rural area that is a rational area for the delivery of health services;

a population group; or

a public or nonprofit private medical facility. (Section 10 of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 10 of the Act)

"Eligible medical student" means a person who meets all of the following qualifications:

He or she is an Illinois resident at the time of the application for assistance under the program established by the Act.

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He or she is studying medicine in a medical school located in Illinois.

He or she exhibits financial need, as determined by the Department (see Section 577.210(a)(3)).

He or she agrees to practice full-time in a designated shortage area as a psychiatrist for one year for each year he or she receives assistance under the Act.

He or she agrees to accept medical payments, as defined in the Act, and to serve targeted populations. (Section 10 of the Act)

"Equipment" means the cost of movable equipment, including movable medical equipment, and the cost of making the equipment operational (e.g., installation costs).

"Federally Qualified Health Center" or "FQHC" means a health center funded under section 330 of the Public Health Service Act.

"Federally Qualified Health Center Look-Alike" or "FQHC Look-Alike" means an organization that meets the requirements for receiving a grant under section 330 of the federal Public Health Service Act but does not receive federal funding under that authority.

"Full-time practice" means a minimum of 40 hours per week in an office-based setting. The practice shall include hospital coverage appropriate to the needs of patients and to ensure continuity of care. At least 32 of the minimum 40 hours per week shall be devoted to providing clinical services in the ambulatory setting at the approved practice site, during normally scheduled office hours.

"Fiscal year" means the financial operating year of Illinois State government. It begins on July 1 and ends on June 30 of the next calendar year.

"Funding period" means the time frame during which grant funds are to be expended by the grantee (usually corresponding with the Department's fiscal year).

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"Good academic standing" means that a student is matriculating with the rest of his or her class as determined by the student's medical school.

"Grant" means funds awarded under the Act.

"Grantor agency" means *any agency of State government which dispenses grant funds.* (Section 2(a) of the Illinois Grant Funds Recovery Act)

"Grant agreement" means the agreement entered into between the Department and the grantee setting forth the terms and conditions of a grant award.

"Grantee" means a *person or entity which may use grant funds.* (Section 2(c) of the Illinois Grant Funds Recovery Act)

"Grant funds" means *public funds dispensed by the Department to any person or entity for obligation, expenditure or use for a specific purpose.* (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Health Professional Shortage Area" or "HPSA" means a designation provided by the U.S. Department of Health and Human Services, Health Resources and Services Administration. The HPSA designation indicates the shortage of primary medical care, dental or mental health providers. The designation may be geographic (a county or service area), demographic (low income population) or institutional (comprehensive health center, FQHC or other public facility). HPSA designations can be found at <http://hpsafind.hrsa.gov/>.

"Health Professional Shortage Area Score" or "HPSA Score" refers to the HPSA shortage severity score calculated by the United States Department of Health and Human Services, Bureau of Health Professionals when an HPSA is federally designated.

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for a psychiatric medical student scholarship or loan repayment assistance and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and has lawfully recorded permanent residence as an immigrant.

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"Legal holiday" means a holiday set by statute, during which government and business working hours are suspended.

"Matriculation fees" means educational expenses charged to all students by the various schools of medicine or osteopathy. These fees are charged to offset expenses incurred by the schools for admission and enrollment processing, library use, mandatory health insurance, and student activities.

"Medical facility" means a facility for the delivery of health services. Medical facility includes a hospital, State mental health institution, public health center, outpatient medical facility, rehabilitation facility, long-term care facility, federally-qualified health center, migrant health center, community health center, community mental health center, or State correctional institution. (Section 10 of the Act)

"Medical payments" means compensation provided to physicians for services rendered under Article V of the Illinois Public Aid Code. (Section 10 of the Act)

"Medically underserved area" or "MUA" means an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services or as otherwise designated by the Department of Public Health. (Section 10 of the Act)

"Medically underserved population" or "MUP" means the population of an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services, a population group designated by the Secretary of the United States Department of Health and Human Services as having a shortage of personal health services, or as otherwise designated by the Department of Public Health. (Section 10 of the Act)

"Metropolitan Statistical Area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 in population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

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"Obligation" or "Obligated" means a requirement for a grantee to make future payments from grant funds that result from financial transactions that have occurred.

"Official State newspaper" means the newspaper identified by the Illinois Office of Communication and Information to publish legal notices and other publications for all State agencies, elected officials, and boards and commissions. Information on the Official State Newspaper can be obtained from the following internet site: www.illinois.gov/ioci/statenewspaper.cfm

"Personal services" means costs associated with wages and salaries for individuals employed by the grantee.

"Project completion" means that the project has been brought to a conclusion based on the project objectives and within the time frame requirements in the grant agreement.

"Proof of publication" means documentation provided by a newspaper verifying that a notice was published.

"Psychiatric physician" means a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 with board eligibility or certification in the specialty of psychiatry, as defined by recognized standards of professional medical practice. (Section 10 of the Act)

"Psychiatric practice residency program" means a program accredited by the Residency Review Committee for Psychiatry of the Accreditation Council for Graduate Medical Education or by the American Osteopathic Association. (Section 10 of the Act)

"Rational service area" means a geographic area for the delivery of psychiatric care services. In determining a rational service area, one of the following conditions must be met: a county or a group of contiguous counties whose population centers are within 30 minutes travel time of each other; a portion of a county whose population has limited access to a contiguous area's resources, as measured by travel time greater than 30 minutes; or established communities within a metropolitan statistical area that have limited interaction with contiguous areas and have a maximum population of 20,000.

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"Real property" means lands, structures, and buildings and anything that can be affixed to them. It does not include items that can be moved, including equipment.

"Rural" means any geographic area not located in a U.S. Census Bureau Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a community located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service term" means the length of time that a psychiatric physician serves in a Designated Shortage Area as a result of receiving a psychiatric medical student scholarship or educational loan repayment grant.

"Supplies" means general purpose consumable items that have a shorter life span than equipment and that are stocked for recurring use.

