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July 26, 2013 Volume 37, Issue 30

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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 2013

Issue#	Rules Due Date	Date of Issue
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
13	March 18, 2013	March 29, 2013
14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
24	June 3, 2013	June 14, 2013
25	June 10, 2013	June 21, 2013
26	June 17, 2013	June 28, 2013
27	June 24, 2013	July 5, 2013
28	July 1, 2013	July 12, 2013
29	July 8, 2013	July 19, 2013
30	July 15, 2013	July 26, 2013
31	July 22, 2013	August 2, 2013
32	July 29, 2013	August 9, 2013
33	August 5, 2013	August 16, 2013
34	August 12, 2013	August 23, 2013
35	August 19, 2013	August 30, 2013
36	August 26, 2013	September 6, 2013
37	September 3, 2013	September 13, 2013
38	September 9, 2013	September 20, 2013
39	September 16, 2013	September 27, 2013
40	September 23, 2013	October 4, 2013
41	September 30, 2013	October 11, 2013
42	October 7, 2013	October 18, 2013
43	October 15, 2013	October 25, 2013
44	October 21, 2013	November 1, 2013
45	October 28, 2013	November 8, 2013
46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
48	November 18, 2013	December 2, 2013
49	November 25, 2013	December 6, 2013
50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Financial Incentive for Non-Medicare State Employees Retirement System Annuitants Who Opt Out of the State Employees Group Health Plan
- 2) Code Citation: 80 Ill. Adm. Code 2106
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2106.110	Amendment
2106.120	Amendment
2106.130	Amendment
2106.140	Amendment
2106.210	Amendment
2106.220	Amendment
2106.310	Amendment
2106.320	Amendment
2106.330	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 8(d-5) and (d-6) of the State Employees Group Insurance Act [5 ILCS 375/8(d-5) and (d-6)]
- 5) A Complete Description of the Subjects and Issues Involved: These rules expand the current opt out financial incentive program to apply to all eligible annuitants enrolled in the State Employees Group Insurance program regardless of the retirement system under which they retired. The rules also modify the amount of the incentive to give a greater benefit to those individuals with 20 or more years of service.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes (80 Ill. Adm. Code 2106; 37 Ill. Reg. 10765)
- 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: These proposed amendments neither create nor expand any State mandate.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Mary Matheny
Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

Phone: 217/557-5404
Fax: 217/558-2697
mary.matheny@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: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE BENEFITS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2106

FINANCIAL INCENTIVE FOR NON-MEDICARE

~~STATE EMPLOYEES RETIREMENT SYSTEM~~ ANNUITANTS WHO OPT OUT
OF THE STATE EMPLOYEES GROUP HEALTH PLAN

SUBPART A: GENERAL

Section

2106.110	Governing Authority
2106.120	Purpose
2106.130	Definitions of Terms
2106.140	Records and Certifications
2106.150	Severability

SUBPART B: RESPONSIBILITY FOR ADMINISTRATION
OF THE OPT OUT INCENTIVE

Section

2106.210	CMS Responsibility
2106.220	Annuitant <u>Member</u> Responsibility

SUBPART C: OPT OUT INCENTIVE REQUIREMENTS AND BENEFITS

Section

2106.310	Eligibility Requirements
2106.320	Participation Limits
2106.330	Enrollment

AUTHORITY: Implementing and authorized by Section 8(d-5) and (d-6) of the State Employees Group Insurance Act of 1971 [5 ILCS 375/8(d-5) and (d-6)].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 15976, effective October 5, 2005, for a maximum of 150 days; modification of emergency rulemaking to meet the objection of the Joint Committee on Administrative Rules at 30 Ill. Reg. 138, effective December 22, 2005 and not to exceed the 150-day time limit of the original rulemaking; adopted at 30 Ill. Reg. 4597,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective March 1, 2006; emergency amendment at 37 Ill. Reg. _____, effective _____, for a maximum of 150 days; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 2106.110 Governing Authority

The financial incentive for non-Medicare ~~State Employees Retirement System (SERS)~~ annuitants to opt out of the State Employees Group Insurance Health Plan will be governed by ~~PA~~ Public Act 94-0109, PA 98-0019, the State Employees Group Insurance Act of 1971 [5 ILCS 375/8(~~d-5~~)], ~~as amended in 375/8 (see specifically Section 8(d-5) and (d-6))~~, and this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2106.120 Purpose

The purpose of this Part is to provide for administration of an Opt Out Incentive for non-Medicare ~~SERS~~ annuitants who elect not to participate in the Health Plan provided by Section 8(d-5) and (d-6) of the State Employees Group Insurance Act [5 ILCS 375/8(d-5)].

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2106.130 Definitions of Terms

Unless the context otherwise requires, the following words and phrases as used in the Act shall have the following meanings for the purpose of implementing and administering the Opt Out Incentive:

"Act" means the State Employees Group Insurance Act [5 ILCS 375].

"Annuitant" means a retiree or annuitant who is receiving an annuity from one of the five State retirement systems.

"Benefit Choice Period" means a designated time when members may change benefit coverage elections.

"CMS" means the Illinois Department of Central Management Services.

"Director" means the Director of CMS.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Health Plan" means the health, dental and vision benefits offered by the program to eligible persons.

~~"HFS" means the Illinois Department of Healthcare and Family Services.~~

"Major Medical Coverage" refers to policies that provide coverage for most health-related expenses that can be incurred. Coverage included in a major medical insurance policy usually includes prescription drugs; casts and other necessary equipment needed for bone breaks or fractures; x-rays; both outpatient and inpatient services as a result of required medical care; diagnostic tests and examinations; ambulance services; and necessary medical supplies and therapies. This coverage may include deductibles, coinsurance and co-payment requirements.

"Member" means an employee, annuitant, retired employee or survivor, as defined in the Act.

"Opt Out/In Qualifying Change in Status" means an event that effects eligibility for Health Plan coverage, including but not limited to the following: ~~member~~**Member** becomes eligible for non-State administered health benefits coverage; marriage; loss or gain of Medicare for any reason; coordination of spouse's open enrollment period; spouse gains or loses non-State administered health benefits.

"Opt Out Incentive" means the ~~State Employees Retirement System~~ retiree/annuitant insurance opt out incentive authorized by Section 8(d-5) and (d-6) of the Act, which provides a financial incentive for each ~~State Employees Retirement System retiree~~ annuitant who is not eligible for benefits under the federal Medicare health insurance program who elects not to participate in the Health Plan on or after January 1, 2006 under Section 8(d-5) of the Act and, on or after July 1, 2013, under Section 8(d-6) of the Act.

"Program" means the group life insurance, health and other benefits designed and/or contracted for by CMS ~~and/or HFS~~ that are provided under the Act.

"SERS" means the State ~~Employees~~**Employees** Retirement System.

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NOTICE OF PROPOSED AMENDMENTS

~~"SERS Annuitant" means a retiree or annuitant who is receiving a pension from the State Employees Retirement System.~~

"Special Enrollment Period" means a designated time period defined by the Director of CMS for certain ~~members~~Members to change specific benefit coverage elections when special circumstances occur that affect only those ~~members~~Members.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2106.140 Records and Certifications

Records and other necessary certifications will be furnished to the Director as may be necessary for the administration of this ~~opt out incentive~~Opt Out Incentive. These records and certifications will be retained and provided as necessary by ~~the applicable retirement system~~SERS and CMS.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: RESPONSIBILITY FOR ADMINISTRATION
OF THE OPT OUT INCENTIVE**Section 2106.210 CMS Responsibility**

CMS will be responsible for administering the ~~opt out incentive~~Opt Out Incentive and shall:

- a) Develop and distribute materials and information to ~~members~~Members and the retirement systems, including any and all necessary forms with requirements, policies and procedures related to the ~~opt out incentive~~Opt Out Incentive.
- b) Maintain eligibility for the ~~opt out incentive~~Opt Out Incentive in a centralized, computerized file, properly storing and retrieving confidential information, processing updates and administering security access in accordance with confidentiality laws.
- c) Authorize payments to ~~annuitants~~Members participating in the ~~opt out incentive~~Opt Out Incentive. No partial monthly or retroactive payments will be made.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) Assist ~~members~~**Members** with ~~opt out incentive~~**Opt Out Incentive** questions and/or issues, and respond to oral and written inquiries concerning the ~~opt out incentive~~**Opt Out Incentive**.
- e) Comply with the federal Health Insurance Portability and Accountability Act (HIPAA), ~~when~~**where** applicable.
- f) Enroll and terminate ~~annuitants~~**Members** in compliance with this Part.
- g) Identify and collect ~~opt out incentive~~**Opt Out Incentive** payments paid in error to ~~annuitants~~**Members** and deposit the money into the Health Insurance Reserve Fund.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2106.220 ~~Annuitant~~Member** Responsibility**

The ~~annuitant shall~~**Member will be responsible to:**

- a) Furnish proof of ~~major medical coverage~~**health coverage** from a source other than CMS ~~at the time of initial application and on an annual basis as required by CMS~~.
- b) ~~Timely report~~**Report** Medicare eligibility changes ~~timely~~.
- c) Report all eligibility status changes within 60 days after the event, including but not limited to Medicare eligibility.
- d) Return to CMS all payments made in error or for fraudulent acts. Failure to repay payments as required will result in termination of the financial incentive and disallowance of future coverage in the Health Plan. Fraudulent acts include, but are not limited to, the following:
 - 1) failure to timely report changes and/or Opt Out/In Qualifying Changes in Status;
 - 2) falsifying information in order to receive ~~opt out incentive~~**Opt Out Incentive** payments.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: OPT OUT INCENTIVE REQUIREMENTS AND BENEFITS

Section 2106.310 Eligibility Requirements

Opt out incentive~~Opt Out Incentive~~ administration shall be in compliance with Section 8(d-5) and (d-6) of the Act and shall:

- a) Allow ~~SERS~~ annuitants who elect not to participate in the Health Plan to receive a financial incentive not to exceed \$500~~of \$150~~ per month if all of the following conditions are met:
 - 1) the ~~annuitant~~~~Member~~ is enrolled in the Health Plan on the effective date of PA 98-0019, at the time of a Special Enrollment Period or subsequent Benefit Choice Periods, or when an Opt Out/In Qualifying Change in Status occurs; ~~and~~
 - 2) the ~~annuitant~~~~Member~~ is not eligible for and/or receiving benefits under the federal Medicare health insurance program (42 USC §1395 et seq.); ~~and~~
 - 3) the annuitant has 20 or more years of creditable service with the State of Illinois.
- b) Allow annuitants who elect not to participate in the Health Plan and meet the requirements of subsections (a)(1) and (a)(2) but fail to meet the requirements of subsection (a)(3) to receive a financial incentive not to exceed \$150 per month.
- c) Provide for a Special Enrollment Period from November 1 through November 30, 2005 for SERS annuitants enrolled in the Health Plan to elect to participate in the opt out incentive~~Opt Out Incentive~~. The opt out incentive~~Opt Out Incentive~~ elected by SERS annuitants during this Special Enrollment Period will have an effective date of January 1, 2006.
- d) Provide that ~~SERS~~ annuitants who previously elected not to participate in the Health Plan may choose to enroll in the Health Plan during the Benefit Choice Period or with an Opt Out/In Qualifying Change in Status. Once enrolled, they may take advantage of the opt out incentive~~Opt Out Incentive~~ during a subsequent Benefit Choice Period or with a subsequent Opt Out/In Qualifying Change in Status. Annuitants~~Participants~~ will not be permitted to enroll and opt out during

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

the same Benefit Choice Period or based on the same Opt Out/In Qualifying Change in Status.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2106.320 Participation Limits

Opt ~~out incentive~~~~Out Incentive~~ participation ~~shall cease~~~~eeases~~ when the non-Medicare ~~SERS~~ annuitant:

- a) reaches age 65, unless written proof of Medicare ineligibility is submitted to CMS;
- b) becomes Medicare eligible for any reason; or
- c) elects to participate in the Health Plan.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2106.330 Enrollment

Eligible ~~annuitants~~~~Members~~ participating in the Health Plan may enroll in the ~~opt out incentive within 90 days after the effective date of PA 98-0019~~~~Opt Out Incentive during the Special Enrollment Period~~, the ~~annual~~ Benefit Choice Period, or with an Opt Out/In Qualifying Change in Status by completing appropriate forms and furnishing proof of eligibility as outlined in Section 2106.310 ~~of this Part~~.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: State Employees' Group Insurance Program Retiree Premium Contributions
- 2) Code Citation: 80 Ill. Adm. Code 2200
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2200.110	New Section
2200.120	New Section
2200.130	New Section
2200.140	New Section
2200.150	New Section
2200.210	New Section
2200.220	New Section
2200.230	New Section
2200.240	New Section
2200.250	New Section
2200.310	New Section
2200.320	New Section
2200.330	New Section
2200.410	New Section
2200.510	New Section
2200.520	New Section
2200.530	New Section
2200.540	New Section
2200.550	New Section
2200.560	New Section
- 4) Statutory Authority: Authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375]
- 5) A Complete Description of the Subjects and Issues Involved: This new Part will bring CMS into compliance with changes made to the State Employees Group Insurance Act, pursuant to PA 97-695.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes (80 Ill. Adm. Code 2200; 37 Ill. Reg. 10725)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED RULES

- 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: These proposed rules neither create nor expand any State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Mary Matheny
Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

Phone: 217/557-5404
Fax: 217/558-2697
mary.matheny@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: None
- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

The full text of the Proposed Rulemaking begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE BENEFITS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2200

STATE EMPLOYEES GROUP INSURANCE PROGRAM

RETIREE PREMIUM CONTRIBUTIONS

SUBPART A: PURPOSE AND DEFINITIONS

Section

- 2200.110 Governing Authority
- 2200.120 Purpose
- 2200.130 Definitions
- 2200.140 Records and Certifications
- 2200.150 Severability

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section

- 2200.210 CMS Responsibility
- 2200.220 Determining Benefits
- 2200.230 Provision for Benefits
- 2200.240 Health Insurance Portability and Accountability Act (HIPAA)
- 2200.250 Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)

SUBPART C: RESPONSIBILITIES OF THE APPROPRIATE RETIREMENT SYSTEM

Section

- 2200.310 Annuity
- 2200.320 Enrollments and Terminations
- 2200.330 Premium Collection and Payment

SUBPART D: VALUE OF ANNUITY

Section

- 2200.410 Calculation

SUBPART E: PREMIUMS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section

2200.510	Calculation
2200.520	Percentage of Annuity
2200.530	Percentage of Cost
2200.540	Dependent Premiums
2200.550	Optional Coverage Premiums
2200.560	Exempt from Premiums

AUTHORITY: Implementing and authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375].

SOURCE: Adopted by emergency rulemaking at 37 Ill. Reg. 10725, effective June 28, 2013, for a maximum of 150 days; adopted at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 2200.110 Governing Authority

The State Employees Group Insurance Program Retiree Premium Contributions program is governed by the State Employees Group Insurance Act of 1971 [5 ILCS 375] and this Part.

Section 2200.120 Purpose

The purpose of this Part is to outline the premium amount that annuitants, survivors and retired employees of the General Assembly Retirement System, the State Employees' Retirement System, the State Universities Retirement System, the Teachers' Retirement System, and the Judges Retirement System will be required to contribute towards the cost of the basic program of group health benefits provided under the Act.

Section 2200.130 Definitions

Whenever used in this Part, the following terms shall have the meanings set forth in this Section unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized.

"Act" means the State Employees Group Insurance Act of 1971 [5 ILCS 375].

"Annuitant" means:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED RULES

an employee who retires, or has retired, on or after January 1, 1966 on an immediate annuity under the provisions of Articles 2, 14 (including an employee who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity), 15 (including an employee who has retired under the optional retirement program established under Section 15-158.2 of the Code), Section 16-106(2), (3) or (5) of the Code, or Article 18 of the Code;

any person who was receiving group insurance coverage under the Act as of March 31, 1978 by reason of his or her status as an annuitant, even though the annuity in relation to which the coverage was provided is a proportional annuity based on less than the minimum period of service required for a retirement annuity in the system involved;

any person not otherwise covered by the Act who has retired as a participating member under Article 2 of the Code but is ineligible for the retirement annuity under Section 2-119 of the Code; or

the spouse of any person who is receiving a retirement annuity under Article 18 of the Code and who is covered under a group health insurance program sponsored by a governmental employer other than the State of Illinois and who has irrevocably elected to waive his or her coverage under the Act and to have his or her spouse considered as the "annuitant" under the Act and not as a "dependent".

"CMS" means the Illinois Department of Central Management Services.

"Code" means the Illinois Pension Code [40 ILCS 5].

"Department" means any Department, institution, board, commission, officer, court or any agency of the State government as defined in Section 3(g) of the Act.

"Director" means the Director of the Illinois Department of Central Management Services or of any successor agency designated to administer the Act.

"GARS" means the General Assembly Retirement System.

"JRS" means the Judges Retirement System.

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NOTICE OF PROPOSED RULES

"Retired Employee" means any person who would be an annuitant as that term is defined in this Section but for the fact that the person retired prior to January 1, 1966. The term also includes any person formerly employed by the University of Illinois in the Cooperative Extension Service who would be an annuitant but for the fact that the person was made ineligible to participate in SURS by Section 15-107(a)(4) of the Code.

"Retirement Systems" means the General Assembly Retirement System, the Judges Retirement System, the State Employees' Retirement System, the State Universities Retirement System and the Teachers' Retirement System.

"SERS" means the State Employees' Retirement System.

"SURS" means the State Universities Retirement System.

"Survivor" means a person receiving an annuity as a survivor of an employee or of an annuitant. "Survivor" also includes:

the surviving dependent of a person who satisfies the definition of "employee" except that the person is made ineligible to participate in SURS by Section 15-107(a)(4) of the Code;

the surviving dependent of any person formerly employed by the University of Illinois in the Cooperative Extension Service who would be an annuitant except for the fact that the person was made ineligible to participate in SURS by Section 15-107(a)(4) of the Code; and

the surviving dependent of a person who was an annuitant under the Act by virtue of receiving an alternative retirement cancellation payment under Section 14-108.5 of the Code.

"TRS" means the Teachers' Retirement System.

Section 2200.140 Records and Certifications

Records and other necessary certifications will be furnished to the Director as may be necessary for the administration of this Part. These records and certifications will be retained and provided as necessary by each appropriate Department.

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Section 2200.150 Severability

If any provision of the Act or this Part or application of the Act or this Part to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the Act or this Part that can be given effect without the invalid application or provision. To this end, the provisions of the Act and this Part are declared to be severable.

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section 2200.210 CMS Responsibility

CMS shall:

- a) Establish premium contributions consistent with the Act and this Part;
- b) Calculate the premium contribution owed by each Retired Employee, Annuitant or Survivor and transmit that calculation to the appropriate Retirement System on a monthly basis to allow for collection of the premium; and
- c) Develop information and distribute that information to Retired Employees, Annuitants and Survivors related to this Part.

Section 2200.220 Determining Benefits

CMS will determine the benefits available to Annuitants, Retired Employees, Survivors and their eligible dependents.

Section 2200.230 Provision for Benefits

The Director shall, by contract, self-insurance, or otherwise make available the program of health benefits for Annuitants, Retired Employees, Survivors and their eligible dependents.

Section 2200.240 Health Insurance Portability and Accountability Act (HIPAA)

CMS will comply with the uses and disclosures of protected health information, permitted by the Health Insurance Portability and Accountability Act (HIPAA), when applicable as referenced in the plan documents.

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Section 2200.250 Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)

CMS shall be responsible for compliance with the continuation of benefits requirements of COBRA. All premiums must be collected and transmitted by the respective retirement system.

SUBPART C: RESPONSIBILITIES OF THE APPROPRIATE RETIREMENT SYSTEM

Section 2200.310 Annuity

The Retirement Systems shall report the value of the annuity of each Retired Employee, Annuitant and Survivor to CMS on a monthly basis.

Section 2200.320 Enrollments and Terminations

The Retirement Systems shall enroll and terminate their respective Retired Employees, Annuitants, Survivors and their dependents pursuant to CMS' policies and procedures and consistent with the terms of the Act.

Section 2200.330 Premium Collection and Payment

- a) The Retirement Systems shall be responsible for the collection and transmission to CMS of the premium for their respective Retired Employees, Annuitants and Survivors.
- b) Individuals whose annuity check is insufficient to cover the amount of the monthly premiums due pursuant to Subpart E shall be direct billed.