"Targeted populations" means one or more of the following: a medically underserved population, persons in a medically underserved area, an uninsured population of this State, and persons enrolled in a medical program administered by the Illinois Department of Healthcare and Family Services. (Section 10 of the Act)

"Travel" means the cost incurred by a grantee's employees to travel to fulfill specific job requirements. These costs could include, but are not be limited to, air travel, local transportation, per diem, mileage allowance and lodging.

"Uninsured population" means persons who do not own private health insurance, are not part of a group insurance plan, and are not eligible for any State or federal government-sponsored health care program. (Section 10 of the Act)

"Urban" means any geographic area that does not meet the rural geographic area definition in this Section.

Section 577.20 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois Statutes:

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- 1) Psychiatry Practice Incentive Act [405 ILCS 100]
 - 2) Illinois Administrative Procedure Act [5 ILCS 100]
 - 3) Illinois Grant Funds Recovery Act [30 ILCS 705]
 - 4) Medical Practice Act of 1987 [225 ILCS 60]
 - 5) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]
 - 6) State Finance Act [30 ILCS 105]
 - 7) Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575]
 - 8) Illinois Public Aid Code [305 ILCS 5]
 - 9) Illinois Human Rights Act [775 ILCS 5]
- b) Illinois Rule:
- 1) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- c) Federal Statutes:
- 1) Designation of Health Professional Shortage Areas, section 332 of the Public Health Service Act (42 USC 254(e))
 - 2) Designation of Medically Underserved Area, section 330(b)(3) of the Public Health Service Act (42 USC 254(b))

Section 577.30 Administrative Hearings

Administrative hearings conducted by the Department concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

SUBPART B: GRANTS TO PSYCHIATRIC PRACTICE RESIDENCY PROGRAMS

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Section 577.100 Eligibility for Grants

The following are eligible to apply for grants through this Subpart:

- a) Any accredited school of medicine or school of osteopathy located in Illinois with a department of psychiatric medicine;
- b) Any accredited psychiatric practice residency program located in Illinois; or
- c) Any accredited child and adolescent fellowship program located in Illinois.

Section 577.110 Limitations on Use of Grant Funds

Grant funds awarded by the Department may be used only to support project expenses and operations.

- a) Grant funds may be used by the grantee to support pre-approved project expenses, whether incurred at the residency or the school's central site or at an affiliated satellite.
- b) Grant funds may be used to support pre-approved project operations, including those in the following budget categories:
 - 1) Personal services expenses of staff directly involved in the project;
 - 2) Medical equipment and supplies necessary for the operation of the project;
 - 3) Staff and resident travel directly related to the project;
 - 4) Nonmedical equipment and supplies necessary for the operation of the project;
 - 5) Contractual services and rent necessary for the operation of the project; and
 - 6) Other expenses critical to the operation of the project.

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- c) Grant funds shall not be used to supplant or supplement other State or federal grants.
- d) Grant funds shall not be used for new construction or to purchase real property.

Section 577.120 Notice of Grant Opportunity

- a) The Department will publish a notice announcing the grant opportunity in the official State newspaper. The notice will also be posted on the Department's web site (<http://www.idph.state.il.us/>). The notice shall consist of at least the following:
 - 1) Instructions on fulfilling the Notice of Application (NOA) requirements (see Section 577.130);
 - 2) Identification of the grant opportunity, including a brief description of the program and the date that grant applications can be submitted to the Department;
 - 3) Identification, including mailing address and telephone number, of the Department's unit or section that is responsible for the grant program; and
 - 4) Information regarding where a copy of the application may be viewed by the public and how copies of the application can be obtained.
- b) As stated in the notice, an NOA shall be filed with the Department prior to the submission of an application.
- c) Notification to all persons shall be deemed to have been provided by publication of the notice.

Section 577.130 Notice of Application

Prior to submitting a grant application, an applicant shall submit a Notice of Application (NOA) to the Department.

- a) The NOA shall contain the following:
 - 1) The name of the applicant;

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- 2) The site of the proposed project where grant funds will be used;
 - 3) A description of the project; and
 - 4) The signature and contact information of an authorized official from the applicant.
- b) After receipt, the Department will have 10 business days to determine if the NOA meets all requirements of this Section. If all requirements are not included, the Department will contact the applicant via certified mail and request a revised NOA.
 - c) The applicant will have 10 calendar days (from the date the applicant received the certified letter) to provide a revised NOA.
 - d) If a revised NOA fails to meet the requirements of this Section or if the applicant does not respond within the required time frame, the NOA will be deemed null and void.
 - e) Once a NOA has been submitted that meets all of the stated requirements, the Department will determine if the applicant is eligible to apply. The Department will contact the applicant with its determination.
 - f) If the Department notifies the applicant that it is eligible to apply, the applicant shall have 30 calendar days to submit an application. Applications received after the 30 calendar day time frame will not be processed.

Section 577.140 Project Requirements

- a) Grant applications shall, at a minimum, address the following goals:
 - 1) *to increase the number of psychiatric physicians practicing in designated shortage areas;*
 - 2) *to increase the percentage of psychiatric physicians establishing practice within the State upon completion of residency;*

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- 3) *to increase the number of accredited psychiatric practice residencies within the State; and*
 - 4) *to increase the percentage of psychiatric practice physicians establishing practice within the State upon completion of residency. (Section 15(1)(A) through (D) of the Act)*
- b) Projects funded through this Subpart shall have a director who is a psychiatric physician. The director shall oversee the educational and professional components of the program and shall be a faculty member of the school of medicine or school of osteopathy that receives the grant.

Section 577.150 Application for Grants

- a) The Department shall prepare and make available grant application forms. These forms will be distributed to eligible applicants that have submitted a valid Notice of Application (see Section 577.130).
- b) Applications shall describe the applicant's proposed methods to achieve the goals specified in the Department's notice of grant opportunity and project requirements (see Sections 577.120 and 577.140).
- c) Applications shall be in two formats, one for new projects and one for the subsequent years of a continuing project.
 - 1) New project applications shall include the following:
 - A) Legal name of the applicant;
 - B) Names and titles of all of the applicant's officers and managers;
 - C) Applicant's legal address;
 - D) General description of the applicant, including its business and business experience;
 - E) Applicant's telephone number, fax number, federal employer identification number (FEIN), Illinois Department of Human

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Rights number, and DUNS (Data Universal Numbering System) number;

- F) Project director's name, phone number and e-mail address;
- G) Detailed description of the project, including a summary of the applicant's plan to address the goals described in the Department's notice of grant opportunity;
- H) Detailed description of the geographic area or special population group to be served by the project, a statement of the special needs of the service area or special population group and a thorough explanation of the manner in which the proposed project would meet those needs;
- I) Detailed list of objectives that the applicant proposes and a time table for their achievement. These objectives shall be specific, measurable and relevant to the Department's notice of grant opportunity;
- J) A process and measurement criterion that will allow for an objective evaluation of the project's progress in meeting the needs of the service area or special population group described in subsection (c)(1)(H), including appropriate measuring metrics;
- K) A budget listing the total dollar amount needed for the project, including the amount to be provided by the applicant and other funding sources and the amount of funding requested through the grant. The applicant shall identify all revenue sources and amounts and provide budget estimates, including expenditures for the duration of the project. The project's budget could include the following costs (if applicable):
 - i) Personal services;
 - ii) Benefits;
 - iii) Travel;

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- iv) Commodities/supplies;
 - v) Equipment;
 - vi) Contractual, consulting and outside services;
 - vii) Printing;
 - viii) Telecommunications;
 - ix) Patient/client care; and
 - x) Administrative costs;
- L) A plan and time table for the development of the project's self-sufficiency;
- M) A description of the psychiatric medical student or resident involvement in the project, including numbers participating, level of training, amount of academic time involved, and whether involvement will be a required or an optional experience for the student or resident;
- N) A description of the educational benefits the project would offer students or residents, which would not be available to them without the project;
- O) A description of the project's relationship to other activities and goals of the school or residency program;
- P) For residency program applicants, a summary report for the most recent five-year period of the percentage of graduates who have established psychiatric practices in designated shortage areas in Illinois and, if available, a count of those who have established psychiatric practices in underserved areas of Illinois; and
- Q) The ratio of *State support to local* support for the project. Documentation of local support shall be *in the form of funds, services, or other resources*. (Section 20 of the Act)

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- 2) Continuing project applications shall include the following:
 - A) Legal name of the applicant;
 - B) Name and title of the applicant's officers and managers;
 - C) Applicant's legal address;
 - D) General description of the applicant, including its business and business experience;
 - E) Applicant's telephone number, fax number, federal employer identification number (FEIN), Illinois Department of Human Rights number, and DUNS (Data Universal Numbering System) number;
 - F) Project director's name and e-mail address;
 - G) Progress report on the prior project year's activities, including accomplishments in meeting all stated objectives, impact on needs of the area or population group served, amount of student or resident involvement, and educational benefits achieved;
 - H) Summary statement of all changes in plan of action;
 - I) Description of all changes in geographic area or special population group being served;
 - J) Statement of measurable objectives for the new project year, measured with previously identified metrics;
 - K) Work plan and time table to meet the objectives;
 - L) Evaluation plan for the new objectives;
 - M) Detailed budget with a narrative description, including cost estimates of developing, operating or completing the project; and

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- N) For residency program applicants, a report on the psychiatric practice location of the most recent graduates.

Section 577.160 Selection Criteria

- a) The Department will review applications based on the criteria in Sections 577.140 and 577.150(c)(1) or (c)(2) and subsections (b), (c) and (d) (as applicable). In making its determination to issue a grant, the Department shall determine which applications best allow the achievement of goals specified in the Department's notice of grant opportunity. The Department shall also give consideration to factors including, but not limited to, underserved populations, past performance of an applicant and availability of funds.
- b) The applicant shall also demonstrate *local support for the program*. Local support can be demonstrated through *funds, services or other resources*. *The ratio of State support to local support shall be determined by the Department in a manner that is consistent with the purpose of the Act, based on the criticality of the need for more professional health care services and the geographic location and the economic base of the designated shortage area.* (Section 20 of the Act)
- c) The Department shall give preference to a grant application that demonstrates the following:
- 1) establishing a program *at locations that exhibit potential for extending psychiatric practice physician availability to designated shortage areas;*
 - 2) having programs *located away from communities in which medical schools are located; and*
 - 3) having *programs located in hospitals that have affiliation agreements with medical schools located within the State.* (Section 15(2)(A) through (C) of the Act)
- d) The Department shall use the following as secondary criteria to determine the distribution of grant funds:
- 1) *adequate courses of instruction in the child and adolescent behavioral disorder sciences;*

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- 2) *availability and systematic utilization of opportunities for residents to gain experience through local health departments, community mental health centers, or other preventative or occupational medical facilities;*
- 3) *a continuing program of community oriented research in such areas as risk factors in community populations;*
- 4) *sufficient mechanisms for maintenance of quality training, such as peer review, systematic process reviews, referral system, and maintenance of adequate records; and*
- 5) *an appropriate course of instruction in societal, institutional, and economic conditions affecting psychiatric practice. (Section 15(2) of the Act)*

Section 577.170 Grant Application Evaluation Process

Upon receipt of a grant application, the Department will conduct the following:

- a) The Department will determine whether the applicant is eligible to apply under the requirements of the Act and Section 577.100. If the applicant is ineligible to apply, the Department will contact the applicant in writing (via certified mail) with the determination.
- b) If the applicant is eligible to apply, the Department will determine whether the application is complete. A review will determine whether all applicable criteria have been addressed and whether all required materials and documentation have been submitted.
 - 1) If the application is deemed complete, the Department will proceed with the application evaluation process in accordance with this Section.
 - 2) If the application is deemed incomplete, the Department will notify the applicant via certified mail. An applicant has 30 calendar days from the date of receipt of the certified letter to address the issues the Department identified and submit a revised application. If the applicant does not respond to the Department's determination within the prescribed time frame or if a revised application fails to address the issues the Department identified, the application will be deemed null and void.