SUBPART D: VALUE OF ANNUITY

Section 2200.410 Calculation

- a) The annuity upon which the health insurance premiums are based shall be the gross sum of all annuities received by the Retired Employee, Annuitant or Survivor from the Retirement Systems.
- b) For individuals who retired under PA 93-0839 (between August 16, 2004 and October 31, 2004), PA 94-0109 (between July 1, 2005 and September 30, 2005) or PA 94-0839 (between June 6, 2006 and August 31, 2006), the annuity shall be

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calculated by SERS and will be equal to the amount of the annuity that would have been received.

- c) For individuals who retired under the University of Illinois Cooperative Extension Service, the initial annuity shall be the sum of all annuities as provided by each of the Retirement Systems and the U.S. Office of Personnel Management.

SUBPART E: PREMIUMS

Section 2200.510 Calculation

CMS shall calculate the premiums due for the coverage of the Annuitant, Retired Employee or Survivor under this Part as follows:

- a) A percentage of the annuity, as outlined under Section 2200.520; plus
- b) A percentage of cost, as outlined under Section 2200.530.

Section 2200.520 Percentage of Annuity

CMS shall calculate the premiums due under this Part as follows:

- a) For each Retired Employee, Annuitant or Survivor with primary coverage under the State program, the premium shall be equal to 2% of the total annual annuity received by the Retired Employee, Annuitant or Survivor from any and all of the five State Retirement Systems;
- b) For each Retired Employee, Annuitant or Survivor with primary coverage under the federal Medicare health insurance program (Title XVIII of the Social Security Act, as added by Public Law 89-97), the premium shall be equal to 1% of the total annual annuity received by the Retired Employee, Annuitant or Survivor from any and all of the five State Retirement Systems;
- c) For each Retired Employee, Annuitant or Survivor age 65 or older whose primary coverage would otherwise be coverage under the federal Medicare health insurance program, except for his or her inability to contribute to Medicare while actively working, the premium shall be equal to 1% of the total annual annuity received by the Retired Employee, Annuitant or Survivor from any and all of the five State Retirement Systems.

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Section 2200.530 Percentage of Cost

- a) In addition to the percentage of annuity outlined in Section 2200.420, any SERS, SURS or TRS Annuitant who retired on or after January 1, 1998 with less than 20 years of State service, or any SERS, SURS or TRS Survivor whose annuity is based upon the work of an individual who retired on or after January 1, 1998 with less than 20 years of State service, shall pay 5% of the cost of the elected coverage for each year less than 20 upon which the annuity is based.
- b) SURS Annuitants who retired under PA 95-0395, or SURS Survivors whose annuity is based upon the work of an individual who retired under PA 95-0395, shall not be required to pay the additional amounts outlined in subsection (a)(1).

Section 2200.540 Dependent Premiums

- a) Annuitants, Retired Employees and Survivors shall be required to pay premiums for any elected dependent coverage in an amount equal to the premiums charged to active employees for elected dependent coverage.
- b) Premiums charged for elected dependent coverage shall be in addition to any premiums due under Sections 2200.520 and 2200.530.

Section 2200.550 Optional Coverage Premiums

- a) Annuitants, Retired Employees and Survivors are required to pay premiums for any elected optional coverage, including dental and optional life coverage.
- b) Premiums paid for dental coverage for Annuitants, Retired Employees, Survivors and their enrolled dependents shall be in an amount equal to that paid by active employees.
- c) Premiums paid for optional life insurance coverage for Annuitants, Retired Employees, Survivors and their enrolled dependents shall be in an amount equal to that paid by active employees.
- d) Premiums charged for elected optional coverage shall be in addition to any premiums due under Sections 2200.520, 2200.530 and 2200.540.

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Section 220.560 Exempt from Premiums

- a) The following individuals shall not be required to pay premiums due under Section 2200.520 or 2200.530:
 - 1) Any person not otherwise covered by the Act who has retired as a participating member under Article 2 of the Code but is ineligible for the retirement annuity under Section 2-119 of the Code;
 - 2) University of Illinois Cooperative Extension retirees whose member basic health premium is paid by the Cooperative Extension Service; and
 - 3) Survivors of employees with less than one year of service.
- b) Individuals receiving benefits under PA 90-0535 (Public Safety Employee Benefit Act) shall not be required to pay premiums due under Section 2200.520, 2200.530 or 2200.540.

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- 1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions
- 2) Code Citation: 35 Ill. Adm. Code 106
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
106.1100	New
106.1105	New
106.1110	New
106.1115	New
106.1120	New
106.1125	New
106.1130	New
106.1135	New
106.1140	New
106.1145	New
106.1150	New
106.1155	New
106.1160	New
106.1165	New
106.1170	New
106.1175	New
106.1180	New
- 4) Statutory Authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 and 28]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal for public comment would adopt a new Subpart K of Part 106 of the Illinois Pollution Control Board (Board) procedural rules. Specifically, the proposal will provide procedural rules for establishing alternative thermal effluent limitations under Section 316(a) of the Clean Water Act and 35 Ill. Adm. Code 304.141. A complete description of the proposal can be found in the Board's R13-20 opinion and order dated July 11, 2013.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Existing federal regulations in 40 CFR Part 125 (2012) have been integrated with typical procedures found in the Board's procedural rules.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)]
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Public comments should reference R13-20 and be addressed to:

Pollution Control Board
John Therriault, Clerk
JRTC
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's Web site at www.ipcb.state.il.us.

Interested persons may obtain copies of the Board's opinion and order by downloading them from the Board's Web site at www.ipcb.state.il.us or by calling the Clerk's office at 312/814-3620. For more information, contact Hearing Officer Daniel Robertson at 312/814-6931 or email Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This proposal will impact any small business with a thermal effluent limit that seeks to demonstrate such effluent limit is more stringent than necessary to protect a balanced, indigenous population of fish, shellfish and wildlife. In general, the affected industry is the steam electric generating industry whether nuclear or coal fired.

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- B) Reporting, bookkeeping or other procedures required for compliance: The proposal imposes new reporting requirements and will require reporting and bookkeeping procedures consistent with the proposal.
- C) Types of professional skills necessary for compliance: Unknown.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because the need for this rulemaking was not made apparent until recently as a result of USEPA's focus on review of prior Section 316(a) relief and recent Board determinations.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section

- 106.100 Applicability
- 106.102 Severability
- 106.104 Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,
AND SULFUR DIOXIDE DEMONSTRATIONS

Section

- 106.200 General
- 106.202 Petition Requirements
- 106.204 Additional Petition Requirements in Sulfur Dioxide Demonstrations
- 106.206 Notice
- 106.208 Recommendation and Response
- 106.210 Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section

- 106.300 General
- 106.302 Initiation of Proceeding
- 106.304 Petition Content Requirements
- 106.306 Response and Reply
- 106.308 Hearing
- 106.310 Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT
PERMIT PROGRAM (CAAPP) PERMITS

Section

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106.400	General
106.402	Definitions
106.404	Initiation of Proceedings
106.406	Petition Content Requirements
106.408	Response and Reply
106.410	Hearing
106.412	Burden of Proof
106.414	Opinion and Order
106.416	USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

Section	
106.500	General
106.502	Definitions
106.504	Initiation of Proceedings
106.506	Petition Content Requirements
106.508	Response and Reply
106.510	Hearing
106.512	Burden of Proof
106.514	Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

Section	
106.600	General
106.602	Initiation of Proceedings
106.604	Petition Content Requirements
106.606	Response and Reply
106.608	Hearing
106.610	Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

Section	
106.700	Purpose

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106.702	Applicability
106.704	Termination Under Section 52.3-4(b) or (b-5) of the Act
106.706	Who May Initiate, Parties
106.707	Notice, Statement of Deficiency, Answer
106.708	Service
106.710	Notice of Hearing
106.712	Deficient Performance
106.714	Board Decision
106.716	Burden of Proof
106.718	Motions, Responses
106.720	Intervention
106.722	Continuances
106.724	Discovery, Admissions
106.726	Subpoenas
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants
106.732	Order and Conduct of Hearing
106.734	Evidentiary Matters
106.736	Post-Hearing Procedures
106.738	Motion After Entry of Final Order
106.740	Relief from Final Orders

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION
OF PHOSPHORUS IN DETERGENTS ACT

Section	
106.800	General
106.802	Definitions
106.804	Initiation of Proceeding
106.806	Petition Content Requirements
106.808	Response and Reply
106.810	Hearing
106.812	Burden of Proof

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

Section	
106.900	General
106.902	Initiation of Proceeding

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106.904	Petition Content Requirements
106.906	Petition Notice Requirements
106.908	Proof of Petition Notice Requirements
106.910	Response and Reply
106.912	Hearing
106.914	Burden of Proof

SUBPART J: TEMPORARY LANDFILL BAN WAIVERS UNDER
THE ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

Section	
106.1000	General
106.1002	Definitions
106.1004	Initiation of Proceeding
106.1006	Petition Content Requirements
106.1008	Response and Reply
106.1010	Burden of Proof
106.1012	Board Decision

SUBPART K: ALTERNATIVE THERMAL EFFLUENT LIMITATIONS PURSUANT TO
SECTION 316(a) OF THE CLEAN WATER ACT AND 35 ILL. ADM. CODE 304.141(c)

<u>Section</u>	<u>Purpose</u>
<u>106.1100</u>	<u>General</u>
<u>106.1105</u>	<u>Definitions</u>
<u>106.1110</u>	<u>Early Screening</u>
<u>106.1115</u>	<u>Detailed Plan of Study</u>
<u>106.1120</u>	<u>Initiation of Proceeding</u>
<u>106.1125</u>	<u>Contents of Petition</u>
<u>106.1130</u>	<u>Petition Notice Requirements</u>
<u>106.1135</u>	<u>Proof of Petition Notice Requirements</u>
<u>106.1140</u>	<u>Recommendation and Response</u>
<u>106.1145</u>	<u>Request for Public Hearing</u>
<u>106.1150</u>	<u>Notice and Conduct of Hearing</u>
<u>106.1155</u>	<u>Burden of Proof</u>
<u>106.1160</u>	<u>Evidentiary Matters</u>
<u>106.1165</u>	<u>Opinion and Order</u>
<u>106.1170</u>	<u>Post-Hearing Procedures</u>
<u>106.1175</u>	

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106.1180 Renewal of Alternative Thermal Effluent Limitations

106.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5] and Section 95 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 7, 2012; amended in R12-11 at 36 Ill. Reg. 16581, effective November 5, 2012; amended in R13-20 at 37 Ill. Reg. _____, effective _____.

SUBPART K: ALTERNATIVE THERMAL EFFLUENT LIMITATIONS PURSUANT TO SECTION 316(a) OF THE CLEAN WATER ACT AND 35 ILL. ADM. CODE 304.141(c)

Section 106.1100 Purpose

This Subpart describes the factors, criteria, and standards for the establishment of alternative thermal effluent limitations under 35 Ill. Adm. Code 304.141(c) and section 316(a) of the Clean Water Act (33 USC 1251) and in permits issued under 35 Ill. Adm. Code 309.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1105 General

- a) Description. This Subpart applies to any point source that discharges pollutants to waters of the United States who seeks to demonstrate, pursuant to 35 Ill. Adm.

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Code 304.141(c) and section 316(a) of the Clean Water Act, that any effluent limit proposed for the control of a thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.

- b) Parties. The person making the demonstration must be named the petitioner. The Agency must be named as a respondent. Any interested person may become a participant in the alternative thermal effluent limitation demonstration proceeding in accordance with 35 Ill. Adm. Code 101.110 and 101.628.
- c) Filing and Service. The filing and service requirements of 35 Ill. Adm. Code 101.Subpart C apply to the proceedings of this Subpart.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1110 Definitions

In addition to these definitions, all definitions of the Illinois Environmental Protection Act [415 ILCS 5], and 35 Ill. Adm. Code 301, apply to this Subpart. For the purpose of this Subpart:

"Alternative thermal effluent limitations" means all effluent limitations or standards of performance for the control of the thermal component of any discharge that are established under 35 Ill. Adm. Code 304.141(c), Section 316(a) of the CWA and this Subpart.

"CWA" means the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972, as amended by the Clean Water Act, Public Law 95-217, enacted December 12, 1977, as amended).

"Representative important species" means species that are representative, in terms of their biological needs, of a balanced, indigenous community of shellfish, fish, and wildlife in the body of water into which a discharge of heat is made.

"Balanced, indigenous community" is synonymous with the term "balanced, indigenous population" in the CWA and means a biotic community typically characterized by diversity, the capacity to sustain itself through cyclic seasonal changes, presence of necessary food chain species, and a lack of domination by pollution tolerant species. Such a community may include historically non-native species introduced in connection

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with a program of wildlife management and species whose presence or abundance results from substantial, irreversible environmental modifications. Normally, however, such a community will not include species whose presence or abundance is attributable to the introduction of pollutants that will be eliminated by compliance by all sources with section 301(b)(2) of the CWA; and may not include species whose presence or abundance is attributable to alternative thermal effluent limitations imposed pursuant to this Subpart or through regulatory relief from otherwise applicable thermal limitations or standards granted by the Board.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1115 Early Screening

- a) Prior to filing a petition for an alternative thermal effluent limitation, the petitioner must submit the following early screening information to the Agency:
- 1) A description of the alternative thermal effluent limitation requested;
 - 2) A general description of the method by which the discharger proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are more stringent than necessary;
 - 3) A general description of the type of data, studies, experiments and other information that the discharger intends to submit for the demonstration; and
 - 4) A proposed representative important species list and such data and information as may be available to assist the Agency in approving the selection of the appropriate representative important species.
- b) Within 30 days after receipt of the early screening information under subsection (a), the petitioner shall consult with the Agency to discuss the petitioner's early screening information.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1120 Detailed Plan of Study

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- a) Within 60 days after the early screening information is submitted pursuant to Section 106.1115, the petitioner shall submit for the Agency's approval a detailed plan of study that the petitioner will undertake to support its alternative thermal effluent limitation demonstration.
- b) The petitioner shall specify the nature and extent of the following types of information to be included in the plan of study:
 - 1) biological, hydrographical, and meteorological data;
 - 2) physical monitoring data;
 - 3) engineering or diffusion models;
 - 4) laboratory studies;
 - 5) representative important species; and
 - 6) other relevant information.
- c) In selecting representative important species, special consideration shall be given to species mentioned in applicable water quality standards.
- d) The petitioner shall provide any additional information or studies that the Agency subsequently determines necessary to support the alternative thermal effluent limitation demonstration, including such field or other studies as may be necessary to select representative important species.
- e) In making the alternative thermal effluent limitation demonstration, the petitioner shall consider any information or guidance published by USEPA to assist in making such demonstrations.
- f) Within 90 days after petitioner's submittal of its detailed plan of study, the Agency shall approve the plan or specify any recommended revisions to the plan.
- g) After obtaining Agency approval or the Agency's recommended revisions, the petitioner shall complete the plan of study prior to filing the petition for an alternative thermal effluent limitation with the Board.

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(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1125 Initiation of Proceeding

After completion of the plan of study pursuant to Section 106.1120, the petitioner may file a petition for an alternative thermal effluent limitation with the Clerk of the Board and must serve one copy upon the Agency.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1130 Contents of Petition

A petition for an alternative thermal effluent limitation must include the following:

- a) Information providing a general plant description, including, as applicable:
- 1) Generating capacity;
 - 2) Type of fuel used;
 - 3) Operating characteristics of the condenser cooling system;
 - 4) History of the load factor of the plant for the last 5 years;
 - 5) Projected load factors of the plant for the next 5 years;
 - 6) Estimated date of retirement for each unit at the plant and any plans for additional units at the plant;
 - 7) History of plant shutdowns for the last 5 years;
 - 8) Planned and emergency shutdowns with frequency and duration for the last 5 years; and
 - 9) Planned and projected shutdowns with frequency and duration for the next five years;
- b) Description of Method for Heat Dissipation:

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- 1) Type of system used (such as once-through, mechanical, and draft cooling towers) in narrative form; and
- 2) Summary information on temperature of discharge to receiving waters in narrative form;
- c) A summary of compliance or non-compliance with thermal requirements at the facility in the past five years;
- d) The results of the studies conducted pursuant to the detailed plan of study submitted under Section 106.1120;
- e) Any information or guidance published by USEPA to assist in making alternative thermal effluent limitation demonstrations that the Board should consider in evaluating the petition; and
- f) Any additional information or studies that the petitioner judges to be appropriate to support the alternative thermal effluent limitation demonstration.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1135 Petition Notice Requirements

- a) Within 14 days after the filing of the petition, the petitioner must publish notice of the filing of the petition by advertisement in a newspaper of general circulation in the county where the facility is located.
- b) The notice must contain the name and address of the petitioner and it must state that the petitioner has filed with the Board a petition for an alternative thermal effluent limitation. The notice must also provide the date on which the petition was filed, the Board docket number, the regulatory standard (with appropriate Administrative Code citation) from which the alternative thermal effluent limitation is sought, the proposed alternative thermal effluent limitation, and the location of the facility. The concluding portion of the notice must read as follows:

"Any person may cause a public hearing to be held in the above-described proceeding by filing a hearing request with the Illinois Pollution Control Board within 21 days after the date of the publication of this notice. The

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hearing request should clearly indicate the docket number for the proceeding, as found in this notice, and must be mailed to the Clerk of the Board, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601."

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1140 Proof of Petition Notice Requirements

Within 30 days after the filing of the petition, the petitioner must file a certificate of publication. This certification must be issued by the newspaper that published the notice and must certify when the notice was published and the information the notice contained.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1145 Recommendation and Response

Within 45 days after the filing of a petition for an alternative thermal effluent limitation, the Agency must file with the Board a recommendation as to whether the Board should grant the petitioner's requested alternative thermal effluent limitation. The petitioner, any party to the proceeding, or any interested person may file a response to the Agency recommendation within 21 days after the Agency files its recommendation.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1150 Request for Public Hearing

Any person can request that a public hearing be held in a proceeding under this Subpart. The requests must be filed with the Clerk of the Board no later than 21 days after the date of the publication of the petition notice in accordance with Section 106.1135. Requests for hearing should make reference to the Board docket number assigned to the proceeding.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1155 Notice and Conduct of Hearing

- a) The Board shall hold a public hearing on the petition and alternative thermal effluent limitation demonstration when one is requested in accordance with Section 106.1150 or when requested by the petitioner.

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- b) The hearing officer will schedule the hearing to be held in the county likely to be affected by the petitioner's activity.
- c) The Clerk will give notice of the hearing in accordance with 35 Ill. Adm. Code 101. The proceedings will be conducted in accordance with 35 Ill. Adm. Code 101.Subpart F.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1160 Burden of Proof

- a) The burden of proof is on the petitioner.
- b) The petitioner must demonstrate to the satisfaction of the Board that the otherwise applicable effluent limitations under Chapter I of Subtitle C of this Title are more stringent than necessary to assure the protection and propagation of a balanced, indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge is made.
- c) The demonstration must show that the alternative thermal effluent limitation desired by the petitioner, considering the cumulative impact of its thermal discharge, together with all other significant impacts on the species affected, will assure the protection and propagation of a balanced indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.
- d) Existing dischargers may base their demonstration upon the absence of prior appreciable harm in lieu of predictive studies.
 - 1) When the petitioner bases the alternative thermal effluent limitation demonstration upon the absence of prior appreciable harm, the demonstration must show:
 - A) That no appreciable harm has resulted from the normal component of the discharge, taking into account the interaction of such thermal component with other pollutants and the additive effect of other thermal sources on a balanced, indigenous community of

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shellfish, fish, and wildlife in and on the body of water into which the discharge has been made; or

B) That despite the occurrence of such previous harm, the desired alternative thermal effluent limitation (or appropriate modifications thereof) will nevertheless assure the protection and propagation of a balanced, indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge is made.

2) In determining whether prior appreciable harm has occurred, the Board shall consider the length of time during which the petitioner has been discharging and the nature of the discharge.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1165 Evidentiary Matters

a) The provisions of 35 Ill. Adm. Code 101 regarding admissible evidence, written narrative testimony, official notice, viewing premises, admitting business records, examining adverse parties or agents and hostile witnesses and compelling them to appear at hearing, and amendment and variance of pleadings and proof will apply to proceedings under this Subpart.

b) In determining whether the protection and propagation of the affected species will be assured, the Board may consider any information contained or referenced in any applicable thermal water quality criteria and thermal water quality information published by the USEPA under section 304(a) of the CWA, or any other information the Board deems relevant.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1170 Opinion and Order

a) After an opportunity for a public hearing and upon a satisfactory alternative thermal effluent limitation demonstration, the Board may order the Agency to include thermal discharge effluent limitations or standards in the petitioner's NPDES permit that are less stringent than those required by applicable standards and limitations if the thermal component of the discharge, taking into account the interaction of such thermal component with other pollutants, will assure the

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protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water.