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- c) Once the Department determines that applications are complete, grant proposals will be reviewed and evaluated based on the selection criteria (see Section 577.160).
- d) Applicants shall be allowed to amend the application or provide additional supporting documentation during the Department's grant review process.
- e) Upon completion of the Department's evaluation, the Department will award grants to the applicants that meet all of the applicable requirements of the Act and this Part.

Section 577.180 Grant Awards, Terms and Conditions

To issue a grant award, the Department and grantee will enter into a grant agreement. This agreement will describe the requirements the grantee must fulfill (based on the goals and objectives in the application) and how the grantee will ensure compliance with all applicable stipulations and conditions.

- a) The grant agreement will contain, at a minimum, the following:
 - 1) Identifying information of the grantee, including name, mailing address, phone number, fax number, and e-mail address;
 - 2) Description of the grant's purpose;
 - 3) Information on how payments to the grantee will be made;
 - 4) Details on what constitutes permissible expenditure of grant funds;
 - 5) Reporting requirements applicable to the grant, including the filing of quarterly reports, at a minimum (for those grants exceeding \$25,000), that describe the project's progress and a detailed report of funds expended;
 - 6) Time period of the grant;
 - 7) Certification that the grantee will comply with all applicable provisions of the Illinois Grant Funds Recovery Act; and

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- 8) A project budget.
- b) Grant funds that the grantee does not expend or obligate by the end of the grant agreement shall be returned to the Department within 45 calendar days (see Section 4(b)(5) of the Illinois Grant Funds Recovery Act). The 45-calendar-day time frame begins the day after the grant agreement expires. Returned funds will be deposited into the fund from which the original grant disbursement to the grantee was made.
- c) Grantees are required to keep proper, complete and accurate accounting records of all grant funds received from the Department.
- d) If a grantee dispenses part or all of the grant funds to another person or entity for obligation or expenditure, those dispensed funds shall be viewed and treated as grant funds. Thus, the person or entity that receives the grant funds from the grantee will be subject to all applicable Sections of this Part (see Section 12 of the Illinois Grant Funds Recovery Act).
- e) *Each award by grant of State funds of \$250,000 or more for capital construction costs or professional services is conditioned upon the recipient's written certification that the recipient will comply with the business enterprise program practices for minority-owned businesses, female-owned businesses, and businesses owned by persons with disabilities of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and the equal employment practices of Section 2-105 of the Illinois Human Rights Act (Section 45 of the State Finance Act).*
- f) *Residency programs qualifying for grants under the Act shall participate in the study required in item (6) of Section 15 of the Act. The study is designed and coordinated by the Department for the purpose of assessing the characteristics of practice resulting from the psychiatric practice residency programs. (Section 15 and 25 of the Act)*

Section 577.190 Reporting Requirements

Failure of the grantee to comply with the requirements of this Section shall result in the Department's withholding or suspending of grant funds and recovery of previously disbursed grant funds (see Section 577.195 and Section 4.1 of the Illinois Grant Funds Recovery Act).

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- a) Quarterly Reports. For grants that exceed \$25,000, each grantee shall submit written progress reports (at a minimum) to the Department every three months. The reports are due within 10 calendar days after the quarterly reporting period has expired (see Section 4(b)(2) of the Illinois Grant Funds Recovery Act). The report shall include the following:
- 1) Current status of the project, including the percentage of the project finished;
 - 2) Project components finished and project components yet to be finished;
 - 3) Costs incurred to date, an itemized listing of the total current project costs and a comparison of those costs to the budget approved in the grant agreement; and
 - 4) Signature of an authorized representative of the grantee, stating that the report is a true and complete report of the project's status.
- b) Final Report. Grantees shall submit a final written report within 60 calendar days after the conclusion of the grant agreement. The degree to which each objective in the proposal has been met shall be fully addressed in this report. The final report shall contain the following:
- 1) A brief narrative summarizing project accomplishments;
 - 2) A description of any new activities or modifications made to the project as presented in the original grant application, including the causes for change. The description shall include a narrative on the implementation time table and expected outcomes;
 - 3) A description of problems that developed and how they were addressed; and
 - 4) A list of all project costs and sources of funds for the grant.
- c) The final report shall also provide a certification in the form of a notarized statement, signed by an authorized representative of the grantee, attesting that:
- 1) All funds attributed to the grant have been expended;

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- 2) The costs reported are the final costs required to complete the project and there are no additional or associated costs; and
- 3) Funds used for the project were approved by the Department.

Section 577.195 Grant Funds Recovery

- a) If a grantee fails to comply with this Part or any of the terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the grantee.
- b) If the Department believes that a grant should be suspended, revoked, or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, the grantee shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.
- c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, written notice of the proposed action shall be given to the grantee identifying the action to be taken and specific facts that permit the action. The grantee shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.
- d) If a grantee requests a hearing pursuant to subsection (c), the Department shall hold a hearing at which the grantee or the grantee's attorney is permitted to present evidence and witnesses to show why the action should not be taken.
- e) After the conclusion of the hearing, the Department shall issue a written final order setting forth its findings of fact and decision. A copy of the order shall be sent to the grantee.
- f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the grantee breaches the grant agreement, fails to comply with the Act or this Part,

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makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety, or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a grantee requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a grantee does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

- g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current or last known business address and with sufficient U.S. postage affixed.

SUBPART C: PSYCHIATRIC MEDICAL STUDENT SCHOLARSHIPS

Section 577.200 Limitations on Use of Scholarship Funds

- a) Scholarships shall cover the cost of tuition and matriculation fees and provide a monthly living stipend for selected medical students.
- b) Scholarship funds shall be expended by the recipient only while enrolled and in good academic standing at a school of medicine or school of osteopathy in Illinois.
- c) Scholarship funds shall not be awarded for expenses incurred when the student must repeat an academic term or terms, if the repetition is necessary because the student has an academic performance below an acceptable level, as determined by the student's school of medicine or school of osteopathy.
- d) Scholarship funds shall be provided to the recipient's school of medicine or school of osteopathy for tuition and fees. All funds for tuition and fees shall be expended only on the medical student's behalf. All stipend monies shall be provided directly to the medical student.
- e) Scholarship funds shall not be awarded to any medical student for more than four academic years.

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Section 577.210 Eligibility for Application

- a) Individuals eligible to apply for a Psychiatric Medical Student Scholarship shall meet the following requirements:
- 1) Be a lawful US and *Illinois resident at the time of application*;
 - 2) Be *studying medicine*, or accepted for enrollment, *in an accredited medical school or school of osteopathy located in Illinois*;
 - 3) Exhibit *financial need as determined by the Department*, using financial analysis information provided by the applicant and accepted by his or her school of medicine or school of osteopathy. The Department shall find a financial need when the information provided reveals a deficit in available funds for tuition and fees;
 - 4) *Agree to practice full-time in a designated shortage area as a psychiatrist for one year for each year of assistance received*;
 - 5) *Agree to accept medical payment; and*
 - 6) *Serve targeted populations on a full-time basis. (Section 10 of the Act)*
- b) Students receiving monies from other scholarship or loan funds requiring service commitments that prevent the applicant from meeting the requirements of the Psychiatric Medical Student Scholarship shall be ineligible for scholarships described in this Part.

Section 577.220 Criteria for Selecting Scholarship Recipients

- a) The Department shall allocate scholarship monies to schools of medicine or schools or osteopathy for scholarship awards. Schools of medicine and schools of osteopathy shall use the following criteria in the selection of scholarship recipients. Preference shall be given to those scholarship applicants who, in written narratives and personal interviews, can best demonstrate the following:
- 1) Interest in pursuing psychiatric medicine;
 - 2) Previous experience with medically underserved populations;

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- 3) Previous experience in the health care delivery system, with preference given to those whose experience has involved psychiatry;
 - 4) Academic capabilities as reported by the applicant's school of medicine or school of osteopathy, including certified transcripts from the school;
 - 5) Financial need as reported by standard financial analysis documentation supplied by the applicant's school of medicine or school of osteopathy on the student's behalf;
 - 6) Greater number of years of medical school remaining;
 - 7) Stated willingness to provide psychiatric care to citizens residing in designated shortage areas of Illinois;
 - 8) Greatest number of years of residence in Illinois; and
 - 9) United States citizens, or those granted permanent residence by the United States Department of Homeland Security's Citizenship and Immigration Service.
- b) Of all applicants, priority is given to those individuals who have previously received a Psychiatric Medical Student Scholarship, providing that the recipient:
- 1) Requests, in a format determined by the Department, a continuation of scholarship funds;
 - 2) Would not be repeating the same year of school for the second consecutive year because of poor academic performance; and
 - 3) Has not voluntarily withdrawn from school.

Section 577.230 Terms of Performance

- a) Each scholarship recipient shall sign a written contract. The contract shall contain additional terms and conditions that ensure compliance with this Part, the laws of the State of Illinois, and enforcement of the contract.

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- b) Scholarship recipients who fail to complete school because of academic failure (as documented by the recipient's school) or who fail to complete school because of voluntary actions on their part (e.g., withdrawing from school) or who complete school but fail to become licensed as a psychiatric physician in Illinois shall repay to the Department all scholarship monies that were disbursed. This includes monies remitted to the school of medicine or school of osteopathy (as applicable) for tuition and fees as well as monies received by the recipient for stipends. Repayment shall be made as agreed to by the recipient and the Department in the recipient's contract. If a scholarship recipient fails to pay monies owed the Department, the Department shall refer the matter to the Illinois Attorney General, a collection agency, or a licensed attorney.
- c) If the scholarship recipient is disabled or is otherwise unable for reasons beyond the recipient's control to fulfill the scholarship obligations, these obligations shall be suspended until the scholarship recipient is able to resume the scholarship obligations. However, the suspension shall not exceed two years.
- 1) To request a suspension of the scholarship obligation, a recipient shall submit a suspension request in writing to the Department. This request shall detail the reasons for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.
 - 2) The Department shall approve a request for a suspension if the request is supported by a letter from the recipient's licensed physician fully explaining and attesting to the recipient's inability (either temporarily or permanently) to continue either school or the practice of psychiatric medicine and if the recipient agrees not to continue either his or her medical education or the practice of psychiatric medicine in any state.
 - 3) If a scholarship recipient suffers total and permanent disability, is adjudicated as incompetent, or dies, the recipient shall be discharged from all obligations to the Department in connection with the Act and this Part.
 - 4) If the Department denies the suspension request, the recipient shall fulfill the scholarship obligation.
 - 5) Based on the information contained in the request, the Department's acceptance or denial of the request will be provided in writing, under the

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Director's signature.

- d) Misrepresentation of any material facts presented in the recipient's application shall be considered a breach of contract. If the Department determines that a breach of contract has occurred, the recipient's school shall be notified to halt further disbursements of scholarship funds. In addition, all funds provided by the Department to the student shall be due in full, immediately.