- b) If the petitioner intends for the alternative thermal effluent limitation granted by the Board pursuant to this Subpart to continue beyond the expiration of the petitioner's NPDES permit, the petitioner must apply for renewal of the alternative thermal effluent limitation pursuant to Section 106.1180.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1175 Post-Hearing Procedures

- a) The provisions of 35 Ill. Adm. Code 101 regarding default, transcripts, the record, motions, briefs, and oral arguments apply to proceedings under this Subpart.
- b) In addition to the provisions of 35 Ill. Adm. Code 101.520 and 101.902, if USEPA objects pursuant to 40 CFR 123.44 to issuance in the petitioner's NPDES permit of the alternative thermal effluent limitation ordered by the Board, the Agency is given leave to file a motion for reconsideration of the Board's order granting the effluent limitation pursuant to 35 Ill. Adm. Code 101.520 within 35 days after the Agency's receipt of USEPA's objection.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 106.1180 Renewal of Alternative Thermal Effluent Limitations

- a) The permittee may request continuation of an alternative thermal effluent limitation granted by the Board, pursuant to this Subpart, as part of its NPDES permit renewal application.
- b) Any application for renewal should include sufficient information for the Agency to compare the nature of the permittee's thermal discharge and the balanced, indigenous population of shellfish, fish, and wildlife at the time the Board granted the alternative thermal effluent limitation and the current nature of the petitioner's thermal discharge and the balanced, indigenous population of shellfish, fish, and wildlife. The permittee should be prepared to support this comparison with documentation based upon the discharger's actual operation experience during the previous permit term.

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- c) If the permittee demonstrates that the nature of the thermal discharge has not changed and the alternative thermal effluent limitation granted by the Board has not caused appreciable harm to a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is made, the Agency may include the alternative thermal effluent limitation in the permittee's renewed NPDES permit.
- d) If the nature of the thermal discharge has changed materially or the alternative thermal effluent limitation granted by the Board has caused appreciable harm to a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is made, the Agency may not include the thermal relief granted by the Board in the permittee's renewed NPDES permit. The permittee must file a new petition and make the required demonstration pursuant to this Subpart before the alternative thermal effluent limitation may be included in the permittee's renewed NPDES permit.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Effluent Standards
- 2) Code Citation: 35 Ill. Adm. Code 304
- 3) Section Number: 304.141 Proposed Action: Amend
- 4) Statutory Authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 and 28]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal will update Section 304.141 of the Illinois Pollution Control Board (Board) regulations to include a cross-reference to the newly proposed Subpart K of Part 106 of the Board's procedural rules and to update language to reflect the United States Environmental Protection Agency (USEPA) delegation of permitting authority to the Illinois Environmental Protection Agency.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemaking pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)]
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Public comments should reference R13-20 and be addressed to:

Pollution Control Board

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John Therriault, Clerk
JRTC
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's Web site at www.ipcb.state.il.us.

Interested persons may obtain copies of the Board's opinion and order by downloading them from the Board's Web site at www.ipcb.state.il.us or by calling the Clerk's office at 312/814-3620. For more information, contact Hearing Officer Daniel Robertson at 312/814-6931 or email Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This proposal will impact any small business with a thermal effluent limit that seeks to demonstrate such effluent limit is more stringent than necessary to protect a balanced, indigenous population of fish, shellfish and wildlife. In general, the affected industry is the steam electric generating industry whether nuclear or coal fired.
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposal imposes new reporting requirements and will require reporting and bookkeeping procedures consistent with the proposal.
 - C) Types of professional skills necessary for compliance: Unknown
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because the need for this rulemaking was not made apparent until recently as a result of USEPA's focus on review of prior Section 316(a) relief and recent Board determinations.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 304
EFFLUENT STANDARDS

SUBPART A: GENERAL EFFLUENT STANDARDS

Section

304.101	Preamble
304.102	Dilution
304.103	Background Concentrations
304.104	Averaging
304.105	Violation of Water Quality Standards
304.106	Offensive Discharges
304.120	Deoxygenating Wastes
304.121	Bacteria
304.122	Total Ammonia Nitrogen (as N: STORET number 00610)
304.123	Phosphorus (STORET number 00665)
304.124	Additional Contaminants
304.125	pH
304.126	Mercury
304.140	Delays in Upgrading (Repealed)
304.141	NPDES Effluent Standards
304.142	New Source Performance Standards (Repealed)

SUBPART B: SITE SPECIFIC RULES AND
EXCEPTIONS NOT OF GENERAL APPLICABILITY

Section

304.201	Wastewater Treatment Plant Discharges of the Metropolitan Water Reclamation District of Greater Chicago
304.202	Chlor-alkali Mercury Discharges in St. Clair County
304.203	Copper Discharges by Olin Corporation
304.204	Schoenberger Creek: Groundwater Discharges
304.205	John Deere Foundry Discharges
304.206	Alton Water Company Treatment Plant Discharges
304.207	Galesburg Sanitary District Deoxygenating Wastes Discharges

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304.208	City of Lockport Treatment Plant Discharges
304.209	Wood River Station Total Suspended Solids Discharges
304.210	Alton Wastewater Treatment Plant Discharges
304.211	Discharges From Borden Chemicals and Plastics Operating Limited Partnership Into an Unnamed Tributary of Long Point Slough
304.212	Sanitary District of Decatur Discharges
304.213	PDV Midwest Refining, L.L.C. Refinery Ammonia Discharge
304.214	Mobil Oil Refinery Ammonia Discharge
304.215	City of Tuscola Wastewater Treatment Facility Discharges
304.216	Newton Station Suspended Solids Discharges
304.218	City of Pana Phosphorus Discharge
304.219	North Shore Sanitary District Phosphorus Discharges
304.220	East St. Louis Treatment Facility, Illinois-American Water Company
304.221	Ringwood Drive Manufacturing Facility in McHenry County
304.222	Intermittent Discharge of TRC
304.224	Effluent Disinfection

SUBPART C: TEMPORARY EFFLUENT STANDARDS

Section

304.301	Exception for Ammonia Nitrogen Water Quality Violations (Repealed)
304.302	City of Joliet East Side Wastewater Treatment Plant
304.303	Amerock Corporation, Rockford Facility

304.APPENDIX A References to Previous Rules

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

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 30, p. 343, effective July 27, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; amended at 4 Ill. Reg. 20, p. 53, effective May 7, 1980; amended at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 7 Ill. Reg. 3020, effective March 4, 1983; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended at 7 Ill. Reg. 14515, effective October 14, 1983; amended at 7 Ill. Reg. 14910, effective November 14, 1983; amended at 8 Ill. Reg. 1600, effective January 18, 1984; amended at 8 Ill. Reg. 3687, effective March 14, 1984; amended at 8 Ill. Reg. 8237, effective June 8, 1984;

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amended at 9 Ill. Reg. 1379, effective January 21, 1985; amended at 9 Ill. Reg. 4510, effective March 22, 1985; peremptory amendment at 10 Ill. Reg. 456, effective December 23, 1985; amended at 11 Ill. Reg. 3117, effective January 28, 1987; amended in R84-13 at 11 Ill. Reg. 7291, effective April 3, 1987; amended in R86-17(A) at 11 Ill. Reg. 14748, effective August 24, 1987; amended in R84-16 at 12 Ill. Reg. 2445, effective January 15, 1988; amended in R83-23 at 12 Ill. Reg. 8658, effective May 10, 1988; amended in R87-27 at 12 Ill. Reg. 9905, effective May 27, 1988; amended in R82-7 at 12 Ill. Reg. 10712, effective June 9, 1988; amended in R85-29 at 12 Ill. Reg. 12064, effective July 12, 1988; amended in R87-22 at 12 Ill. Reg. 13966, effective August 23, 1988; amended in R86-3 at 12 Ill. Reg. 20126, effective November 16, 1988; amended in R84-20 at 13 Ill. Reg. 851, effective January 9, 1989; amended in R85-11 at 13 Ill. Reg. 2060, effective February 6, 1989; amended in R88-1 at 13 Ill. Reg. 5976, effective April 18, 1989; amended in R86-17(B) at 13 Ill. Reg. 7754, effective May 4, 1989; amended in R88-22 at 13 Ill. Reg. 8880, effective May 26, 1989; amended in R87-6 at 14 Ill. Reg. 6777, effective April 24, 1990; amended in R87-36 at 14 Ill. Reg. 9437, effective May 31, 1990; amended in R88-21(B) at 14 Ill. Reg. 12538, effective July 18, 1990; amended in R84-44 at 14 Ill. Reg. 20719, effective December 11, 1990; amended in R86-14 at 15 Ill. Reg. 241, effective December 18, 1990; amended in R93-8 at 18 Ill. Reg. 267, effective December 23, 1993; amended in R87-33 at 18 Ill. Reg. 11574, effective July 7, 1994; amended in R95-14 at 20 Ill. Reg. 3528, effective February 8, 1996; amended in R94-1(B) at 21 Ill. Reg. 364, effective December 23, 1996; expedited correction in R94-1(B) at 21 Ill. Reg. 6269, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1351, effective December 24, 1997; amended in R97-28 at 22 Ill. Reg. 3512, effective February 3, 1998; amended in R98-14 at 23 Ill. Reg. 687, effective December 31, 1998; amended in R02-19 at 26 Ill. Reg. 16948, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 194, effective December 20, 2002; amended in R04-26 at 30 Ill. Reg. 2365, effective February 2, 2006; amended in R08-9B at 36 Ill. Reg. 2586, effective February 2, 2012; amended in R13-20 at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL EFFLUENT STANDARDS

Section 304.141 NPDES Effluent Standards

- a) No person to whom an NPDES Permit has been issued may discharge any contaminant in his effluent in excess of the standards and limitations for that contaminant which are set forth in his permit.
- b) No person may discharge any pollutant subject to, or which contributes or threatens to cause a violation of, any applicable federal or state water quality standard, effluent standard, guideline or other limitation, promulgated pursuant to the CWA or the Act, unless limitation for such a pollutant has been set forth in an

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applicable NPDES Permit. However, the Agency may, by permit condition, provide that the permittee may discharge pollutants present in its water supply intake sources in concentrations not greater than the concentrations in the intake sources, or which are added in trace amounts by normal domestic water usage.¹

- c) The standards of this Chapter shall apply to thermal discharges unless, after public notice and opportunity for public hearing, in accordance with ~~section~~Section 316 of the CWA, ~~and~~ applicable federal regulations, and procedures in 35 Ill. Adm. Code 106.Subpart K, the ~~Agency Administrator~~ and the Board have determined that different standards shall apply to a particular thermal discharge.

¹ Section 304.141(b) was declared invalid in Peabody Coal Co. v. PCB, 3 Ill. App. 3d 5 (5th District, 1976) and declared valid in U.S. Steel v. PCB, 52 Ill. App. 3d 1 (2d District, 1977).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: Food Service Sanitation Code
- 2) Code Citation: 77 Ill. Adm. Code 750
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
750.10	Amend
750.120	Amend
750.130	Amend
750.330	Amend
750.620	Amend
750.740	Amend
750.1240	Amend
750.1290	Amend
- 4) Statutory Authority: Authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620], Food Handling Regulation Enforcement Act [410 ILCS 625], and Sanitary Food Preparation Act [410 ILCS 650]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will update the definition of a food service establishment to incorporate the definition of retail food store, allowing for the repeal of the Retail Food Store Sanitation Code [77 Ill. Adm. Code 760]. Beyond Section 750.10, other key amendments correlate with the definition change to expand to include retail food stores (i.e., grocery stores).
- 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 any State mandates on units of local government.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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

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

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Food service establishments (e.g., restaurants, long-term care facilities, schools, grocery stores)
- B) Reporting, bookkeeping or other procedures required for compliance: There will be no change in the reporting, bookkeeping or other procedures required for compliance.
- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 750
FOOD SERVICE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Section	
750.5	Incorporated and Referenced Materials
750.10	Definitions
750.20	Inspections and Inspection Report

SUBPART B: FOOD SUPPLIES

Section	
750.100	General
750.110	Special Requirements
750.120	General – Food Protection
750.130	General – Food Storage
750.140	Refrigerated Storage
750.150	Hot Storage
750.151	Ready-to-Eat Potentially Hazardous Food, Date Marking
750.152	Ready-to-Eat Potentially Hazardous Food, Disposition
750.153	Time as a Public Health Control
750.155	Damaged Food Containers
750.160	General – Food Preparation
750.170	Raw Fruits and Raw Vegetables
750.180	Cooking Potentially Hazardous Foods
750.185	Minimum Food Temperature and Holding Time Required Under Section 750.180(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
750.186	Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
750.187	Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
750.188	Plant Food Cooking for Hot Holding

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750.189	Microwave Cooking
750.190	Dry Milk and Dry Milk Products
750.200	Liquid, Frozen, Dry Eggs and Egg Products
750.208	Preparation for Immediate Service
750.210	Reheating for Hot Holding
750.220	Nondairy Products
750.230	Product Thermometers
750.240	Thawing Potentially Hazardous Foods
750.250	Food Display and Service of Potentially Hazardous Food
750.260	Display Equipment
750.270	Reuse of Tableware
750.280	Dispensing Utensils
750.290	Ice Dispensing
750.300	Condiment Dispensing
750.310	Milk and Cream Dispensing
750.320	Re-Service
750.325	Special Requirements for Highly Susceptible Populations
750.330	General – Food Transportation
750.340	Public Health Protection
750.350	Preventing Health Hazards, Provision for Conditions Not Addressed
750.360	Variances
750.370	Justification for and Documentation of Proposed Variance

SUBPART C: PERSONNEL

Section	
750.500	General – Employee Health
750.510	General – Personal Cleanliness
750.512	When to Wash Hands
750.514	Where to Wash Hands
750.516	Hand Antiseptics
750.520	General – Clothing
750.530	General – Employee Practices
750.540	Management Sanitation Training and Certification
750.550	Management Sanitation Certification Examination (Repealed)
750.551	Certificate Issuance
750.560	Certificate Revocation or Suspension

DEPARTMENT OF PUBLIC HEALTH

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SUBPART D: EQUIPMENT AND UTENSILS

Section

750.600	General – Materials
750.610	Solder
750.620	Wood
750.630	Plastics
750.640	Mollusk and Crustacea Shells
750.650	General – Design and Fabrication
750.660	Accessibility
750.670	In-Place Cleaning
750.680	Thermometers
750.690	Non-Food-Contact Surfaces
750.700	Ventilation Hoods
750.710	General – Equipment Installation and Location
750.720	Table-Mounted Equipment
750.730	Portable Equipment
750.740	Floor-Mounted Equipment
750.750	Aisles and Working Spaces

SUBPART E: CLEANING, SANITIZING, AND STORAGE OF
EQUIPMENT AND UTENSILS

Section

750.800	Cleaning Frequency
750.810	Wiping Cloths
750.820	Manual Cleaning and Sanitizing
750.830	Mechanical Cleaning and Sanitizing
750.840	Drying
750.850	Equipment, Utensil, and Tableware Handling
750.860	Equipment, Utensil, and Tableware Storage
750.870	Pre-Set Tableware
750.880	Single-Service Articles
750.890	Prohibited Storage Area

SUBPART F: SANITARY FACILITIES AND CONTROLS

Section

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750.1000	General – Water Supply
750.1010	Transportation
750.1020	Bottled Water
750.1030	Water Under Pressure
750.1040	Steam
750.1050	General – Sewage Disposal
750.1060	General – Plumbing
750.1070	Nonpotable System
750.1080	Backflow
750.1090	Grease Traps
750.1100	Drains
750.1110	General – Toilet Facilities
750.1120	General – Lavatory Facilities
750.1130	Containers – Garbage and Refuse
750.1140	Garbage and Refuse Storage
750.1150	Disposal of Garbage and Rubbish
750.1160	General – Insect and Rodent Control
750.1170	Protection of Openings Against Entrance of Insects and Rodents

SUBPART G: CONSTRUCTION AND MAINTENANCE OF
PHYSICAL FACILITIES

Section	
750.1200	General – Floors
750.1210	General – Walls and Ceilings
750.1220	General – Cleaning Physical Facilities
750.1230	General – Lighting
750.1240	Protective Light Shielding
750.1250	General – Ventilation
750.1260	Special Ventilation
750.1270	Dressing Areas
750.1280	Lockers
750.1290	Poisonous or Toxic Materials Permitted
750.1300	Labeling of Poisonous or Toxic Materials
750.1310	Storage of Poisonous or Toxic Materials
750.1320	Use of Poisonous or Toxic Materials
750.1330	Personal Medications
750.1340	First-Aid Supplies

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- 750.1350 General – Premises
- 750.1360 Living Areas
- 750.1370 Laundry Facilities
- 750.1380 Linens and Clothes Storage
- 750.1390 Cleaning Equipment Storage
- 750.1400 Animals

SUBPART H: MOBILE FOOD SERVICE

Section

- 750.1500 General – Mobile Food Units
- 750.1510 Restricted Operation
- 750.1520 Single-Service Articles
- 750.1530 Water Systems
- 750.1540 Waste Retention
- 750.1550 Base of Operations
- 750.1560 Servicing Area
- 750.1570 Servicing Operations

SUBPART I: TEMPORARY FOOD SERVICE

Section

- 750.1600 General – Temporary Food Service Establishments
- 750.1610 Restricted Operations
- 750.1620 Ice
- 750.1630 Equipment
- 750.1640 Water
- 750.1650 Wet Storage
- 750.1660 Waste Disposal
- 750.1670 Handwashing
- 750.1680 Floors
- 750.1690 Walls and Ceilings of Food Preparation Areas
- 750.1700 Single-Service Articles

SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION

Section

- 750.1800 General

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750.1810	Instructor Approval
750.1815	Instructor Denial
750.1820	Course Content
750.1830	Course Approval
750.1831	Alternative Methods of Training
750.1835	Make Up Work
750.1836	Home Study
750.1837	Course Waiver
750.1838	Course Denial
750.1840	Reciprocity
750.1850	Certification Examination
750.1855	Testing Criteria
750.1860	Examination Notification
750.1861	Class Enrollment Form
750.1862	Administration of Examination
750.1865	Monitors
750.1868	Cheating
750.1870	Re-test Class
750.1876	Dictionary
750.1880	Retake Examination
750.1890	Certificates
750.1895	Change of Address

SUBPART K: REDUCED OXYGEN PACKAGING

Section	
750.2000	General
750.2010	Acceptable Products
750.2020	Employee Training
750.2030	Refrigeration Requirements
750.2031	Labeling – Refrigeration Statements
750.2032	Labeling – "Use By" Dates
750.2040	Safety Barriers
750.2041	Fish and Fishery Products
750.2042	Safety Barrier Verification
750.2050	Hazard Analysis Critical Control Point (HACCP) Program
750.2060	Precautions Against Contamination
750.2070	Disposition of Expired Product

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750.2080 Dedicated Area/Restricted Access

SUBPART L: MEAT/POULTRY PROCESSING AND LABELING

Section

- 750.3000 Exceptions
- 750.3100 Meat and Poultry Labeling
- 750.3200 Smoked Meat, Poultry and Other Food Products
- 750.3300 Curing of Meat and Poultry

- 750.APPENDIX A Retail Food Sanitary Inspection Report
- 750.APPENDIX B Examination Date Notification Form
- 750.APPENDIX C Class Enrollment Form
- 750.APPENDIX D Permission to Retake Certification Examination Form
- 750.APPENDIX E Monitor's Agreement Form

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and the Sanitary Food Preparation Act [410 ILCS 650] and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21] and Section 11.1 of the Sanitary Food Preparation Act [410 ILCS 650/11.1] and the Food Handling Regulation Enforcement Act [410 ILCS 625].

SOURCE: Adopted December 23, 1975; amended at 2 Ill. Reg. 19, p. 180, effective May 13, 1978; old rules repealed, new rules adopted and codified at 7 Ill. Reg. 1336, effective January 25, 1983; amended at 7 Ill. Reg. 16415, effective November 23, 1983; amended at 11 Ill. Reg. 2345, effective February 1, 1987; amended at 11 Ill. Reg. 18735, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14380, effective September 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17918, effective December 1, 1988; amended at 13 Ill. Reg. 1819, effective January 30, 1989; amended at 13 Ill. Reg. 18888, effective December 1, 1989; amended at 14 Ill. Reg. 19975, effective January 1, 1991; amended at 14 Ill. Reg. 20535, effective January 1, 1991; amended at 16 Ill. Reg. 15995, effective October 1, 1992; amended at 17 Ill. Reg. 18588, effective October 15, 1993; amended at 20 Ill. Reg. 2171, effective January 20, 1996; amended at 20 Ill. Reg. 3210, effective February 5, 1996; amended at 22 Ill. Reg. 19009, effective October 1, 1998; amended at 32 Ill. Reg. 11980, effective July 10, 2008; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF PUBLIC HEALTH

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Section 750.10 Definitions

~~The following definitions shall apply in the interpretation and the enforcement of this Part:~~

"Acceptable product list" means a list of foods, acceptable to the regulatory authority, that, because of their characteristics, will present a barrier to the growth of *Clostridium botulinum*.