Section 577.240 Scholarship Repayments

- a) Upon the Illinois licensure of the scholarship recipient to practice as a psychiatric physician, the recipient shall provide psychiatric health care in a designated shortage area of Illinois. The term of this service shall be *one year for each academic year he or she received assistance*. (Section 10 of the Act)
- b) Service as a psychiatric physician shall begin no later than 30 days after the recipient is licensed to practice medicine. The Department shall defer service until the recipient completes a psychiatric care residency. Service shall begin no later than 30 days after the recipient completes the residency.
- c) The recipient's internship, residency or other advanced clinical training does not qualify as service repayment of the scholarship obligation.
- d) The scholarship recipient shall submit a written request to the Department for approval for a proposed practice location. The Department shall provide approval or disapproval, in the form of a letter, to the scholarship recipient, based on the requirements of this Section. A letter of approval shall include a description of the terms of the service obligation.
 - 1) Without prior written approval from the Department, time in practice at this location shall not meet the scholarship recipient's service obligation.
 - 2) The scholarship recipient may request approval for a practice location up to 18 months preceding the time that practice at the location is to begin.
 - 3) Approval for a practice location is granted for the duration of the scholarship recipient's service obligation.
- e) The scholarship recipient's practice shall meet the following requirements:

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- 1) Be located in a designated shortage area;
 - 2) Be a full-time, office-based practice providing face-to-face direct patient care; and
 - 3) Provide continuous full-time service at the rate of 12 months for each academic year of medical school supported by the scholarship.
- f) Scholarship recipients may relocate to another practice location, or practice in more than one location, if the Department grants prior written approval.
- g) Scholarship recipients shall enter into a written contract with the Department that describes the terms of the service obligation and contains provisions for enforcement of the contract.
- h) *Any recipient of assistance under the Act who fails to fulfill his or her obligation to practice full-time in a designated shortage area as a psychiatrist for one year for each year that he or she is a recipient of assistance shall pay to the Department a sum equal to 3 times the amount of the assistance provided for each year that the recipient fails to fulfill such obligation. This sum represents the fair market value of services lost by the State of Illinois. A recipient has 30 days after the date on which that failure begins to enter into a contract with the Department. (Section 40 of the Act)*
- 1) The recipient and Department shall enter into a written contract that describes the terms of the repayment and contains provisions for enforcement of the contract.
 - 2) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within a period of time equal to the recipient's service term, or remaining portion of the term, or as otherwise agreed to by the recipient and the Department in writing.
 - 3) *The amounts paid to the Department shall be deposited into the Community Health Center Care Fund and shall be used by the Department to improve access to primary health care services as authorized by Section 2310-200(a) of the Department of Public Health Powers and Duties law. (Section 40 of the Act)*

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- i) If a scholarship recipient fails to pay monies owed the Department, the Department may refer the matter to the Illinois Attorney General, a collection agency, or a licensed attorney.

SUBPART D: EDUCATIONAL LOAN REPAYMENT FOR PSYCHIATRISTS

Section 577.300 Limitations on Use of Loan Repayment Funds

- a) Funds shall be used for the repayment of educational loans of psychiatric physicians who agree to serve in designated shortage areas for a specified period of time.
- b) Payments may be made for the principal, interest and related expenses of government and commercial loans and used for tuition expenses and other reasonable educational expenses incurred by the psychiatric physician.
- c) The maximum annual payment that may be made to an individual is \$25,000.
- d) *Payments* made under this Section shall be *exempt from Illinois State income tax*. (Section 15(7) of the Act)
- e) Funds shall not be used to monetarily repay a practice obligation resulting from educational loans or scholarships, whether from Illinois-based institutions or governments or those in other states.
- f) Physicians having practice obligations to the National Health Service Corps' Student Loan Repayment Program, the Illinois Medical Student Scholarship program (see 77 Ill. Adm. Code 594), or other federal, state or local programs may apply for educational loan repayment after completion of all required practice obligations from those programs.

Section 577.310 Application

- a) Any Illinois psychiatric physician or one who can be expected to be licensed in Illinois and who intends to practice full-time in a designated shortage area of Illinois may apply for educational loan repayment.
- b) The Department shall prepare and distribute applications to eligible applicants.

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- c) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's medical degree in Illinois. The documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of lending institution or agency, loan amount, loan period, interest rate, and any amounts repaid prior to the date of application.
- d) Applicants shall practice, or be willing to practice, full-time in a designated shortage area in Illinois.
- e) Applicants not yet in practice, or not yet in practice in a designated shortage area in Illinois, shall document intent to do so by written confirmation from a community-based organization or agency, or from other physicians located within the designated shortage area.

Section 577.320 Eligibility

To be eligible for loan repayment assistance, an applicant shall meet all of the following:

- a) Be a citizen or lawful permanent resident of the United States;
- b) Be a resident of Illinois;
- c) Be a licensed psychiatric physician in Illinois;
- d) Practice full time in Illinois as a psychiatric physician;
- e) Be currently repaying educational loans;
- f) Agree to practice as a psychiatric physician in a *designated shortage area for a specified period of time, but not less than three years*;
- g) Agree to *accept medical payments*; and
- h) Agree to *serve targeted populations*. (Section 15(7) of the Act)

Section 577.330 Loan Repayment Awards

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- a) Under the program, for each year that a qualified applicant who is selected as a recipient practices full time in Illinois as a psychiatric physician, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a person may be awarded under the program shall not exceed \$25,000. The Department shall require recipients to use the grants to pay off their educational loans.
- b) *Payments under this program may be made for the principal, interest, and related expenses of government and commercial loans received by the individual for tuition expenses and all other reasonable educational expenses incurred by the individual. (Section 15(7) of the Act)*
- c) When qualified applications are available to support a geographical separation into urban and rural groupings, an equal number of applicants will be selected from each of the groups.
- d) When appropriations are insufficient to provide loan repayment to all qualified applicants, awards will be prorated.
- e) Applications shall be accepted between July 1 and September 30 of each calendar year. If all funds are not expended, subsequent applications will be evaluated individually as received.

Section 577.340 Loan Repayment Award Terms and Obligations

- a) Each psychiatrist selected for educational loan repayment shall enter into a written grant agreement with the Department prior to receiving loan repayment funds. The agreement shall contain terms and conditions that ensure compliance with this Part and the laws of the State of Illinois and enforcement of the contract.
 - 1) The grant agreement shall contain, at a minimum, the following:
 - A) Identifying information of the grantee, including name, mailing address, phone number and e-mail address;
 - B) A description of the grant's purpose;

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- C) Specific information on how payments to the grantee will be made;
 - D) Details on what constitutes permissible expenditure of grant funds;
 - E) Financial controls applicable to the grant;
 - F) The time frame within which the grant is valid, including the time frame during which grant funds can be expended;
 - G) *A provision that a grantee receiving grant funds is required to permit the Department, the Illinois Auditor General or the Illinois Attorney General to inspect and audit any books, records, or papers related to the project. (Section 4(b)(4) of the Illinois Grant Funds Recovery Act); and*
 - H) *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. (Section 4(b)(6) of the Illinois Grant Funds Recovery Act)*
- 2) The agreement is in effect on the date it is executed between the Department and the recipient.
- A) The agreement is valid for the time frame referenced.
 - B) The Department will deem an agreement null and void if the recipient does not fulfill the requirements stipulated.
- b) Recipients shall complete three years of service in a designated service area in Illinois. Recipients who were awarded a grant based on geographical preference and who wish to move their practice from the location described in the original application and retain status as a grantee shall receive approval from the Department prior to relocating and shall relocate to a designated shortage area in Illinois.

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- c) Time in a practice location shall not meet the recipient's service obligation if the recipient relocates his or her practice from the location described in the original application without first receiving Department approval.
- d) Every quarter, the recipient shall provide documentation to the Department that the amount of money paid for educational loan debt is greater than or equal to the amount of money paid by the Department under this program. Cancelled checks or documentation from the lending institution will be accepted for this purpose. Failure to provide required information shall result in the withholding or suspension of funds and the recovery of previously disbursed funds (see Section 4.1 of the Illinois Grant Funds Recovery Act).
- e) The program administered under this Part will allow for initial three-year grants and subsequent one-year grants. Recipients will be given priority for additional years of funding provided that they continue to meet the eligibility requirements described in Section 15 of the Act.
- f) If the recipient is disabled or is otherwise unable for reasons beyond the recipient's control to perform the loan repayment obligations, these obligations shall be suspended until the recipient is able to resume the loan repayment obligation. However, the suspension shall not exceed two years.
 - 1) To request a suspension of the loan repayment obligation, a recipient shall submit a suspension request in writing to the Department. This request shall detail the reasons for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.
 - 2) The Department shall approve a request for suspension if the request is supported by a letter from the recipient's licensed physician fully explaining and attesting to the recipient's inability (either temporarily or permanently) to continue the loan repayment obligation.
 - 3) If the recipient suffers total and permanent disability, is adjudicated as incompetent, or dies, the recipient shall be discharged from all obligations to the Department in connection with this Part and the Act.
 - 4) If the Department denies the suspension request, the recipient shall fulfill the loan repayment obligation.

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- 5) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.
- g) Misrepresentation of any material facts presented in the recipient's loan repayment application shall be considered a breach of contract. If the Department determines that a breach of contract occurred, the grant agreement shall be terminated and all funds provided by the Department to the grantee shall be due in full as required in the Act and Section 577.350(b). Any amount the Department is entitled to recover shall be paid within one year after the date the Director determines that the grantee is in breach of the grant agreement.

Section 577.350 Penalty for Failure to Fulfill Obligation

- a) Upon execution of the grant agreement with the Department, the grantee shall provide full-time medical services in Illinois at a site approved by the Department. The term of this service shall be for three years.
- b) If the grantee fails to fulfill his or her obligation to practice full-time in a designated shortage area for one year for each year that he or she is a recipient, the grantee shall repay the Department a sum that is *equal to 3 times the amount of the assistance provided for each year that the recipient fails to fulfill such obligation.* (Section 40 of the Act)
- c) A breach of the grant agreement shall include, but not be limited to, the following situations:
 - 1) Failure to practice full-time at the location specified in the grant agreement;
 - 2) Relocation to an area that is outside of the State of Illinois;
 - 3) Material misstatement in furnishing information to the Department;
 - 4) Making any misrepresentation for the purpose of obtaining loan repayment assistance;
 - 5) Failure to accept medical payments as defined in the Act;

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- 6) Failure to serve targeted populations as defined in the Act;
 - 7) Failure to provide psychiatric care because of an individual's inability to pay; or
 - 8) *Failure to practice in Illinois for three years.* (Section 40 of the Act)
- d) To fulfill the repayment requirements, the grantee shall have 30 calendar days from the date the failure begins in which to enter into a contract with the Department. This contract shall contain terms of the repayment and provisions for enforcement of the contract.
 - e) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within one year after the date that the Director determines that the grantee is in breach of the grant agreement.
 - f) *The amounts paid to the Department under this Section shall be deposited into the Community Health Center Care Fund and shall be used by the Department to improve access to primary health care services as authorized by Section 2310-200(a) of the Department of Public Health Powers and Duties Law.* (Section 40 of the Act)
 - g) If the grantee fails to pay monies owed the Department within the required time frame, the Department shall refer the matter to the Illinois Attorney General, a collection agency, or a licensed attorney for resolution.

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- 1) Heading of the Part: Hospital Capital Investments
- 2) Code Citation: 77 Ill. Adm. Code 976
- 3) Section Number: 976.110 Adopted Action:
Amended
- 4) Statutory Authority: Section 2310-640 of the Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-640]
- 5) Effective Date of Rulemaking: November 2, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: July 8, 2011; 35 Ill. Reg. 10652
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In response to written comments from the Illinois Hospital Association, the Department agreed to remove the word "subsequently" from the first sentence of the proposed rulemaking at Section 976.110(c).

The following changes were made in response to comments and suggestions of JCAR:

In Section 976.110(c), changed the following language:

"If an applicant files the letter of intent and grant application and subsequently the hospital applies for and receives a Certificate of Need or Certificate of Exemption from the Illinois Health Facilities and Services Review Board for a change of

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ownership (see 77 Ill. Adm. Code 1110.240 and 1130.520), the applicant may modify the letter of intent and grant application to reflect the ownership change."

to

"If an applicant files the letter of intent and grant application and applies for or has received a Certificate of Need or Certificate of Exemption from the Illinois Health Facilities and Services Review board for a change of ownership (see 77 Ill. Adm. Code 1110.240 and 1130.520), the applicant shall modify the letter of intent and grant application to reflect the ownership change."