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development, after which it is removed from the incubation before hatching.

"Barrier" means a safety factor of a physical, biological, or chemical nature that inhibits or minimizes the growth of microorganisms, including those that may be infectious or toxigenic.

"Beef pattie mix" (or "beef patties" if in pattie form) means chopped beef with or without the addition of beef fat as such and/or seasonings.

"Beverage" means a liquid for drinking, including water.

"Category I facility" means a food establishment that presents a high relative risk of causing food-borne illness, based on the large number of food handling operations typically implicated in food-borne outbreaks and/or the type of population served by the facility. Category I facilities include those where the following operations occur:

Potentially hazardous foods are cooled, as part of the food handling operation at the facility;

Potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;

Potentially hazardous cooked and cooled foods must be reheated;

Potentially hazardous foods are prepared for off-premises serving for which time-temperature requirements during transportation, holding and service are relevant;

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Complex preparation of foods or extensive handling of raw ingredients with hand contact for ready-to-eat foods occurs as part of the food handling operations at the facility;

Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or

Immunocompromised individuals such as the elderly, young children under age four and pregnant women are served, where these individuals compose the majority of the consuming population.

"Category II facility" means a food establishment that presents a medium relative risk of causing food-borne illness, based upon few food handling operations typically implicated in food-borne illness outbreaks. Category II facilities include those where the following operations occur:

Hot or cold foods are held at required temperatures for no more than 12 hours and are restricted to same-day services;

Foods are prepared from raw ingredients, using only minimal assembly; and

Foods that require complex preparation (whether canned, frozen or fresh prepared) are obtained from approved food-processing plants, high-risk food service establishments or retail food stores.

"Category III facility" means a food establishment that presents a low relative risk of causing food-borne illness, based upon few or no food handling operations typically implicated in food-borne illness outbreaks. Category III facilities include those where the following operations occur:

Only pre-packaged foods are available or served in the facility, and any potentially hazardous foods available are commercially pre-packaged in an approved processing plant;

Only limited preparation of non-potentially hazardous foods and beverages, such as snack foods and carbonated beverages, occurs at the

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facility; or

Only beverages (alcoholic and non-alcoholic) are served at the facility.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"Certified food service manager or supervisor" means a person certified in compliance with Section 750.540.

"Cold smoke process" is a smoking process used to apply smoke or a smoke flavor at or below ambient temperature to food products not sufficiently darkened in the original smoking operation.

"Commercially prepared sweet baked goods" means an individually portioned and wrapped non-potentially hazardous yeast or cake-type bread, bun, croissant or roll with or without filling and/or icing.

"Comingle" means to combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or to combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding or mincing. It includes fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

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"Controlled atmosphere packaging" or "CAP" means an active packaging system that continuously maintains the desired atmosphere within the package throughout the shelf-life of the product. CAP uses an agent to bind or "scavenge" oxygen permeating the package, or a sachet to emit a gas.

"Cook-chill processing" means a process in which a plastic bag is filled with hot cooked food and the air is expelled while the bag is being sealed before being blast or tumble chilled.

"Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other ~~conditions of use~~ conditions-of-use environment.

"Critical control point" means any point or procedure in a specific food processing or packaging operation where loss of control may result in an unacceptable health risk.

"Curing" means the placing in or on edible flesh of approved ingredients, such as a solution or mixture containing chloride and nitrite salts of sodium or potassium, water, sodium erythorbate or ascorbate, sodium phosphates, sweeteners (dextrose and cane sugar) and flavorings.

"Dedicated equipment or personnel" means equipment or personnel reserved solely for the use of one food processing operation to prevent cross-contamination.

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Easily cleanable" means that surfaces are readily accessible and made of ~~such~~ material and finish and ~~so~~-fabricated so that residue may be effectively removed by normal cleaning methods.

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites or turkey. The term does not include a balut; the egg of reptile

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species such as alligator; or an egg product.

"Egg Product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. The term does not include food that contains eggs only in a relatively small proportion, such as cake mixes.

"Employee" means individuals having supervisory or management duties, and any other person working in a food service establishment.

"Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items, other than utensils, used in the operation of a food service establishment.

"Extensively remodeled" means conversion of an existing structure for use as a retail food establishment; any structural additions or alterations to existing establishments; changes, modifications and extensions of plumbing systems, excluding routine maintenance.

"Field dressed" means the removal of the visceral organs of an animal following the animal's death in the field.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back to surfaces normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food-processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.

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"Food service establishment" means any place where food is prepared and intended for, though not limited to, individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare foods intended for individual portion service and retail food stores where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term does not include lodging facilities serving only a continental breakfast (a continental breakfast is one limited to ~~only~~ coffee, tea, and ~~or~~ juice and commercially prepared sweet baked goods), private homes or a closed family function where food is prepared or served for individual family consumption, establishments that handle only prepackaged spirits, roadside markets that offer only fresh fruits and fresh vegetables, retail food stores or the location of food vending machines.

"Full time" means 30 hours per week or the length of time the facility is in operation, whichever is less.

"Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, or goat in 9 CFR 301 (Mandatory Meat Inspection, Definitions); as poultry in 9 CFR 381 (Mandatory Poultry Products Inspection, Poultry products inspection regulations); as meat in the ~~Illinois~~ Meat and Poultry Act ~~[225 ILCS 650]~~; or as fish. Game animal includes wild and not domestically raised animals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, bear, and muskrat; aquatic and nonaquatic birds such as wild ducks and geese, quail, and pheasant; nonaquatic reptiles such as rattlesnakes; and aquatic mammals. It also includes exotic animals as defined in 9 CFR 1 (Animal Welfare, Definition of Terms), such as lion, tiger, leopard, elephant, camel, antelope, anteater, kangaroo and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

"Ground beef" means chopped or ground beef with or without seasoning and without the addition of beef fat and shall not contain more than 30 percent fat.

"Hamburger" means chopped beef with or without the addition of beef fat and/or seasoning and shall not contain more than 30 percent fat.

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"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Hazard Analysis Critical Control Point Program" or "HACCP" means a comprehensive food safety control plan that includes a step-by-step description of the food processing, packaging and storage procedure, including identification of critical control points (CCPs); the food-contact surface cleaning and sanitizing procedures; lot identification procedure; and training procedures.

"Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its content after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience food-borne disease because they:

Are immunocompromised, preschool age children or older adults; and

Obtain food at a facility that provides services such as custodial care, health care, or assisted living (such as a child or adult day care center, kidney dialysis center, hospital or nursing home), or nutritional or socialization services (such as a senior center).

"Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat, such as with juices, which may be referred to as injecting, pinning or stitch pumping.

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or puree. The term does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means all multi-use utensils other than tableware.

"Law" includes State and local statutes, ordinances, and regulations.

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"Lodging facilities" means any hotel, motel, motor inn, lodge, and inn or other quarters that provide temporary sleeping facilities open to the public.

"Lot" means a unique run of processed or packaged product with a specifically designated date and processing operation.

"Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions of the scallop, except when the scallop product consists only of the shucked adductor muscle.

"Official Methods of Analysis" means the Official Methods of Analysis of the Association of Official Analytical Chemists, 18th Edition, or Standard Methods for Examination of Dairy Products, 17th Edition, as incorporated in Section 750.5(b)(1) and (2).

"Operational Supervision" means the on-site supervision and management of the food service facility, operations, and employees.

"Packaged" means bottled, canned, cartoned, or securely wrapped. The term "packaged" does not include a wrapper, carry-out box, or other non-durable container used to containerize food for the purpose of facilitating food protection during service and receipt of the food by the consumer.

"Partially defatted beef fatty tissue" means a beef by-product derived from the low temperature rendering (not exceeding 120°F) of fresh beef tissue. ~~TheSuch~~ product shall have a pinkish color and a fresh odor and appearance.

"Pasteurized shell eggs" means eggs still in their shells that have been heat treated to destroy Salmonella enteritidis to the FDA standard of 5-log reduction and, thus, are exempt from status of a potentially hazardous food because no viable salmonellae exist.

"Person" includes any individual, partnership, corporation, association, or other legal entity.

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"Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

"Potentially hazardous food" means any food that requires time/temperature control for safety that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; growth and toxin production of *Clostridium botulinum*; or, in raw shell eggs, the growth of *Salmonella enteritidis*. "Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat treated; a food of plant origin that is heat treated or consists of raw seed sprouts; cut tomatoes; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support the growth of infectious or toxigenic microorganisms. The term does not include foods that:

Have a pH level of 4.6 or below;

Have a water activity (a_w) value of 0.85 or less; or

Are a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; or

Are eggs with shell intact that have been pasteurized to destroy all viable salmonellae.

"Preservative" means any curing agent or curing accelerator (specific chemical agent that extends the shelf life of the product) that cures, accelerates color fixing or preserves color in meat or poultry products, including sodium nitrate or potassium nitrate, sodium nitrite or potassium nitrite, ascorbic acid, erythorbic acid, glucono delta lactone, sodium ascorbate, sodium erythorbate, citric acid, sodium citrate or sodium benzoate.

"Processing" means to manufacture, compound, intermix or prepare food products for sale or for customer service.

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"Pushcart" means a non-self-propelled vehicle limited to serving ~~non-potentially~~~~nonpotentially~~ hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

"Ratite" means a flightless bird such as an emu, ostrich or rhea.

"Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form. Ready-to-eat food includes:

Unpackaged potentially hazardous food that is cooked to the temperature and time required for specific food under Section 750.180;

Washed and cut raw fruit and vegetables;

Whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excluding whole raw fruits and vegetables offered for retail sale; and

Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

"Reconstituted" means dehydrated food products recombined with water or other liquids.

"Reduced-oxygen packaging" means the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and a process that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form. "Reduced oxygen packaging" includes:

Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the

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package;

Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air, but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that, until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, non-respiring food, and impermeable packaging material;

Cook chill packaging, in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens; or

Sous vide packaging, in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens.

"Regulatory authority" means the State and/or local enforcement authority or authorities having jurisdiction over the food service establishment.

"Re-service" means the transfer to another person of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer.

"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component of or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in section 201(s) or (t) of the

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federal Food, Drug, and Cosmetic Act, they are "safe" only if they are used in compliance with regulations established pursuant to section 409 or 706 of the Food, Drug, and Cosmetic Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in compliance with all applicable regulations of the Food, Drug, and Cosmetic Act that are incorporated by reference in Section 750.5 of this Part.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of at least 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw in-shell molluscan shellfish.

"Showering" means a potable water spray with or without liquid smoke in the smoke house that, depending on when the water spray is applied, maintains humidity and flavors, decreases cooking time, promotes rapid cooling or reduces casing shrinkage.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use and then discarded.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" include items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup

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bottles, etc., and number 10 cans that do not meet the materials, durability, strength, and cleanability specification under Subpart D of this Part, specifically Sections 750.600, 750.630 and 750.650 for multi-use utensils.

"Smoke generator" means a piece of equipment attached or integral to a smoke house ~~that~~^{which} provides smoke to the smoke house, usually by slowly augering sawdust onto a heating element with the resulting smoke being drawn into the smokehouse.

"Smoke house" means a piece of equipment or room sized enclosure used to conduct the smoking process, with a smoke source, adequate ventilation, heat and humidity source if necessary, approved plumbing and waste lines if necessary, support structures for the food products to be smoked and a method to determine internal product temperature.

"Smoking" means the process of subjecting meat cuts and other foods to an environment of heat and smoke generated from hardwood, hardwood sawdust, corn cobs or natural liquid smoke that has been transformed into a gaseous state by application of direct heat.

"Smooth" means a food-contact surface that is free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel; a nonfood-contact surface of equipment equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Special event" means a unique event at a particular location, such as a celebration, festival or fundraiser that occurs no more than twice a year.

"Tableware" means multi-use eating and drinking utensils.

"Temperature-measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air or water.

"Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

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"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale or service of food, such as kitchenware or tableware that is multi-use, single service or single use; gloves used in contact with food; temperature-sensing probes of food temperature measuring devices; and probe-type or identification tags used in contact with food.

"Variance" means a written document, issued by the regulatory authority, that authorizes a modification or waiver of one or more requirements of this Part if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

"Voluntary inspection" means an inspection of meat or poultry products that are not subject to the federal or State meat or poultry inspection laws, and for which the federal or State mark of inspection is requested.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: FOOD SUPPLIES

Section 750.120 General – Food Protection

- a) At all times, including while being stored, prepared, displayed, served, or transported, food other than whole, unprocessed raw fruits and unprocessed raw vegetables shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous foods shall be 41°F or below, or 135°F or above, at all times, except as otherwise provided in this Part.
- b) ~~If in the event of~~ a fire, flood, power outage, or similar event occurs that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 750.130 General – Food Storage

- a) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be in a clean, covered container except during necessary periods of preparation or service. Whole and unprocessed fresh raw vegetables and fresh raw fruits shall be exempt from this subsection (a). Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.
- b) Containers of food shall be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:
- 1) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.
 - 2) Containers may be stored on dollies, racks or pallets, provided that thesuch equipment is easily movable.
- c) Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines, except for automatic fire protection sprinkler heads that may be required by law. Food shall not be stored~~The storage of food~~ in toilet rooms or vestibules ~~is prohibited~~.
- d) Food not subject to further washing or cooking before being served shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.
- e) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
- f) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was

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obtained, shall be stored in a container identifying the food by common name.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 750.330 General – Food Transportation

Except for raw fruits and raw vegetables, during ~~During~~ transportation, food and food utensils shall be kept and packed in covered containers or completely wrapped or packaged ~~so as~~ to be protected from contamination. Foods in original individual packages do not need to be over-wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of Sections ~~Section~~ 750.130, 750.140, and 750.150 relating to food storage.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART D: EQUIPMENT AND UTENSILS

Section 750.620 Wood

Hard maple or equivalently non-absorbent material that meets the general requirements set forth in the introductory text of this article may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited, except for contact with raw fruits, raw vegetables and nuts in the shell.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 750.740 Floor-Mounted Equipmenta) Installation

1) Floor-mounted equipment, unless readily movable, shall be:

A)1) Sealed to the floor; or

B)2) Installed on raised platforms of concrete or other smooth masonry in a way that meets all of the requirements for ceiling or floor clearance; or

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~~C)3)~~ Elevated on legs to provide at least a ~~6-six~~-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a ~~4-four~~-inch clearance between the floor and equipment if no part of the floor under the mixer is more than ~~six~~ inches from cleaning access.

2) Subsection (a) does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

- b) Equipment is easily movable if:
- 1) It is mounted on wheels or castors; and
 - 2) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
- c) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART G: CONSTRUCTION AND MAINTENANCE OF
PHYSICAL FACILITIES

Section 750.1240 Protective Light Shielding

- a) Shielding to protect against broken glass falling into food shall be provided for all artificial light fixtures located over, by or within food storage, preparation, service and display facilities and facilities where utensils and equipment are cleaned and stored.

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- b) Shielding need not be used in areas used only for storing food in unopened packages if the integrity of the packages cannot be affected by broken glass falling onto them and the packages are capable of being cleaned of debris from broken bulbs before the packages are opened.
- c)b) Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 750.1290 Poisonous or Toxic Materials Permitted

Only~~There shall be present in food service establishments only~~ those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents shall be present in food service establishments. This Section does not apply to packaged poisonous or toxic materials that are for retail sale.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Retail Food Store Sanitation Code

2) Code Citation: 77 Ill. Adm. Code 760

3) Section Numbers: Proposed Action:

760.10	Repeal
760.15	Repeal
760.20	Repeal
760.30	Repeal
760.100	Repeal
760.110	Repeal
760.120	Repeal
760.130	Repeal
760.140	Repeal
760.150	Repeal
760.160	Repeal
760.165	Repeal
760.170	Repeal
760.180	Repeal
760.190	Repeal
760.195	Repeal
760.196	Repeal
760.197	Repeal
760.199	Repeal
760.200	Repeal
760.210	Repeal
760.220	Repeal
760.230	Repeal
760.240	Repeal
760.250	Repeal
760.260	Repeal
760.270	Repeal
760.280	Repeal
760.290	Repeal
760.400	Repeal
760.410	Repeal
760.420	Repeal
760.430	Repeal

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760.500	Repeal
760.510	Repeal
760.520	Repeal
760.530	Repeal
760.540	Repeal
760.550	Repeal
760.560	Repeal
760.570	Repeal
760.580	Repeal
760.590	Repeal
760.600	Repeal
760.610	Repeal
760.620	Repeal
760.630	Repeal
760.640	Repeal
760.650	Repeal
760.660	Repeal
760.700	Repeal
760.710	Repeal
760.720	Repeal
760.730	Repeal
760.740	Repeal
760.750	Repeal
760.760	Repeal
760.770	Repeal
760.780	Repeal
760.790	Repeal
760.900	Repeal
760.910	Repeal
760.920	Repeal
760.930	Repeal
760.940	Repeal
760.950	Repeal
760.960	Repeal
760.970	Repeal
760.980	Repeal
760.990	Repeal
760.1000	Repeal

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760.1010	Repeal
760.1020	Repeal
760.1030	Repeal
760.1040	Repeal
760.1050	Repeal
760.1060	Repeal
760.1070	Repeal
760.1080	Repeal
760.1090	Repeal
760.1100	Repeal
760.1110	Repeal
760.1120	Repeal
760.1130	Repeal
760.1200	Repeal
760.1210	Repeal
760.1220	Repeal
760.1230	Repeal
760.1240	Repeal
760.1250	Repeal
760.1260	Repeal
760.1270	Repeal
760.1280	Repeal
760.1290	Repeal
760.1300	Repeal
760.1310	Repeal
760.1320	Repeal
760.1330	Repeal
760.1340	Repeal
760.1350	Repeal
760.1360	Repeal
760.1370	Repeal
760.1380	Repeal
760.1390	Repeal
760.1400	Repeal
760.1410	Repeal
760.1420	Repeal
760.1430	Repeal
760.1440	Repeal

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760.1450	Repeal
760.1460	Repeal
760.1470	Repeal
760.1480	Repeal
760.1490	Repeal
760.1600	Repeal
760.1610	Repeal
760.1700	Repeal
760.1710	Repeal
760.1720	Repeal
760.1730	Repeal
760.1740	Repeal
760.1750	Repeal
760.1760	Repeal
760.2000	Repeal
760.2010	Repeal
760.2020	Repeal
760.2030	Repeal
760.2031	Repeal
760.2032	Repeal
760.2040	Repeal
760.2041	Repeal
760.2042	Repeal
760.2050	Repeal
760.2060	Repeal
760.2070	Repeal
760.2080	Repeal
760.3000	Repeal
760.3100	Repeal
760.3200	Repeal
760.3300	Repeal
760.APPENDIX A	Repeal

- 4) Statutory Authority: Authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and Sanitary Food Preparation Act [410 ILCS 650]
- 5) A Complete Description of the Subjects and Issues Involved: The entire Part 760 is duplicative of Part 750 with the exception of the definition of "retail food store"

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contained in Part 760. This rulemaking will repeal Part 760 to allow for incorporation and inclusion of the retail food store definition as part of the food service establishment definition in Part 750, thus resulting in one Part for regulation of food service establishments in local jurisdictions.

- 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 any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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

217/782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Retail food stores (e.g., grocery stores)

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- B) Reporting, bookkeeping or other procedures required for compliance: There will be no change in the reporting, bookkeeping or other procedures required for compliance.
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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

PART 760

RETAIL FOOD STORE SANITATION CODE (REPEALED)

SUBPART A: GENERAL PROVISIONS

Section	
760.10	Purpose
760.15	Incorporated Materials
760.20	Definitions
760.30	Inspections and Inspection Report

SUBPART B: FOOD

Section	
760.100	General – Food Supplies
760.110	Special Requirements for Food Supplies
760.120	General – Food Protection
760.130	Emergency Occurrences
760.140	General – Food Storage
760.150	Refrigerated/Frozen Storage
760.160	Hot Storage
760.165	Damaged Food Containers
760.170	General – Food Preparation
760.180	Preparing Raw Fruits and Raw Vegetables
760.190	Cooking Potentially Hazardous Foods
760.195	Minimum Food Temperature and Holding Time Required Under Section 760.190(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
760.196	Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
760.197	Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
760.199	Microwave Cooking
760.200	Bakery Product Fillings

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760.210	Reheating
760.220	Food Product Thermometers
760.230	Thawing Potentially Hazardous Foods
760.240	Displaying Potentially Hazardous Foods
760.250	Displaying Frozen Foods
760.260	Food Display
760.270	Dispensing Utensils
760.280	Food Sample Demonstrations and Food Promotions
760.290	General - Food Transportation by the Retail Food Store

SUBPART C: PERSONNEL

Section	
760.400	General – Employee Health
760.410	General – Personal Cleanliness
760.420	General – Clothing
760.430	General – Employee Practices

SUBPART D: EQUIPMENT AND UTENSILS

Section	
760.500	General – Materials
760.510	Solder
760.520	Wood
760.530	Plastics and Rubber Materials
760.540	Cutting Surfaces
760.550	Single-Service Articles
760.560	General – Design and Fabrication
760.570	Accessibility
760.580	Cleaned in Place (CIP)
760.590	Food Product Thermometers
760.600	Non-Food-Contact Surfaces
760.610	Ventilation Hoods
760.620	Maintenance of Equipment and Utensils
760.630	General – Equipment Installation and Location
760.640	Table-Mounted Equipment
760.650	Floor-Mounted Equipment
760.660	Aisles and Working Spaces

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SUBPART E: CLEANING, SANITIZATION,
AND STORAGE OF EQUIPMENT AND UTENSILS

Section

760.700	Cleaning Frequency
760.710	Wiping Cloths
760.720	Manual Cleaning and Sanitizing
760.730	Mechanical Cleaning and Sanitizing
760.740	Drying
760.750	Retail Food Stores Without Equipment and Utensil Cleaning Facilities
760.760	Equipment and Utensil Handling
760.770	Equipment and Utensil Storage
760.780	Single-Service Articles Handling and Storage
760.790	Prohibited Storage Areas

SUBPART F: SANITARY FACILITIES AND CONTROLS

Section

760.900	General – Water Supply
760.910	Water Delivery
760.920	Water Under Pressure
760.930	Steam
760.940	General – Sewage
760.950	General – Plumbing
760.960	Nonpotable Water System
760.970	Backflow
760.980	Grease Traps
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760.1010	Toilet Installation
760.1020	Toilet Design
760.1030	Toilet Rooms
760.1040	Toilet Facility Maintenance
760.1050	Handwashing Facility Installation
760.1060	Handwashing Facility Faucets
760.1070	Handwashing Supplies
760.1080	Handwashing Facility Maintenance

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760.1090	Garbage and Refuse Containers
760.1100	Garbage and Refuse Container Storage
760.1110	Garbage and Refuse Disposal
760.1120	General – Insect and Rodent Control
760.1130	Openings to be Protected Against Entry of Rodents and Insects

SUBPART G: CONSTRUCTION AND MAINTENANCE
OF PHYSICAL FACILITIES

Section

760.1200	Floor Construction
760.1210	Floor Carpeting
760.1220	Prohibited Floor Covering
760.1230	Mats and Duckboards
760.1240	Utility Line Installation
760.1250	Wall and Ceiling Maintenance
760.1260	Wall and Ceiling Construction
760.1270	Exposed Construction of Walls and Ceilings
760.1280	Utility Line Installation in or on Walls and Ceilings
760.1290	Attachments to Walls and/or Ceilings
760.1300	Wall and Ceiling Covering Material Installation
760.1310	General – Cleaning Physical Facilities
760.1320	Service Sinks for Cleaning
760.1330	General – Lighting
760.1340	Protective Light Shielding
760.1350	General - Ventilation
760.1360	Dressing Rooms and Areas
760.1370	Locker Areas
760.1380	Poisonous or Toxic Materials Permitted
760.1390	Labeling of Poisonous or Toxic Materials
760.1400	Storage of Poisonous or Toxic Materials
760.1410	Use of Poisonous or Toxic Materials
760.1420	Storage and Display of Poisonous or Toxic Materials for Retail Sale
760.1430	First-Aid Supplies and Personal Medications
760.1440	General – Premises
760.1450	Living Areas
760.1460	Laundry Facilities
760.1470	Linens and Work Clothes Storage

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760.1480 Cleaning Equipment Storage
760.1490 Animals

SUBPART H: NEW FACILITIES AND EXISTING
EQUIPMENT AND FACILITIES

Section

760.1600 New Facilities
760.1610 Existing Equipment and Facilities

SUBPART I: TEMPORARY RETAIL FOOD STORES

Section

760.1700 General – Temporary Retail Food Stores
760.1710 Restricted Operations
760.1720 Wet Storage
760.1730 Waste Disposal
760.1740 Handwashing
760.1750 Floors
760.1760 Ceilings

SUBPART J: REDUCED OXYGEN PACKAGING

Section

760.2000 General
760.2010 Acceptable Products
760.2020 Employee Training
760.2030 Refrigeration Requirements
760.2031 Labeling – Refrigeration Statements
760.2032 Labeling – "Use By" Dates
760.2040 Safety Barriers
760.2041 Fish and Fishery Products
760.2042 Safety Barrier Verification
760.2050 Hazard Analysis Critical Control Point (HACCP) Program
760.2060 Precautions Against Contamination
760.2070 Disposition of Expired Product
760.2080 Dedicated Area/Restricted Access

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SUBPART K: MEAT/POULTRY PROCESSING AND LABELING

Section

760.3000	Exceptions
760.3100	Meat and Poultry Labeling
760.3200	Smoked Meat, Poultry and Other Food Products
760.3300	Curing of Meat and Poultry

760.APPENDIX A Retail Food Sanitary Inspection Report

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and the Sanitary Food Preparation Act [410 ILCS 650] and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21] and Section 11.1 of the Sanitary Food Preparation Act [410 ILCS 650/11.1].

SOURCE: Adopted September 16, 1968; old rules repealed and new rules adopted and codified at 7 Ill. Reg. 1382, effective January 25, 1983; amended at 7 Ill. Reg. 8532, effective July 8, 1983; amended at 11 Ill. Reg. 2440, effective February 1, 1987; amended at 11 Ill. Reg. 18743, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14391, effective September 2, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 17935, effective December 1, 1988; amended at 13 Ill. Reg. 1830, effective January 30, 1989; amended at 13 Ill. Reg. 18621, effective December 1, 1989; amended at 16 Ill. Reg. 16050, effective October 1, 1992; amended at 20 Ill. Reg. 2201, effective January 20, 1996; amended at 20 Ill. Reg. 3307, effective February 5, 1996; repealed at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 760.10 Purpose

This Part shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

Section 760.15 Incorporated Materials

The following materials are incorporated or referenced in this Part:

- a) Salvage Warehouses and Stores for Foods, Alcoholic Liquors, Drugs, Medical Devices and Cosmetics (77 Ill. Adm. Code 725).

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- b) The Illinois Plumbing Code (77 Ill. Adm. Code 890).
- c) Drinking Water Systems Code (77 Ill. Adm. Code 900).
- d) Official Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition, published by the Association of Official Analytical Chemists (1990), 111 North Nineteenth Street, Suite 210, Arlington, Virginia 22209.
- e) Standard Methods for the Examination of Dairy Products, 15th Edition, published by the American Public Health Association (1989), 1015 Fifteenth Street, N.W., Washington, D.C. 20036.
- f) Code of Federal Regulations, published by the Office of the Federal Register, National Archives and Records Administration (1995), U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328
 - 1) 9 CFR 1 (Animals and Animal Products; Animal Welfare, Definition of Terms);
 - 2) 9 CFR 301 (Animals and Animal Products; Mandatory Meat Inspection, Definitions);
 - 3) 9 CFR 318 (Animals and Animal Products; Mandatory Meat Inspection, Entry into official establishments; reinspection and preparation of products); and
 - 4) 9 CFR 381 (Animals and Animal Products; Mandatory Poultry Products Inspection, Poultry products inspection regulations).

Section 760.20 Definitions

For the purpose of this Part:

"Acceptable product list" means a list of foods, acceptable to the regulatory authority, which because of their characteristics will present a barrier to the growth of *Clostridium botulinum*.

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"Barrier" means a safety factor of a physical, biological, or chemical nature which inhibits or minimizes the growth of microorganisms including those which may be infectious or toxigenic.

"Beef pattie mix" (or "Beef Patties" if in pattie form) means chopped beef with or without the addition of beef fat as such and/or seasonings.

"Bulk food" means processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

"Cold smoke process" is a smoking process used to apply smoke or a smoke flavor at or below ambient temperature to food products not sufficiently darkened in the original smoking operation.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding or mincing. It includes fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.

"Controlled atmosphere packaging (CAP)" means an active packaging system which continuously maintains the desired atmosphere within the package throughout the shelf-life of the product. CAP uses an agent to bind or "scavenge" oxygen permeating the package, or a sachet to emit a gas.

"Cook-chill processing" means a process in which a plastic bag is filled with hot cooked food and the air is expelled while the bag is being sealed before being blast or tumble chilled.

"Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Critical control point" means any point or procedure in a specific food processing or packaging operation where loss of control may result in an unacceptable health risk.

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"Curing" means the placing in or on edible flesh of approved ingredients, such as a solution or mixture containing chloride and nitrite salts of sodium or potassium, water, sodium erythorbate or ascorbate, sodium phosphates, sweeteners (dextrose and cane sugar) and flavorings.

"Department" means the Illinois Department of Public Health.

"Dedicated equipment or personnel" means equipment or personnel reserved solely for the use of one food processing operation to prevent cross-contamination.

"Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue can be effectively removed by normal cleaning methods.

"Employee" means the permit holder, individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or any other person working in a food store.

"Equipment" means items other than utensils used in the storage, preparation, display, and transportation of food, such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, and similar items used in the operation of a retail food store. This item does not include fork lift trucks or dollies.

"Field dressed" means the removal of the visceral organs of an animal following the animal's death in the field.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

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"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food service establishment" means any place where food is prepared and intended for, though not limited to, individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include lodging facilities serving only a continental breakfast (a continental breakfast is one limited to only coffee, tea, and/or juice and commercially prepared sweet baked goods), private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

"Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, or goat in 9 CFR 301 (Mandatory Meat Inspection, Definitions); as poultry in 9 CFR 381 (Mandatory Poultry Products Inspection, Poultry products inspection regulations); as meat in the Illinois Meat and Poultry Act [225 ILCS 650]; or as fish. Game animal includes wild and not domestically raised animals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, bear, and muskrat; aquatic and nonaquatic birds such as wild ducks and geese, quail, and pheasant; nonaquatic reptiles such as rattlesnakes; and aquatic mammals. It also includes exotic animals as defined in 9 CFR 1 (Animal Welfare, Definition of Terms), such as lion, tiger, leopard, elephant, camel, antelope, anteater, kangaroo and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

"Ground beef" means chopped or ground beef with or without seasoning and without the addition of beef fat and shall not contain more than 30 percent fat.

"Hamburger" means chopped beef with or without the addition of beef fat and/or seasoning and shall not contain more than 30 percent fat.

"Hazard Analysis Critical Control Point (HACCP) Program" means a comprehensive food safety control plan which includes a step-by-step description of the food processing, packaging and storage procedures including identification of critical control points (CCPs); the food contact surface cleaning and sanitizing

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procedures; lot identification procedures and training procedures.

"Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

"Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat, such as with juices, which may be referred to as injecting, pinning or stitch pumping.

"Law" includes applicable Federal, State, and local statutes, ordinances, and regulations.

"Lot" means a unique run of processed or packaged product with a specifically designated date and processing operation.

"Modified Atmosphere Packaging (MAP)" means a one-time gas-flushing and sealing process. The gas atmosphere within the package after sealing is then allowed to passively change due to factors of container permeability and food product respiration.

"Official Methods of Analysis" means the Official Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition, or Standard Methods for Examination of Dairy Products, 15th Edition, as incorporated in Section 760.15(d) and (e).

"Packaged" means bottled, canned, cartoned, bagged, or securely wrapped.

"Partially defatted beef fatty tissue" means a beef by-product derived from the low temperature rendering (not exceeding 120 degrees Fahrenheit) of fresh beef tissue. Such product shall have a pinkish color and a fresh odor and appearance.

"Person" includes any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a retail food store who is the supervisor of the retail food store at the time of inspection.

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"Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a(w)) value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage.

"Preservative" means any curing agent or curing accelerator (specific chemical agent which extends the shelf life of the product) which cures, accelerates color fixing or preserves color in meat or poultry products including but not limited to sodium or potassium nitrate, sodium or potassium nitrite, ascorbic acid, erythorbic acid, glucono delta lactone, sodium ascorbate, sodium erythorbate, citric acid, sodium citrate or sodium benzoate.

"Processing" means to manufacture, compound, intermix or prepare food products for sale or for customer service.

"Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form. Ready-to-eat food includes:

Unpackaged potentially hazardous food that is cooked to the temperature and time required for specific food under Section 760.190;

Raw, washed, cut fruit and vegetables;

Whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excludes whole raw fruits and vegetables offered for retail sale; and

Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or sheets are removed.

"Regulatory authority" means the State and/or local enforcement authority or

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authorities having responsibility for enforcing this Part.

"Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged spirits; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food and beverage vending machines.

"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

"Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level (when those disease organisms which may be present are destroyed so as to prevent transfer) on cleaned food-contact surfaces of utensils and equipment,

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Showering" means a potable water spray with or without liquid smoke in the smoke house which, depending on when the water spray is applied, maintains humidity, flavors, decreases cooking time, promotes rapid cooling or reduces casing shrinkage.

"Single-service articles" means items used by the retailer or consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "single use" articles such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.

"Smoke generator" means a piece of equipment attached or integral to a smoke house which provides smoke to the smoke house, usually by slowly augering sawdust onto a heating element with the resulting smoke being drawn into the

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smokehouse.

"Smoke house" means a piece of equipment or room sized enclosure used to conduct the smoking process with a smoke source, adequate ventilation, heat and humidity source if necessary, approved plumbing and waste lines if necessary, support structures for the food products to be smoked and a method to determine internal product temperature.

"Smoking" means the process of subjecting meat cuts and other foods to an environment of heat and smoke generated from hardwood, hardwood sawdust, corn cobs or natural liquid smoke that has been transformed into a gaseous state by application of direct heat.

"Special event" means a unique event at a particular location such as a celebration, festival or fundraiser that occurs no more than twice a year.

"Temporary Retail Food Store" means a retail store that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration. The term does not include establishments that handle only fresh fruits and fresh vegetables, or temporary food service establishments.

"Transportation" (transported) means movement of food within the retail food store or delivery of food from that retail food store to another place while under the control of the person in charge.

"Utensil" means any food-contact implement used in the storage, preparation, transportation, or dispensing of food.

"Voluntary inspection" means an inspection of meat or poultry products, which are not subject to the federal or State meat or poultry inspection laws, and for which the federal or State mark of inspection is requested.

"Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

Section 760.30 Inspections and Inspection Report

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- a) All retail food stores are subject to inspection at all times.
- b) The operator of the retail food store shall receive a written report from the regulatory authority at the end of any inspection. The inspection findings shall be reported on the "Retail Food Sanitary Inspection Report", Form IL 482-0200 (See Appendix A) or on a report form substantially similar which, includes at a minimum, the same information and addresses all forty-five (45) items.
- c) All forty-five (45) items on the inspection report shall be addressed and rated in accordance with the Illinois Retail Food Store Sanitation Code, 77 Ill. Adm. Code 760.
- d) An alternate scoring system, as approved by the Director and which evaluates all aspects of the Illinois Retail Food Store Sanitation Code, may be substituted for the current scoring system of 100 points minus debit points. This may include systems, for example, where each violation rather than each item is assigned a weight, where an additional point value is debited for lack of the required certified food service manager, if applicable, where critical violations carry a larger than usual point value because of inherent risk, where separate scoring systems are instituted for critical and non-critical violations, or other effective methods which assist the inspector in making an evaluation of the sanitation level in the food establishment.
 - 1) The approval process would require any regulatory authority who seeks to use an alteranate scoring system to submit a complete description of the alternate to the Director for consideration. The application/approval process consists of the following:
 - A) A descriptive statement provided by the applicant shall indicate that the alternate scoring system evaluates all items on the Retail Food Sanitation Inspection Report (Form IL 482-0200) and all sections of the Food Service Sanitation and Retail Food Store Sanitation Codes.
 - B) A printed example of the proposed alternate scoring system shall be provided.
 - C) An examination of the applicant's form must show that all other

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aspects of the form besides the alternate scoring system are still substantially similar to the Department's form (Form IL 482-0200).

- D) Providing the application fulfills subsections (A) through (C) above, notification will be provided by the Director in writing that the alternate scoring system is approved and may be incorporated into the regulatory authority's Retail Food Sanitary Inspection form.
- 2) The Illinois Department of Public Health method for determining the number of debit points is patterned after the United States Food and Drug Administration model. A perfect score is 100 points. Each violation is categorized ("item" number column on the inspection form) and has a corresponding value which is deducted from the 100 point score ("weight" column on the inspection form).

SUBPART B: FOOD

Section 760.100 General – Food Supplies

Food shall be in sound condition and safe for human consumption. Food shall be obtained from sources that comply with the applicable laws relating to food safety. Food prepared in a home shall not be used or offered for sale. Hermetically sealed food which has been processed in a place other than a wholesale food processing establishment is prohibited except where it is in compliance with Subpart J, Reduced Oxygen Packaging, of this Part.

Section 760.110 Special Requirements for Food Supplies

- a) Fluid milk and fluid milk products used or offered for sale shall comply with the Grade 'A' standards as established by law. Dry milk and milk products used or offered for sale shall be made from pasteurized milk and milk products.
- b) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be received and/or repacked in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the State certification number issued according to law. Shucked shellfish shall be kept in the container in which they were received until used or sold.

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- c) Each original container of unshucked shellfish (oysters, clams, or mussels) shall be identified by an attached tag, to be retained for a period of 90 days, that states the name and address of the original shellfish processor, the kind and quantity of shellfish, and the certification number issued by the State or foreign shellfish control agency, where applicable. Each shucked shellfish invoice shall be retained for a period of 90 days and be made available for inspection by the health department.
- d) Only clean shell Grade A eggs meeting applicable grade standards or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale.
- e) Only ice which has been manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged.
- f) Game animals received for sale of service must comply with the criteria specified below.
 - 1) Game animals commercially farm-raised for food shall be raised, slaughtered, and processed under either a routine or voluntary inspection program, as provided below.
 - A) For a routine (mandatory) inspection program conducted by the United States Department of Agriculture or Illinois Department of Agriculture, the game animals shall be raised, slaughtered and processed according to applicable laws governing meat and poultry.
 - B) Any voluntary inspection program shall be conducted by the agency that has animal health jurisdiction (the United States Department of Agriculture, Illinois Department of Agriculture or other regulatory agency).
 - 2) Field dressed wild game animals donated under the Good Samaritan Food Donor Act [745 ILCS 50] shall:
 - A) Receive a postmortem inspection by a veterinarian, veterinarian's

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designee, professional biologist or other person familiar with the conditions, parasites and diseases of the species, approved by the regulatory agency that has animal health jurisdiction;

- B) Have been field dressed and transported according to requirements specified by the regulatory agency that has animal health jurisdiction; and
 - C) Be processed according to laws governing meat and poultry as determined by the regulatory agency that has animal health jurisdiction and conducts the inspection program.
- 3) Exotic species of animals, including animals raised for exhibition purposes in a zoo or circus, used for food shall:
- A) Be raised, slaughtered and processed under a voluntary or mandatory inspection program; or
 - B)
 - i) Receive antemortem and postmortem examination; and
 - ii) Be slaughtered and processed according to laws governing meat and poultry as determined by the regulatory agency that has animal health jurisdiction and conducts the inspection program.
- g) Uninspected, field dressed, wild game served at special events such as wild game dinners shall:
- 1) Have placards displayed in a conspicuous location throughout the event identifying the food served as uninspected wild game as provided for in the Good Samaritan Food Donor Act [745 ILCS 50].
 - 2) Comply with all other food sanitation requirements specified in this Part.
 - 3) Not be served at institutions and facilities such as nursing homes and hospitals that primarily serve highly susceptible individuals.
- h) Each retail food establishment location shall obtain written permission from the appropriate regulatory authority responsible for retail food protection in that

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jurisdiction before packaging foods in a reduced oxygen atmosphere. Reduced oxygen packaging shall consist of cook-chill processing, vacuum-packaging, modified atmosphere packaging (MAP) or controlled atmosphere packaging (CAP). The request from the retail establishment and approval from the regulator shall be product specific and shall be issued according to the requirements listed in Subpart J of this Part.