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes. The emergency rule was filed on June 27, 2011 and published at 35 Ill. Reg. 10974.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment will allow hospitals that apply for or have received a Certificate of Need or Certificate of Exemption from the Illinois Health Facilities and Services Review Board for a change of ownership to modify the letter of intent and grant application from the Hospital Capital Investment program to reflect the ownership change.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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

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

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 976
HOSPITAL CAPITAL INVESTMENTS

SUBPART A: GENERAL PROVISIONS

Section	
976.10	Definitions
976.20	Referenced Materials
976.30	Administrative Hearings
976.40	Freedom of Information

SUBPART B: SAFETY NET HOSPITAL GRANTS
AND COMMUNITY HOSPITAL GRANTS

Section	
976.50	Grant Descriptions
976.60	Grant Eligibility
976.70	Grant Application Requirements
976.80	Grant Application Review Criteria
976.90	Notice of Grant Opportunity
976.100	Letter of Intent
976.110	Grant Application Processing
976.120	Grant Awards
976.130	Grant Funds Distribution
976.140	Grant Funds Recovery
976.150	Grant Validity
976.160	Obligation
976.170	Alteration
976.180	Progress Reports
976.190	Project Completion

AUTHORITY: Implementing and authorized by Section 2310-640 of the Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-640].

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NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted at 35 Ill. Reg. 1422, effective January 6, 2011; emergency amendment at 35 Ill. Reg. 10974, effective June 27, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 19254, effective November 2, 2011.

SUBPART B: SAFETY NET HOSPITAL GRANTS
AND COMMUNITY HOSPITAL GRANTS**Section 976.110 Grant Application Processing**

When an LOI fulfills all of the requirements of Section 976.100, a grant application can be submitted.

- a) Upon receipt of a grant application, the Department will:
 - 1) Determine if the application was submitted within the time frame requirements of Section 976.90. An application that was not submitted within the prescribed time frame will be deemed null and void.
 - 2) Within 30 calendar days after receipt of the application, conduct a completeness determination to assess whether all applicable review information and all required materials and documentation have been submitted (see Section 976.70).
 - A) If the application is deemed complete, the Department will proceed with a grant award (see Section 976.120).
 - B) If the application is deemed incomplete, the Department will contact the applicant in writing (via a certified letter) and inform the applicant of the information and/or materials needed to complete the application. The applicant will have 30 calendar days (from the date that the applicant received the certified letter) to provide the requested information. Responses received after the 30 calendar day time frame will result in the application being deemed null and void.
- b) Review of Applications
 - 1) All applications will be reviewed and evaluated with the review criteria set forth in the Act and in this Part (see Section 976.80).

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- 2) Each application will be reviewed on an individual basis. There will be no comparative review of applications.
- 3) Based on the eligibility requirements in Section 2310-640(b) and (c) of the Act, only one application per hospital will be approved.

c) If an applicant files the letter of intent and grant application and applies for or has received a Certificate of Need or Certificate of Exemption from the Illinois Health Facilities and Services Review Board for a change of ownership (see 77 Ill. Adm. Code 1110.240 and 1130.520), the applicant shall modify the letter of intent and grant application to reflect the ownership change. These modifications shall be completed before a grant award is issued (see Section 976.120 of this Part).

(Source: Amended at 35 Ill. Reg. 19254, effective November 2, 2011)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

Petition for Exemption from Section 22.23b of the Environmental Protection Act

American Ultraviolet, 212 South Mount Zion Road, Lebanon, Indiana, 46052, has submitted a petition to the Illinois Environmental Protection Agency ("Illinois EPA") for an exemption from Section 22.23b of the Illinois Environmental Protection Act ("Act") [415 ILCS 5/22.23b]. Section 22.23b of the Act states that "no person shall sell, offer to sell, distribute, or offer to distribute a mercury switch or a mercury relay individually or as a product component." 415 ILCS 5/22.23b. The manufacturer of a mercury switch or mercury relay may petition the Illinois EPA for an exemption from Section 22.23b for one or more specific uses of the switch or relay. Requirements for the petition and procedures for the Illinois EPA's review of the petition can be found in Section 22.23b(c) of the Act [415 ILCS 5/22.23b(c)] and in Illinois EPA rules at 35 Ill. Adm. Code 182.

Pursuant to 35 Ill. Adm. Code 182.302(a), the Illinois EPA is providing public notice of the following information:

1. The petitioner is identified above. An exemption is sought for high voltage contactors.
2. The petitioner is seeking an exemption for high voltage contactors used in Ultra-violet power supplies for switching AC voltages greater than 660V, and as high as 3,000V in multi-switching applications.
3. A copy of the petition is available for review at the Illinois EPA's headquarters. Persons wanting to review the application may do so during normal business hours at:

Illinois EPA Headquarters
1021 North Grand Avenue East
Springfield, IL 62794-9276
Phone: 217-524-9642; TDD 217-782-9143

Please call ahead to assure that someone will be available to assist you.

4. Written public comments on the petition may be submitted to the Illinois EPA for a period of 45 days after the date of publication of this notice. Comments must be submitted to the following address:

Becky Jayne, MC #34

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

Illinois EPA
1021 North Grand Avenue East
P. O. Box 19276
Springfield, IL 62794-9276
Phone: 217-524-9642; TDD 217-782-9143
E-mail: Becky.Jayne@illinois.gov

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 1, 2011 through November 7, 2011 and have been scheduled for review by the Committee at its December 13, 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>
12/16/11	<u>Department of Public Health</u> , Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)	8/19/11 35 Ill. Reg. 14071	12/13/11
12/21/11	<u>Department of Insurance</u> , Americans With Disabilities Act Grievance Procedure (4 Ill. Adm. Code 250)	7/8/11 35 Ill. Reg. 10457	12/13/11

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 47 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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