- i) Every food pre-packaged in advance of retail sale must bear the following information in English on its label (Bulk foods require the same information to be provided on placards, bin labels or counter cards, excluding net contents.):
 - 1) The common and/or usual name of the product;
 - 2) The name, address and zip code of the manufacturer, processor, packer, preparer or distributor;
 - 3) The net contents of the package;
 - 4) A list of ingredients in the order of their predominance by weight with ingredients shown by their common or usual name; and
 - 5) A list of any artificial color, artificial flavor or preservative used.
- j) Foods packaged or repackaged by charitable or not-for-profit organizations for distribution to people in need shall bear the common and/or usual name of the product and the name of the distributing organization. A list of ingredients for any multi-ingredient product shall be posted or made available upon request. Prepared, ready-to-eat foods donated by food service establishments to charitable or not-for-profit organizations are exempt from the ingredient listing requirements of this subsection.
- k) The processing and labeling of ground meats/poultry and other meat/poultry products shall be done in compliance with Subpart K of this Part.
- l) Pasteurized soft serve mix and frozen desserts shall comply with the Standards listed below.

The products shall be tested in accordance with tests and examinations contained in the 15th edition of Official Methods of Analysis of the Association of Official

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Analytical Chemists or in the 15th edition of Standard Methods for the Examination of Dairy Products.

*Except frozen yogurt with live culture added.

- m) Consumer Advisory. Effective July 1, 1996, if a retail food store offers any raw or under-cooked animal food, such as meat, poultry, eggs or seafood (including shellfish), in ready-to-eat form or offers any read-to-eat food containing animal food as a raw ingredient, the retail food store operator shall advise consumers of the presence of such raw or under-cooked animal food and advise consumers of the increased health risk of eating such foods in raw or under-cooked form, especially for certain populations.
- 1) If menu or food items containing such raw or under-cooked animal food (e.g., steak tartare or Caesar salad containing raw unpasteurized eggs) are routinely offered, such consumer advisory shall clearly identify the food item that contains the raw or under-cooked animal food.
 - 2) If a retail food store does not routinely offer food items containing raw or under-cooked animal food, but will serve under-cooked meat, eggs or seafood upon the request of a consumer/patron, a general consumer advisory shall be provided. The advisory does not need to identify the food item that a consumer might request in an under-cooked condition.
 - 3) The required consumer advisory may be in the form of a brochure, deli case or menu advisory, label statement, table tent, placard or other written notification that is visible to patrons. The advisory shall include the following:

"The Illinois Department of Public Health advises that eating raw or under-cooked meat, poultry, eggs, or seafood poses a health risk to everyone, but especially the elderly, young children under age 4, pregnant women, and other highly susceptible individuals with compromised immune systems. Thorough cooking of such animal foods reduces the risk of illness."
 - 4) If space permits, any consumer advisory may include additional language such as the following:

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"For further information, contact your physician or public health department."

Section 760.120 General - Food Protection

- a) At all times, including while being stored, prepared, displayed, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by insects, insecticides, rodents, rodenticides, probe-type price or probe-type identification tags, unclean equipment and utensils, unnecessary handling, flooding, draining, and overhead leakage or condensation, or other agents of public health significance. Prior to July 1, 1996, the temperature of potentially hazardous foods shall be 45°F or below or 140°F or above, at all times, except as otherwise provided in this Part. Effective July 1, 1996, the temperature of potentially hazardous foods shall be 41°F or below, or 140°F or above, at all times, except as otherwise provided in this Part. Refrigeration units unable to maintain a product temperature of 41°F may continue to be used until January 1, 2006, provided the product temperature is maintained at 45°F or less at all times and all potentially hazardous foods prepared on-site or opened containers/packages of commercially processed food products are dated and refrigerated for no longer than three days after preparation or opening, respectively. In the event the dated product is not used or sold within 3 days, the product shall be discarded.
- b) Hermetically sealed packages shall be handled so as to maintain product and container integrity. Food items that are spoiled or that are in damaged containers that may affect the product and those food items that have been returned to, or are being detained by, the retail food store because of spoilage, container damage, or other public health considerations, shall be segregated and held in designated areas pending proper disposition unless disposed of under the supervision of the regulatory authority.

Section 760.130 Emergency Occurrences

The person in charge of a retail food store that is affected by a fire, flood, extended power outage, or a similar significant occurrence that creates a reasonable probability that food in the retail food store may have been contaminated or that the temperature level of food which is in a potentially hazardous form may have caused that food to have become hazardous to health, shall take such action as is necessary to protect the public health and shall promptly notify the

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regulatory authority of the emergency.

Section 760.140 General – Food Storage

- a) Food packaged in an immediate closed container, once the container is opened in the retail food store prior to use or retail sale, shall be kept covered. Food, whether raw or prepared, if removed from the immediate closed container in which it was originally packaged prior to use or retail sale, shall be stored in a clean, covered container, except during necessary periods of preparation. Whole and unprocessed fresh raw vegetables and fresh raw fruits shall be exempted from this requirement. Container covers shall be impervious and nonabsorbent. During periods of storage, subprimal cuts of meat shall be covered with single-service wrapping material. Primal cuts, quarters or sides of meat, or processed meats such as country hams, slab bacon, and smoked or cured sausages, may be hung uncovered on clean, sanitized hooks or placed on clean, sanitized metal racks in such a manner as to preclude contamination of any food products in storage.
- b) Containers of food shall be stored a minimum of six (6) inches above the floor or stored on dollies, skids, racks, or open-ended pallets, provided such equipment is easily movable, either by hand or with the use of pallet-moving equipment that is on the premises and used. Such storage areas shall be kept clean. Cased food packaged in cans, glass, or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean.
- c) Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.
- d) Packaged foods shall not be stored in contact with water or undrained ice.
- e) A food ingredient, such as flour, sugar, salt, baking powder, cooking oil or vinegar, that is not stored in the original package and is not readily identifiable on sight, shall be stored in a container identifying it by common name.
- f) Toilet rooms and their vestibules, and garbage or mechanical rooms shall not be used for the storage of food.

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Section 760.150 Refrigerated/Frozen Storage

- a) Refrigeration units or effectively insulated units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage.
- b) Each mechanically refrigerated unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$. The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ may be used in lieu of indicating thermometers.
- c) Prior to July 1, 1996, potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F or below. Effective July 1, 1996, potentially hazardous foods shall be rapidly cooled to an internal temperature of 41°F , unless the food is cooled to an internal temperature of 45°F , dated, and refrigerated at 45°F for no more than three days as specified in Section 760.120. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container. Prior to July 1, 1996, potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F or below unless maintained in accordance with the hot storage requirements of this Part. Effective July 1, 1996, potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 41°F or below unless maintained in accordance with the hot storage requirements of this Part.
 - 1) Effective July 1, 1996, cooked potentially hazardous food shall be cooled:
 - A) From 140°F (60°C) to 70°F (21°C) within 2 hours; and
 - B) From 70°F (21°C) to 41°F (4.5°C), or below, within 4 hours or within a total of 6 hours.
 - 2) Effective July 1, 1996, potentially hazardous food shall be cooled to 41°F (4.5°C) or below within 4 hours if prepared from ingredients at ambient

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temperature, such as reconstituted foods and canned tuna.

- 3) Effective July 1, 1996, fluid milk and milk products, shell eggs, and molluscan shellstock received in compliance with laws regulating the respective food during shipment from the supplier shall be cooled to 41°F (4.5°C) or below within 4 hours.
- d) Potentially hazardous frozen foods shall be kept frozen and should be stored at an air temperature of 0°F or below except for defrost cycles and brief periods of loading or unloading.
- e) Ice used as a cooling medium for food storage shall not be used or sold for human consumption.
- f) Upon delivery, intact shell eggs shall be stored at a temperature of 45°F or less, prior to July 1, 1996. Effective July 1, 1996, upon delivery, intact shell eggs shall be stored at a temperature of 41°F or less, unless the eggs are dated and refrigerated at 45°F for no more than three days as specified in Section 760.120.

Section 760.160 Hot Storage

- a) Hot food storage units shall be provided in such number and of such capacity as to assure the maintenance of potentially hazardous food at the required temperature during storage. Each hot food storage unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to °3F. The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers accurate to °3F may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as heat lamps, calrod units, or insulated food transport carriers, a food product thermometer shall be available and used to check internal food temperature.
- b) The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F or above unless maintained in accordance with the refrigerated storage requirements of this

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Section 760.165 Damaged Food Containers

Retail food stores shall utilize the guidelines established in the Department's rules for Salvage Warehouses and Stores for Foods, Alcoholic Liquors, Drugs, Medical Devices and Cosmetics (77 Ill. Adm. Code 725) when determining if damaged food containers are acceptable for sale to the public.

Section 760.170 General - Food Preparation

In an effort to prevent the transmission of pathogenic organisms from humans, food shall be prepared with the least possible manual contact, with suitable utensils and surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

- a) Food employees shall avoid direct contact (i.e., using bare hands) with ready-to-eat food whenever possible and, to the extent possible, shall handle ready-to-eat food only with suitable utensils such as deli tissue, spatulas, tongs, or single-use gloves. Handling of ready-to-eat food with suitable utensils is not a substitute for proper hand washing. Use of utensils, including deli tissue, spatulas, tongs or single-use gloves, shall be preceded by thorough handwashing.
- b) If gloves are used to handle ready-to-eat food, they shall be single-use gloves, i.e., shall be used for only one task (preparing/handling ready-to-eat food), shall be used for no other purpose and shall be discarded when damaged or soiled or when interruptions occur in operations.
- c) At least annually, each food service establishment shall review its operations to identify and document any procedures where ready-to-eat food must be routinely handled with bare hands. This annual review shall include the following components:
 - 1) Those routine procedure/work stations that necessitate direct hand contact with ready-to-eat food shall be identified and listed. This list shall be made available, upon request, to the Department or any local health department responsible for licensing/permitting the establishment.
 - 2) Available alternatives to unprotected direct hand contact; e.g., use of

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suitable utensils, FDA-approved sanitizing hand rinses, etc., shall be considered. If an alternative (e.g., use of a suitable utensil) can be implemented, this procedure/work station shall be removed from the list of routine direct hand contact points.

- 3) Special focused education and training shall be provided to all food employees involved in the identified procedures, reinforcing the importance of proper hand washing for all employees with direct hand contact with ready-to-eat food. The content and duration of this focused education and training shall be determined by the food service operator.
- d) Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods, each new operation shall begin with food-contact surfaces and utensils which are clean and have been sanitized. Salads and other ready-to-eat foods should be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products.
- e) Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products should be prepared from chilled products.

Section 760.180 Preparing Raw Fruits and Raw Vegetables

Raw fruits and raw vegetables that will be cut or combined with other ingredients or will be otherwise processed into food products by the retail food store shall be thoroughly cleaned with potable water before being used.

Section 760.190 Cooking Potentially Hazardous Foods

- a) Raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to the following temperatures and times, except as specified in subsections (b) and (c) of this Section:
 - 1) 145°F (63°C) or above for 15 seconds for:
 - A) Shell eggs that are broken and prepared in response to a

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consumer's order and for immediate service, and

- B) Fish and meat that are not specified in subsection (a)(2), (3) or (4) of this Section;
- 2) For pork and game animals, comminuted fish and meats, injected meats, and eggs that are not prepared for immediate service, 155°F (68°C) for 15 seconds or the temperature specified in Section 760.195 that corresponds to the cooking time;
 - 3) As specified in Section 760.197 for roasts of beef and corned beef;
 - 4) 165°F (74°C) or above for 15 seconds for field-dressed wild game animals, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat, or poultry; or
 - 5) Any alternative temperature and time that provides an equivalent heat lethality provided the alternative method is approved in advance by the Department and confirmed in writing. Requests for alternative cooking time and temperature methods shall be submitted in writing in a format prescribed by the Department. If the Department approves an alternative cooking method, it shall notify the requestor of its approval and inform local health departments of that approved alternative.
- b) Raw and undercooked animal foods that are served or offered for sale in a ready-to-eat form are exempt from the requirements of subsections (a)(1) through (5) of this Section, provided that the retail food store serving the food follows the consumer advisory requirements in Section 760.110(1). Examples of this type of food include raw marinated fish; raw molluscan shellfish; steak tartare; lightly cooked fish; rare meat; or soft cooked eggs.
- c) Beef roasts shall be cooked:
- 1) In an oven that is preheated to the temperature specified for their weight in Section 760.196 and that is held at or above temperature; and
 - 2) To a food temperature as specified in Section 760.197 and held for the corresponding amount of time specified in Section 760.197 for that

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temperature.

Section 760.195 Minimum Food Temperature and Holding Time Required Under Section 760.190(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats

Minimum	
Temperature	Time
°F (°C)	
145 (63)	3 minutes
150 (66)	1 minute

Section 760.196 Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef

Oven Type	Oven Temp(2)	
	Roast Weight	
	Less than or equal to 4.5 kg (10 lbs.)	Greater than 4.5 kg (10 lbs.)
Still Dry	350 °F (177 °C)	250°F (121°C)
Convection	325°F (163 °C)	325°F (163°C)
High Humidity (1)	< 250°F (121°C)	< 250°F (121°C)

- (1) Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven or in a moisture-impermeable bag that provides 100% humidity
- (2) Refer to Section 760.197 for minimum holding time requirements

Section 760.197 Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef

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Temp. (2)	Time (1)	Temp. (2)	Time (1)	Temp. (2)	Time (1)
°F (°C)		°F (°C)		°F (°C)	
130 (54)	121 minutes	136 (58)	32 minutes	142 (61)	8 minutes
132 (56)	77 minutes	138 (59)	19 minutes	144 (62)	5 minutes
143 (57)	47 minutes	140 (60)	12 minutes	145 (63)	3 minutes

- (1) Holding time may include postoven heat rise
- (2) Refer to Section 760.196 for oven temperature requirements

Section 760.199 Microwave Cooking

Raw animal foods cooked in a microwave oven shall be:

- a) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- b) Covered to retain surface moisture;
- c) Heated an additional 25°F (14°C) above the temperature specified in Section 760.190(c)(1), (2) and (4) to compensate for shorter cooking times; and
- d) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

Section 760.200 Bakery Product Fillings

Custards, cream fillings, and similar products, including synthetic fillings, shall meet the temperature requirement in Section 760.150(c) of this Part following preparation and be maintained at that temperature during storage, transportation, and display. Products with synthetic fillings may be excluded from this requirement if:

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- a) The food, including the interface between the bakery product and its filling, has a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions; or
- b) It is handled in such a manner as to preclude contamination with and the growth of pathogenic microorganisms after heat processing; or
- c) Other scientific evidence is on file with the regulatory authority demonstrating that the specific product will not support the growth of pathogenic microorganisms.
- d) Bakery products with synthetic fillings, which meet the above criteria, may be labeled to state that refrigeration is not required.

Section 760.210 Reheating

Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165F or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

Section 760.220 Food Product Thermometers

Metal stem-type numerically scaled indicating thermometers, accurate to +2F shall be provided and used to assure attainment and maintenance of proper temperatures during preparation of all potentially hazardous foods.

Section 760.230 Thawing Potentially Hazardous Foods

Potentially hazardous foods shall be thawed:

- a) In refrigerated units at a temperature not to exceed 45°F, prior to July 1, 1996 and 41°F, effective July 1, 1996; or
- b) Under potable running water at a temperature of 70°F or below, with sufficient water velocity to agitate and float off loose food particles into the overflow and for a period not to exceed that reasonably required to thaw the food; or

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- c) In a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or
- d) As part of the conventional cooking process.

Section 760.240 Displaying Potentially Hazardous Foods

Prior to July 1, 1996, potentially hazardous foods shall be held at an internal temperature of 45°F or below or at an internal temperature of 140°F or higher during display, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F. Effective July 1, 1996, potentially hazardous foods shall be held during display at an internal temperature of 41°F or below, unless the foods are dated and refrigerated at 45°F for no more than three days as specified in Section 760.120, or held during display at an internal temperature of 140°F or higher, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F.

Section 760.250 Displaying Frozen Foods

Foods intended for sale in a frozen state should be displayed at an air temperature of 0F or below, except for defrost cycles and brief periods of loading or unloading. Frozen foods should be displayed below or behind product food lines according to cabinet manufacturers' specifications.

Section 760.260 Food Display

Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by being packaged, by display cases, by covered containers for self-service, or by similar protective equipment. All food shall be displayed above the floor in a manner that will protect the food from contamination. Hot or cold food units shall be provided to assure the maintenance of potentially hazardous food at the required temperature during display. Potentially hazardous food shall not be provided for consumer self-service.

Section 760.270 Dispensing Utensils

To avoid unnecessary manual contact with the food, suitable dispensing utensils and single-service articles shall be used by employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils. Dispensing utensils shall be:

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- a) Stored in the food with the dispensing utensil handle extended out of the food; or
- b) Stored clean and dry; or
- c) Stored in running potable water.

Section 760.280 Food Sample Demonstrations and Food Promotions

When food sample demonstrations and food promotions are authorized in the retail food store, the person in charge shall ensure that such activities comply with the applicable sanitation provision of this Part.

Section 760.290 General - Food Transportation by the Retail Food Store

Food, other than hanging primal cuts, quarters, or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of this Part relating to food protection and food storage. Foods packaged in immediate closed containers do not need to be overwrapped or covered if the immediate closed containers have not been opened, torn, or broken.

SUBPART C: PERSONNEL

Section 760.400 General - Employee Health

- a) No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a retail food store in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.
- b) When the regulatory authority has reasonable cause to suspect possible disease transmission by an employee of a retail food store, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

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- 1) The immediate exclusion of the employee from employment in retail food stores;
- 2) The immediate closing of the retail food store concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
- 3) Restriction of the employee's services to some area of the store where there would be no danger of transmitting disease;
- 4) Adequate medical and laboratory examination of the employee and of other employees and of his and their body discharges.

Section 760.410 General – Personal Cleanliness

Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

Section 760.420 General – Clothing

- a) Employees shall wear clean outer clothing.
- b) Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces.

Section 760.430 General – Employee Practices

- a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.
- b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in the areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An

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employee tobacco-use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils, or other items needing protection.

- c) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the retail food store.

SUBPART D: EQUIPMENT AND UTENSILS

Section 760.500 General – Materials

Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, taste, nor contribute to the contamination of food.

Section 760.510 Solder

If solder is used, it shall be composed of safe materials and be corrosion resistant.

Section 760.520 Wood

Hard maple or equivalent nonabsorbent wood that meets the general requirements set forth in Section 760.500 of this Part may be used for cutting blocks, cutting boards, and bakers' tables. Wood shall not be used as a food-contact surface under other circumstances, except for contact with raw fruits, raw vegetables, and nuts in the shell.

Section 760.530 Plastics and Rubber Materials

Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods, and which meet the general requirements set forth in Section 760.500 of this Part, are permitted for repeated use.

Section 760.540 Cutting Surfaces

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Cutting surfaces subject to scratching and scoring must be resurfaced so as to be easily cleaned, or be discarded when these surfaces can no longer be effectively cleaned and sanitized.

Section 760.550 Single-Service Articles

Single-service articles shall not be reused.

Section 760.560 General – Design and Fabrication

All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

- a) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is used for cooking. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers, hot oil cooking equipment, or hot oil filtering systems, such threads shall be minimized.
- b) Equipment containing bearings and gears requiring lubricants not made of safe materials shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces shall be lubricated with materials meeting the requirements of 21 CFR 178.3570.
- c) Sinks and drain boards shall be sloped to drain and be self-draining.

Section 760.570 Accessibility

Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

- a) Without being disassembled; or
- b) By disassembling without the use of tools; or

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- c) By easy disassembling with the use of only simple tools, such as mallets, screwdrivers, or open-end wrenches which are kept near the equipment.

Section 760.580 Cleaned In Place (CIP)

Equipment designed and constructed for CIP shall meet requirements equivalent to those contained in Section 750.670 of the Food Service Sanitation Rules and Regulations 77 Ill. Adm. Code 750.

Section 760.590 Food Product Thermometers

Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to $\pm 2^{\circ}\text{F}$.

Section 760.600 Non-Food-Contact Surfaces

Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

Section 760.610 Ventilation Hoods

Ventilation hoods and devices, where installed, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place.

Section 760.620 Maintenance of Equipment and Utensils

All equipment and utensils shall be maintained in good repair to comply with requirements of this Part.

Section 760.630 General - Equipment Installation and Location

Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water has

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accumulated, open stairwells, or other sources of contamination.

Section 760.640 Table-Mounted Equipment

- a) Table-mounted equipment shall be installed to facilitate the cleaning of the equipment and the adjacent areas.
- b) Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter, except that if no part of the table under the equipment is more than 18 inches from cleaning access, the clearance space shall be three (3) inches or more; or if no part of the table under the equipment is more than three (3) inches from cleaning access, the clearance space shall be two (2) inches or more.
- c) Equipment is portable within the meaning of Section 760.640(b) above of this Part if:
 - 1) It is small and light enough to be moved easily by one person; or
 - 2) It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning; or
 - 3) It is table-mounted, such as powered mixers, grinders, slicers, tenderizers, and similar equipment, and does not exceed 80 pounds or is equipped with a mechanical means of safely tilting the unit for cleaning.

Section 760.650 Floor-Mounted Equipment

- a) Floor-mounted equipment, unless easily moveable, shall be:
 - 1) Sealed to the floor; or
 - 2) Elevated on legs to provide at least a 6-inch clearance between the floor and equipment, except that equipment may be elevated to provide at last a 4-inch clearance between the floor and equipment if no part of the floor under the equipment is more than six (6) inches from cleaning access.

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- 3) Display shelving units, display refrigeration units, and display freezer units are exempt from the provisions of Section 760.650(a)(1) and (2) above of this Part if they are installed so that the floor beneath the units can be cleaned.
- b) Equipment is easily movable if:
 - 1) It is mounted on wheels or casters; and
 - 2) It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
- c) Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch and, if exposed to seepage, the space shall be sealed.

Section 760.660 Aisles and Working Spaces

Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks, and open-ended pallets shall be positioned to provide accessibility to working areas.

**SUBPART E: CLEANING, SANITIZATION,
AND STORAGE OF EQUIPMENT AND UTENSILS****Section 760.700 Cleaning Frequency**

- a) Utensils and food-contact surfaces of equipment shall be cleaned and sanitized
 - 1) Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods;

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- 2) After any interruption of operations during which time contamination may have occurred; and
 - 3) After final use each working day.
- b) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.
 - c) The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once each day of use, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all baking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soil.
 - d) Non-food-contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

Section 760.710 Wiping Cloths

- a) Cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in Section 760.720(h) of this Part and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.
- b) Cloths or sponges used for cleaning non-food-contact surfaces of equipment shall be clean and rinsed as specified in Section 760.710(a) above of this Part and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.
- c) Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use.

Section 760.720 Manual Cleaning and Sanitizing

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- a) For manual cleaning and sanitizing of equipment and utensils, a sink with three compartments shall be provided and used. Sink compartments shall be large enough to accommodate the immersion of most equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Where immersion in sinks is impracticable (e.g., because equipment is too large), equipment and utensils shall be cleaned and sanitized manually or by pressure spray methods.
- b) Drain boards or easily moveable utensil tables of adequate size shall be provided for proper storage and handling of soiled utensils prior to cleaning and for cleaned utensils following sanitizing and shall be located so as not to interfere with proper use of the warewashing facilities.
- c) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove food particles and soil.
- d) The sinks shall be cleaned before use.
- e) When a three-compartment sink is utilized for warewashing, the operation shall be conducted in the following sequence:
 - 1) Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and
 - 2) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
 - 3) Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in Section 760.720(h) (Items 1 thru 5) of this Part.
- f) When an existing two-compartment sink is utilized for warewashing, one of the following two methods shall be used:
 - 1) Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized

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in hot water in the second compartment in accordance with Section 760.720(h)(1) of this Part; or

- 2) Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent-sanitizer solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in the second compartment in hot water in accordance with Section 760.720(h)(1) of this Part, or with a solution containing that same detergent-sanitizer in accordance with Section 760.720(h) (Items 2-5) of this Part.
- g) When pressure spray methods are utilized for cleaning and sanitizing, the equipment and utensils shall be thoroughly flushed with a detergent-sanitizer solution until the article is free of visible food particles and soil. The detergent-sanitizer shall be used in accordance with the manufacturer's instructions and shall be of the type that does not require a potable water rinse when used according to those instructions.
- h) The food-contact surfaces of all equipment and utensils shall be sanitized by:
 - 1) Immersion for at least 1/2 minute in clean, hot water of a temperature of at least 170F; or
 - 2) Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75F; or
 - 3) Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine, having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75F; or
 - 4) Immersion for at least 1 minute in a clean solution containing 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75F. The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration; or

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- 5) Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75F for 1 minute; or
 - 6) Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
 - 7) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under Section 760.720(h)(2), (3) and (5) of this Part in the case of equipment too large to sanitize by immersion.
- i) When hot water is used for sanitizing, the following equipment shall be provided and used:
- 1) An integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170F; and
 - 2) A numerically scaled indicating thermometer, accurate to +3F convenient to the sink for frequent checks of water temperature; and
 - 3) Utensil racks or baskets of such size and design to permit complete immersion of utensils and equipment in the hot water.
- j) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 and a test kit or other device that measures the parts per million concentration of the solution shall be provided and used.

Section 760.730 Mechanical Cleaning and Sanitizing

Mechanical cleaning and sanitizing equipment and practices shall conform to the provisions contained in Section 750.830 of the Food Service Sanitation Rules and Regulations 77 Ill. Adm. Code 750.

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Section 760.740 Drying

Unless used immediately after sanitization, all equipment and utensils shall be air dried. Towel drying shall not be permitted.

Section 760.750 Retail Food Stores Without Equipment and Utensil Cleaning Facilities

Retail food stores that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables.

Section 760.760 Equipment and Utensil Handling

Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination.

Section 760.770 Equipment and Utensil Storage

- a) Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from splash, dust, and other means of contamination. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.
- b) Utensils shall be air dried before being stored or shall be stored in a self-draining position.
- c) Stored utensils shall be covered or inverted wherever practical.

Section 760.780 Single-Service Articles Handling and Storage

- a) Single-service articles shall be stored in closed cartons or containers at least six (6) inches above the floor or on easily movable dollies, skids, racks, or open-ended pallets. Such storage shall protect the articles from contamination and shall not be located under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

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- b) Single-service articles shall be handled in a manner that prevents contamination of surfaces that may come in contact with food.

Section 760.790 Prohibited Storage Areas

Food equipment, utensils, or single-service articles shall not be stored in locker rooms, toilet rooms or their vestibules, garbage rooms, or mechanical rooms.

SUBPART F: SANITARY FACILITIES
AND CONTROLS**Section 760.900 General - Water Supply**

Sufficient potable water for the needs of the retail food store shall be provided from a source constructed, maintained, and operated according to the Drinking Water Code (77 Ill. Adm. Code 900).

Section 760.910 Water Delivery

All potable water not provided to the retail food store directly from the source by pipe shall be delivered in a bulk water transport system and shall be transferred to a closed water system. Both of these systems shall be constructed, maintained, and operated according to law.

Section 760.920 Water Under Pressure

Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

Section 760.930 Steam

Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

Section 760.940 General - Sewage

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed, maintained, and operated according to law. Nonwater

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carried sewage disposal facilities are prohibited, except for pick up by licensed scavengers or for burial in a land fill.

Section 760.950 General - Plumbing

Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other system containing:

- a) Water of unknown or questionable origin, or
- b) Contaminating or polluting substances.

Section 760.960 Nonpotable Water System

A nonpotable water system is permitted for air conditioning, equipment cooling, and fire protection, and shall be installed according to law. Nonpotable water shall not directly or indirectly contact food or equipment or utensils that contact food. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

Section 760.970 Backflow

The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. No hose shall be attached to a faucet that is not equipped with a backflow prevention device.

Section 760.980 Grease Traps

Grease traps, if used, shall be located to be easily accessible for cleaning.

Section 760.990 Garbage Grinders

Garbage grinders, if used, shall be installed and maintained according to law.

Section 760.1000 Drains

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- a) Commercial dishwashing machines, dishwashing sinks, pot washing sinks, pre-rinse sinks, vegetable sinks, potato peelers, ice machines, steam tables, steam cookers, and other similar fixtures shall be indirectly connected in compliance with 77 Ill. Adm. Code 890.1410(a). The only exception shall be when such fixtures are located adjacent to a floor drain, the waste may be directly connected on the sewer side of the floor drain trap provided the fixture waste is trapped and vented as required by the Illinois Plumbing Code (77 Ill. Adm. Code 890) and the floor drain is located within four feet horizontally of the fixture and in the same room. The indirect piping from the fixture to the air gap shall not exceed five (5) feet developed length. All indirectly connected fixtures shall discharge to a vented trap located in the same room in compliance with 77 Ill. Adm. Code 890.1410(a). In the case of direct connection no other fixture waste shall be connected between the floor drain trap and the fixture protected.
- b) Drain lines from equipment shall not discharge waste water in such a manner as will permit the flooding of floors or the flowing of water across working or walking areas or into difficult-to-clean areas, or otherwise create a nuisance in compliance with 77 Ill. Adm. Code 750.1100(b).

Section 760.1010 Toilet Installation

Toilet facilities shall be installed according to law, shall be at least one and not less than the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

Section 760.1020 Toilet Design

Toilets and urinals shall be designed to be easily cleanable.

Section 760.1030 Toilet Rooms

Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors, except for louvers that may be necessary for ventilation systems.

Section 760.1040 Toilet Facility Maintenance

Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily

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cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

Section 760.1050 Handwashing Facility Installation

Handwashing facilities shall be installed according to law, shall be at least one and not less than the number required by law, and shall be conveniently located to permit use by all employees in food preparation and warewashing areas. Handwashing facilities shall be accessible to employees at all times. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms or their vestibules. Sinks used for food preparation or for warewashing shall not be used for washing of hands or for any other purpose.

Section 760.1060 Handwashing Facility Faucets

Each handwashing facility shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited at handwashing facilities.

Section 760.1070 Handwashing Supplies

A supply of hand-cleansing soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

Section 760.1080 Handwashing Facility Maintenance

Handwashing facilities, soap or detergent dispensers, hand-drying devices, and all related facilities shall be kept clean and in good repair.

Section 760.1090 Garbage and Refuse Containers

- a) Garbage and refuse shall be held in durable, easily cleanable, insect-resistant, and rodent-resistant containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the

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retail food store.

- b) Containers used in food preparation and utensil washing areas shall be kept covered during nonworking hours and after they are filled.
- c) Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
- d) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.
- e) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, detergent, and hot water or steam, shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

Section 760.1100 Garbage and Refuse Container Storage

- a) Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of non-rodent-resistant plastic containers, unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.
- b) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect and rodent resistant, and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency.
- c) Outside storage areas or enclosures, if used, shall be kept clean and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters, and compactor systems located outside, shall be stored on or above a smooth surface of

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nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

Section 760.1110 Garbage and Refuse Disposal

- a) Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents.
- b) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration in accordance with law. Areas around incineration units shall be kept clean and orderly.

Section 760.1120 General - Insect and Rodent Control

Effective measures shall be utilized to minimize the entry, presence, and propagation of rodents, flies, cockroaches, or other insects. The premises shall be maintained in a condition that prevents the harborage or feeding of insects or rodents.

Section 760.1130 Openings to be Protected Against Entry of Rodents and Insects

Openings to the outside shall be effectively protected against the entry of rodents. Outside openings shall be protected against the entry of insects by tight-fitting, self-closing doors; closed windows; screening; controlled air currents; or other means. Screen doors shall be self-closing, and screens for windows, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch.

**SUBPART G: CONSTRUCTION AND
MAINTENANCE OF PHYSICAL FACILITIES****Section 760.1200 Floor Construction**

- a) Except as specified in Section 760.1210 of this Part, floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight-fitting wood impregnated with plastic, and shall be maintained in good repair.

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Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

- b) Floors which are water flushed or which receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with properly installed trapped drains. Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile, or similar materials and shall be graded to drain.
- c) In all establishments utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials, or where water flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall be coved so as not to present an open seam of more than 1/32 inch.

Section 760.1210 Floor Carpeting

Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting shall not be used in food preparation and warewashing areas, in food storage areas, or in toilet room areas where urinals or fixtures are located.

Section 760.1220 Prohibited Floor Covering

Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings; however, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors.

Section 760.1230 Mats and Duckboards

Mats and duckboards shall be of nonabsorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained in good repair.

Section 760.1240 Utility Line Installation

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

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Section 760.1250 Wall and Ceiling Maintenance

Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

Section 760.1260 Wall and Ceiling Construction

The walls, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, warewashing areas, and toilet rooms and their vestibules shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks and bricks used for interior wall construction in these locations shall be finished and sealed to provide a smooth easily cleanable surface.

Section 760.1270 Exposed Construction of Walls and Ceilings

Studs, joists, and rafters shall not be exposed in those areas listed in Section 760.1260 of this Part. If exposed in other rooms or areas, they shall be finished to provide a cleanable surface.

Section 760.1280 Utility Line Installation in or on Walls and Ceilings

Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in Section 760,1260 of this Part. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.

Section 760.1290 Attachments to Walls and/or Ceilings

Light fixtures, vent covers, wall mounted fans, decorative materials, and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

Section 760.1300 Wall and Ceiling Covering Material Installation

Wall and ceiling covering materials shall be attached and sealed in a manner to be easily cleanable.

Section 760.1310 General - Cleaning Physical Facilities

Cleaning of floors, walls, and ceilings shall be done as often as necessary, but preferably during periods when the least amount of food is exposed, such as after closing. Only dustless methods

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of cleaning floors, walls, and ceilings shall be used, such as vacuum cleaning, wet cleaning, treated dust mops, or the use of dust-arresting sweeping compounds with brooms. Floors, mats, duckboards, walls, ceilings, and attachments (e.g., light fixtures, vent covers, wall mounted fans, and similar equipment), and decorative materials (e.g., signs and advertising materials) shall be kept clean.

Section 760.1320 Service Sinks for Cleaning

At least one (1) service sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. Handwashing or warewashing facilities, or food preparation sinks shall not be used for this purpose.

Section 760.1330 General – Lighting

- a) Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles of light on all food preparation surfaces and at warewashing work levels.
- b) Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:
 - 1) At least 20 foot candles of light in sales areas, utensil and equipment storage areas, and in handwashing and toilet areas; and
 - 2) At least 10 foot candles of light in walk-in refrigeration units, dry food storage areas, and in all other areas.

Section 760.1340 Protective Light Shielding

- a) Lamps located over or within areas where open foods are stored, prepared or displayed, and facilities where utensils and equipment are cleaned and stored shall be shielded, coated or otherwise shatter resistant.
- b) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

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Section 760.1350 General - Ventilation

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create a harmful or unlawful discharge. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

Section 760.1360 Dressing Rooms and Areas

If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, food storage, food display, warewashing, or storage of utensils and equipment.

Section 760.1370 Locker Areas

Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may only be located in the designated dressing rooms or areas or, in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

Section 760.1380 Poisonous or Toxic Materials Permitted

Only those poisonous or toxic materials necessary and intended for the maintenance of the establishment, including the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in retail food stores, except those items being stored or displayed for retail sale as described in Section 760.1420 of this Part.

Section 760.1390 Labeling of Poisonous or Toxic Materials

Containers of poisonous or toxic materials necessary for operational maintenance of the establishment shall be prominently and distinctly labeled in accordance with law. Small working containers of bulk cleaning agents shall be individually labeled for easy identification of contents.

Section 760.1400 Storage of Poisonous or Toxic Materials

- a) Poisonous or toxic materials necessary for the maintenance of the establishment

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consist of the following two categories:

- 1) Insecticides and rodenticides;
 - 2) Detergents, sanitizers, related cleaning or drying agents, and caustics, acids, polishes, and other chemicals.
- b) Materials in each of these two categories shall be stored and located to be physically separated from each other; shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose; and, to preclude potential contamination, shall not be stored above or intermingled with food, food equipment, utensils, or single-service articles, except that this latter requirement does not prohibit the convenient availability of detergent sanitizers, or sanitizers at warewashing facilities.

Section 760.1410 Use of Poisonous or Toxic Materials

- a) Sanitizers, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.
- b) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way other than in full compliance with the manufacturer's labeling.

Section 760.1420 Storage and Display of Poisonous or Toxic Materials for Retail Sale

Poisonous or toxic materials stored or displayed for retail sale shall be separated from food and single-service articles by spacing, partitioning, or dividers. These materials shall not be stored or displayed above food or single-service articles.

Section 760.1430 First-Aid Supplies and Personal Medications

Retail food store employee first-aid supplies and personal medications shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

Section 760.1440 General - Premises

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- a) Retail food stores and all parts of the property used in connection with operations of the establishment shall be reasonably free of litter and articles not essential to the operation or maintenance of the establishment.
- b) The walking and driving surfaces of all exterior areas of retail food stores shall be surfaced with concrete, asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage.

Section 760.1450 Living Areas

No operation of a retail food store shall be conducted in any room used as living or sleeping quarters. Retail food store operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

Section 760.1460 Laundry Facilities

- a) If provided, laundry facilities in a retail food store shall be restricted to the washing and drying of linens and work clothes used in the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.
- b) Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

Section 760.1470 Linens and Work Clothes Storage

- a) Clean work clothes and linens, including articles such as wiping cloths, shall be stored in a clean place and protected from contamination until used.
- b) Soiled work clothes and linens, including articles such as wiping cloths, shall be kept in nonabsorbent containers or washable laundry bags until removed for laundering and shall be stored to prevent contamination of food, food equipment and utensils.

Section 760.1480 Cleaning Equipment Storage

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Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

Section 760.1490 Animals

- a) Live animals shall be excluded from within the retail food store operational areas and from immediately adjacent areas inside the store under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or fish in aquariums.
- b) Live or dead fish bait shall be stored separately from food or food products.
- c) Patrol dogs accompanying security or police officers shall be permitted in offices, storage areas and outside store premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Support animals, e.g. animals such as canines and primates trained to assist handicapped persons, accompanying such persons shall be permitted in sales areas.
- d) While on duty, persons employed in the food operational areas of an establishment shall not care for or handle any pets, or patrol/sentry dogs.

**SUBPART H: NEW FACILITIES AND
EXISTING EQUIPMENT AND FACILITIES****Section 760.1600 New Facilities**

New building facilities and new equipment for which contractual obligations are incurred before the effective date of this Part, and which do not fully meet all the design and fabrication requirements of this Part, shall be acceptable if they are capable of being maintained in a sanitary condition and the food-contact surfaces (if any) are in compliance with the definition of "Safe Materials" in Section 760.20 of this Part.

Section 760.1610 Existing Equipment and Facilities

Building facilities and equipment in use before the effective date of this Part and which do not meet fully all of the design and fabrication requirements of this Part, shall be acceptable if they

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are in good repair; capable of being maintained in a sanitary condition, and the food-contact surfaces (if any) are in compliance with the definition of "Safe Materials" in Section 760.20 of this Part.

SUBPART I: TEMPORARY RETAIL FOOD STORES

Section 760.1700 General - Temporary Retail Food Stores

A temporary retail food store shall comply with the requirements of this Part, except as otherwise provided in this Subpart.

Section 760.1710 Restricted Operations

- a) This section is applicable whenever a temporary retail food store is permitted, under the provisions of Section 760.1700 to operate without complying with all the requirements of this Part.
- b) All foods sold or handled by a temporary retail food store shall meet the requirements of this Part for preparation, packaging, display, service, storage and transportation. Food shall be dispensed in the unopened container in which it was packaged.

Section 760.1720 Wet Storage

The storage of packaged food in contact with water or undrained ice is permitted only if it is determined that no unsanitary condition would exist.

Section 760.1730 Waste Disposal

All sewage, including liquid waste, shall be disposed of pursuant to the Illinois Department of Public Health's "Private Sewage Disposal Code".

Section 760.1740 Handwashing

A facility shall be provided for employee handwashing. Where water under pressure is unavailable, such facility shall consist of at least a pan, warm water, soap and individual paper towels.

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Section 760.1750 Floors

Floors shall be made of concrete, tight wood, asphalt, or other similar cleanable material, except that dirt or gravel floors may be used if graded to preclude the accumulation of liquids and covered with removable, cleanable platforms or duckboards.

Section 760.1760 Ceilings

Ceilings shall be made of wood, canvas or other material that protects the interior of the establishment from the weather and/or overhead contamination.

SUBPART J: REDUCED OXYGEN PACKAGING

Section 760.2000 General

Reduced oxygen packaging of food products in retail food establishments shall comply with the requirements of this Part.

Section 760.2010 Acceptable Products

A list of products approved by the regulatory authority for reduced oxygen packaging shall be posted in the processing area along with a warning against packaging unapproved foods.

Section 760.2020 Employee Training

Retail employees assigned to process foods in reduced oxygen packages must be familiar with these rules and the potential hazards associated with reduced oxygen packaged foods. A description of the training and course content provided to the retail employees must be available for review by the regulatory authority.

Section 760.2030 Refrigeration Requirements

Prior to July 1, 1996, all retail processed foods in reduced oxygen packages must be refrigerated at 45°F or below or kept frozen at 0°F or below. Effective July 1, 1996, all retail processed foods in reduced oxygen packages shall be refrigerated at 41°F or below, at all times, except as otherwise provided in this Part. Refrigeration units unable to maintain a product temperature of 41°F may continue to be used until January 1, 2006, provided the product temperature is maintained at 45°F or less at all times and all potentially hazardous foods prepared on-site or

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opened containers/packages of commercially processed food products are dated and refrigerated for no longer than three days after preparation or opening, respectively.

Section 760.2031 Labeling - Refrigeration Statements

All retail packaged foods in a reduced oxygen atmosphere shall bear a statement "Important - Must Be Kept Refrigerated" or "Important - Must Be Kept Frozen" in addition to other required information. This statement must appear on the principal display panel in bold type on a contrasting background using this format.

Important
Must Be Kept
Refrigerated

Important
Must Be Kept
Frozen

Section 760.2032 Labeling – "Use By" Dates

Each package of refrigerated retail processed food in a reduced oxygen atmosphere shall bear a "use by" date. This date cannot exceed 14 days from retail processing. Also, the date assigned by the retailer shall not go beyond the manufacturer's recommended "pull date" for the food. The "use by" date must be listed on the principal display panel in bold type on a contrasting background. Foods that remain frozen before, during, and after processing are exempt from this requirement.

Section 760.2040 Safety Barriers

Prior to July 1, 1996, refrigeration at 45°F is required as the primary safety barrier. Effective July 1, 1996, all retail processed foods in reduced oxygen packages shall be refrigerated at 41°F or below, at all times, except as otherwise provided in Section 760.2030. Only refrigerated foods that possess one or more of the following secondary safety barriers can be packaged in a reduced oxygen atmosphere at retail:

- a) Foods with a water activity (a_w) below .93, or
- b) Foods with an acidity (pH) of less than 4.6, or
- c) Foods with high levels of non-pathogenic competing organisms that prohibit the

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growth of pathogenic bacteria, or

- d) Meat or poultry products processed under U.S.D.A. or Illinois Department of Agriculture supervision with a nitrite level of at least 120 PPM and a minimum brine concentration of 3.5%, or
- e) Frozen foods provided the product is maintained in a frozen state before, during and after packaging.

Section 760.2041 Fish and Fishery Products

Raw or processed fish and fishery products may not be packaged at retail in a reduced oxygen atmosphere unless held frozen before, during and after packaging.

Section 760.2042 Safety Barrier Verification

The safety barrier requirement must be verified in writing for all foods processed in a reduced oxygen atmosphere at retail. This can be accomplished via written certification from the product manufacturer or through independent laboratory analysis of the incoming product using the official method of analysis.

- a) Any changes in product formulation or processing procedures that impacts on the safety barrier requires recertification of the product.
- b) All barrier certifications must be updated every twelve months or immediately in the event of a change in product ingredients, process or barriers.
- c) A record of all safety barrier verifications must be maintained and available at the processing site for regulatory review to determine compliance with the criteria specified in Section 760.2040.
- d) Meat and poultry products, cured under U.S.D.A. inspection or a state program equal to U.S.D.A., with a nitrite level of at least 120 PPM and a brine concentration of at least 3.5% are exempt from the safety barrier verification requirements.

Section 760.2050 Hazard Analysis Critical Control Point (HACCP) Program

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All retail food establishments processing food in a reduced oxygen atmosphere must develop a HACCP Program and maintain a copy of this program at the processing site for review by the appropriate regulatory authority. This HACCP Program shall include:

- a) A complete description of the processing, packaging and storage procedure. The program must also identify the critical control points in the procedure with a description of how these will be monitored and controlled and provide barrier certifications for all foods;
- b) A list of the equipment and food-contact packaging supplies used;
- c) A description of the lot identification system;
- d) A description of the employee training program;
- e) If gases are used, identification of the gases as being of food grade quality and a list by proportion of gas(es) used in the packaging;
- f) A description of the procedure along with the frequency for cleaning and sanitizing the involved food-contact surfaces in the processing area; and
- g) A description of action to be taken if there is a deviation from the process approved by the regulatory agency.

Section 760.2060 Precautions Against Contamination

Only unopened packages of commercially manufactured food products can be used to process in a reduced oxygen atmosphere. If it is necessary to stop processing for a period in excess of one-half hour, the remainder of the product must be diverted for another use in the retail operation.

Section 760.2070 Disposition of Expired Product

Retail processed reduced oxygen foods that exceed the "use by" date or the manufacturer's "pull date" cannot be sold or donated in any form and must be destroyed in a proper manner.

Section 760.2080 Dedicated Area/Restricted Access

All aspects of reduced oxygen packaging shall be conducted in an area specifically designated

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for this purpose.

- a) There shall be a physical separation to prevent cross-contamination between raw and cooked products.
- b) Access to the processing area shall be restricted to responsible trained personnel who are familiar with the potential hazards of this operation.

SUBPART K: MEAT/POULTRY PROCESSING AND LABELING

Section 760.3000 Exceptions

Meat products which are prepared, packaged and labeled in establishments operating under the inspection of the United States Department of Agriculture, pursuant to the authority of the Federal Wholesome Meat Act and regulations promulgated thereunder and meat products which are prepared and labeled in establishments operating under the inspection of the Illinois Department of Agriculture, pursuant to the authority of the Meat and Poultry Inspection Act (Ill. Rev. Stat. 1991, ch. 56½, par. 301 et seq.) and regulations promulgated thereunder, shall not be subject to the requirements of Subpart K.

Section 760.3100 Meat and Poultry Labeling

Every package of meat or poultry or meat or poultry product shall comply with all labeling requirements of Section 760.110(i) of this Part.

- a) All ground beef is to be labeled "Ground Beef", "Chopped Beef" or "Hamburger." When beef cheek meat (trimmed beef cheeks) is used in the preparation of chopped beef, ground beef, or hamburger, the amount of such cheek meat shall be limited to 25 percent and its presence shall be declared on the label, either contiguous to the name of the product or in the ingredient statement.
- b) It is not necessary to indicate the lean-to-fat content. However, if it is shown, the label must indicate "Not Less than % Lean," or "Not More Than % Fat." An example would be:

GROUND BEEF
Not Less Than 75% Lean
or

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Not More Than 25% Fat

- c) An added descriptive name may be used where the ground beef is prepared from a specific beef cut such as the chuck, round, sirloin, etc. An example would be:

GROUND BEEF CHUCK

or

GROUND BEEF CHUCK

Not Less Than 75% Lean

- d) The label of a prepacked product which conforms to the definition of "Beef Pattie Mix" as prescribed in Section 760.20, shall declare, in addition to the name of the product, the percentage by weight of beef contained in the product, and the common or usual name of each ingredient in decreasing order of its predominance. Binders or extenders and/or partially defatted beef fatty tissue may be used without added water, or with added water only in amounts such that the product characteristics are essentially that of a meat pattie. If displayed in bulk, a placard must be exhibited to identify the product in accordance with this rule. A sample label or placard would be:

BEEF PATTIE MIX

70% Beef

Ingredients: Beef, water
non-meat protein extenders

- e) "Seasoning: permitted in ground or chopped beef or hamburger or poultry may include salt, natural sweeteners, spices, flavoring, including essential oils, oleoresins and other spice extractives, monosodium glutamate, hydrolyzed vegetable protein and similar flavorings when used in condimental proportions. Seasoning does not include coloring, sulfites or color enhancers.
- f) The requirements which apply to ground beef shall also apply to veal, lamb, pork or poultry if offered in the chopped or ground form. If these ground meats are merchandised as a combination package, each component must be indicated on the label. A sample label for beef, lamb, pork and poultry would be:

Ground Beef

Beef

Ground Lamb

Lamb

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Ground Pork	Pork
Ground Turkey	Turkey
Ground Veal	Veal

- g) Fanciful or characterizing names of ground meats or poultry are permitted, but only if they do not obscure or replace the approved name. The fanciful or characterizing name may be placed on the regular price-weight label or on a separate label but the approved identification must appear conspicuously and unobscured.
- h) No grade designation may be used for ground meat or poultry. After trimming and grinding, meat loses its grade identification and therefore does not have a grade in the ground form.
- i) "Previously Frozen" must be labeled on the package, container or wrapping, in type of uniform size and prominence so as to be readable and understood by the general public if a meat or meat food product or poultry or poultry food product has been frozen prior to sale.
- j) Meat, poultry, game birds or game animals smoked or processed as a service to the customer shall be marked with the customer's name and labeled "not for sale."

Section 760.3200 Smoked Meat, Poultry and Other Food Products

- a) Any smoking operation shall comply with all other applicable requirements of this Part.
- b) Approved materials for use with a smoke generator include hardwood, hardwood sawdust, corn cobs, and natural liquid smoke. Products approved by U.S.D.A., FDA or the Illinois Department of Agriculture meet these safety requirements.
- c) The internal temperature of any smoked product shall comply with the requirements of Section 760.190 (Cooking Potentially Hazardous Foods).
 - 1) Automatic recording thermometers with internal product temperature probes or a metal-stemmed thermometer shall be available and used whenever product is smoked.

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- 2) Product to be smoked shall be uniformly sized to ensure that each piece reaches the required end cooking temperature.
- 3) When a cold smoking process is used for cosmetic purposes, that is, to add smoke color or flavor to a pre-cooked product, the cold smoke process must be of such duration that the product temperature(s) remains at or below 45°F prior to July 1, 1996, and at or below 41°F effective July 1, 1996.
- d) A Hazard Analysis Critical Control Point program shall be available in the processing area to describe the smoking process. It shall consist of written procedures describing the preparation, smoking, handling, packaging and holding of the smoked products. It shall include, at a minimum:
 - 1) Defrosting procedures, if used;
 - 2) Time/Temperature requirements for cooking and smoking;
 - 3) Cooling procedures;
 - 4) Identification of the critical control points in the procedure with a description of how these will be monitored and controlled;
 - 5) Designation of a dedicated work area where raw product is handled and a separate work area for cooked or smoked product to prevent cross-contamination;
 - 6) Description of the cleaning and sanitizing procedures, including frequency; and
 - 7) Samples of labels with all ingredients contained in the product.

Section 760.3300 Curing of Meat and Poultry

- a) No retail food store shall cure meat and/or poultry on the premises of the retail food store without written approval from the Department or its designee.
- b) Any retail food store desiring to conduct curing operations on the premises shall

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submit a written application to the appropriate local health department for review. The application shall include all information required in this Section and shall be product specific. The local health department will perform a preliminary review of the application. The local health department shall forward the application and its recommendation regarding the application, along with any comments, to the Department for final approval. The Department may, upon request of a local health department, enter into an agreement with the local health department to allow the local health department to grant final approval for meat and poultry curing operations within its jurisdiction. Prior to commencing curing operations, the local health department shall perform an on-site inspection of the retail food store to ensure that the curing operations conform to the approved HACCP plan. Where no local health department exists, the Department will accept and review HACCP plans and will conduct on-site inspections of the facility.

- c) A list of acceptable products approved for curing within the retail food store must be available in the processing area of the establishment.
- d) Employees assigned to cure meat or poultry must complete a training course developed by the food service establishment and demonstrate familiarity with this Section and the potential hazards associated with the curing of foods. A description of the training course content provided to the employees must be included in the application and available for review by the local health department.
- e) An approved HACCP plan is required for all curing operations. The following criteria must be met for the curing of meat and poultry in the establishment. All critical control points must be addressed including purchase of prepared cure mixes; use of calibrated and certified weighing devices if cure mixes are blended on the premises instead of pre-mixed blends; storage of cure ingredients in a dry, protected location; and discarding of any packet if it becomes wet.
- f) Raw material handling must be considered when thawing to prevent temperature abuse. Improperly thawed meat can cause insufficient cure penetration. Temperature abuse can cause spoilage or growth of pathogens. Curing may not be used to salvage meat that has excessive bacterial growth or spoilage.
- g) Formulation, Preparation and Curing:

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- 1) A formulation and preparation procedure must be documented;
- 2) All equipment and utensils must be cleaned and sanitized;
- 3) Pieces of meat or poultry must be prepared to uniform size to assure uniform cure penetration (this is extremely critical for dry and immersion curing);
- 4) Calibrated and certified scales with decals affixed indicating that the scales have been calibrated and certified by the Department of Agriculture, or one of their registered service companies, must be used to weigh ingredients;
- 5) A schedule or recipe must be established for determining the exact amount of curing formulation to be used, using only pre-measured and weighed packets, for a specified weight of meat or meat mixture;
- 6) Methods and procedures must be strictly controlled to ensure uniform cure;
- 7) Mixing of curing formulation with comminuted ingredients must be controlled and monitored (See 9 CFR 318 and 381);
- 8) All surfaces of meat or poultry must be rotated and rubbed at intervals of sufficient frequency to assure cure penetration when a dry curing method is used;
- 9) Immersion curing requires periodic mixing of the batch to facilitate uniform curing;
- 10) The application of salt during dry curing of muscle cuts requires that the temperature of the product be strictly controlled between 35 F and 41 F. The lower temperature is set for the purpose of assuring cure penetration and the upper temperature is set to limit microbial growth (See 9 CFR 318.10(c)(3)(iv));
- 11) Curing solutions must be discarded daily unless they remain with the same batch of product during its entire curing process;

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- 12) Injection needles must be inspected for plugging when stitch pumping or artery pumping of muscle cuts is performed;
 - 13) Sanitary casings must be provided for sausage, chub or loaf forming; and
 - 14) Casings may not be stripped for reuse in forming additional chubs or sausages from batch to batch.
- h) Cooking and smoking shall be done according to Section 750.180, Cooking Potentially Hazardous Foods, or Section 750.3200, Smoked Meat, Poultry or Other Food Products (See also 9 CFR 318.17 and 318.23).
- i) Cooling:
- 1) Cooling shall be done according to Section 760.150(c)(1)(A) and (B), with written cooling procedures established;
 - 2) Chill water used in water sprays or immersion chilling which is in direct contact with products in casings or products cooked in an impervious package must be properly chlorinated;
 - 3) Chill water temperature must be monitored and controlled;
 - 4) Chill water may not be reused until properly chlorinated. Reclaimed chill water must be discarded daily;
 - 5) Product must be placed in a manner that allows chilled water or air to uniformly contact the product for assurance of uniform cooling;
 - 6) Internal temperatures must be monitored during cooling by using calibrated temperature measuring devices;
 - 7) Adequate cooling medium circulation must be maintained and monitored;
 - 8) Temperatures of the cooling medium must be monitored and recorded in accordance with a written procedure;

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- 9) Direct hand contact with product during cooling, peeling of casing and packaging is prohibited.
- j) Fermentation and Drying:
 - 1) Fermentation and drying must be done in conjunction with a cooking or smoking step in accordance with subsection (g) of this Section and 9 CFR 318.10(c)(3);
 - 2) Temperature and time must be controlled during fermentation or drying and record logs that record the monitoring of this process must be maintained;
 - 3) Humidity must be controlled during fermentation or drying by use of a humidistat. Monitoring of the process must be recorded in a written log;
 - 4) The product must be kept separated during fermentation and drying to allow adequate air circulation during the process;
 - 5) The use of an active and pure culture must be assured to effect a rapid pH drop of the product. Use of commercially produced culture is necessary and the culture must be used according to the manufacturer's instructions;
 - 6) Determination of the pH of fermented sausages at the end of the fermentation cycle must be recorded;
 - 7) Dry (unfermented) products may not be hot smoked until the curing and drying procedures are completed; and
 - 8) Semi-dry fermented sausage must be heated after fermentation to a time/temperature sufficient to meet requirements in Section 750.180 (Cooking Potentially Hazardous Foods).
- k) All aspects of curing operations must be conducted in an area specifically designated for this purpose. There must be an effective separation to prevent cross contamination between raw and cooked foods or cured and uncured foods. Access to processing equipment shall be restricted to responsible trained personnel who are familiar with the potential hazards inherent in curing foods.

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- 1) Any records required in this Section must be retained by the retail food store for at least 6 months.

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Section 760.APPENDIX A Retail Food Sanitary Inspection Report

GRAPHIC MATERIAL

See printed copy of IAC for detail

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hearings and Enforcement Proceedings
- 2) Code Citation: 11 Ill. Adm. Code 204
- 3) Section Number: 204.20 Proposed Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The Board is amending subsection 204.20(c) because the phrase "or the Board" conflicts with a provision in the Illinois Horse Racing Act.
- 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 in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted within 45 days after this Notice to:

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

312/ 814-5017

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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 which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 204
HEARINGS AND ENFORCEMENT PROCEEDINGS

Section	
204.10	Applicability
204.20	Requests for Hearing
204.25	Requests and Proceedings for Director's Review Conference
204.30	Purse Distribution
204.40	Appointment and Disqualification
204.50	Transcripts
204.60	Appearances
204.65	Discovery
204.70	Service
204.80	Subpoenas
204.85	Proceedings for Hearings Involving Action by the Board
204.90	Proceedings for Hearings Involving Action by Organization Licensees
204.100	Evidence
204.110	Stipulations
204.120	Continuances
204.130	Closing Arguments
204.140	Findings of Fact and Conclusions of Law

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

SOURCE: Appeals and Enforcement Proceedings, amended December 30, 1977; codified at 5 Ill. Reg. 10876; amended at 10 Ill. Reg. 3825, effective February 13, 1986; amended at 18 Ill. Reg. 7419, effective April 29, 1994; amended at 22 Ill. Reg. 14494, effective August 1, 1998; amended at 26 Ill. Reg. 10806, effective July 1, 2002; amended at 34 Ill. Reg. 12883, effective August 20, 2010; amended at 37 Ill. Reg. _____, effective _____.

Section 204.20 Requests for Hearing

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- a) Any person aggrieved by a final ruling of the Stewards may, as a matter of right, request a Board hearing. The hearing shall be a proceeding de novo.
- b) All requests for hearings shall:
 - 1) be in writing;
 - 2) contain an address and telephone number where the petitioner may be notified; and
 - 3) identify the Stewards' ruling and state the specific reasons for the request.
- c) Requests for hearing under this Part shall be filed no later than five business days after receipt of notice of the Stewards' ruling, ejection or exclusion or other action of the Board. If the petitioner is the subject of a pre-hearing suspension or exclusion, the Board shall conduct its hearing within seven regular business days after the receipt of the request unless the petitioner ~~or the Board~~ requests a postponement ~~upon and shows~~ good cause shown and ~~the petitioner~~ specifically waives the seven day hearing requirement.
- d) For appeals concerning civil penalties of \$500 or less or disqualifications based on an occurrence in the race such as interference or a claim of foul where no penalty was assessed against the driver or jockey, the petitioner shall be required to submit to a Director's Review Conference conducted pursuant to Section 204.25.
- e) For appeals concerning a suspension, exclusion, civil penalty greater than \$500, redistribution of the purse after the race results have been finalized by the Stewards, or disqualification based on a violation of 11 Ill. Adm. Code 603 (Medication), the petitioner shall be entitled to an administrative hearing pursuant to this Part or shall be given the option of submitting to a Director's Review Conference conducted pursuant to Section 204.25. Should a petitioner request a Director's Review Conference, his or her right to an administrative hearing shall be deemed waived.
- f) Notwithstanding subsections (d) and (e), any single member of the Board may sua sponte direct that any appeal be subject to a formal administrative hearing if the case merits the Board's personal attention.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- g) Requests for hearing may be filed in person at, or by mail addressed to, the Board's office at 100 W. Randolph, Suite 7-701, Chicago, Illinois 60601. Requests submitted by mail will be deemed timely if postmarked no later than five business days after receipt of notice of the Stewards' ruling, ejection or exclusion or other action of the Board.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Race Track Operators and Their Duties
- 2) Code Citation: 11 Ill. Adm. Code 1305
- 3) Section Number: 1305.110 Proposed Action:
Amendment
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking changes the location of the emergency medication used by the State Veterinarian at standardbred racetracks from a locked box in the horse ambulance to a locked box in the State Veterinarian's office in the detention barn.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed 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 in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted within 45 days after this Notice to:

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1305
RACE TRACK OPERATORS AND THEIR DUTIES

Section	
1305.10	Definition of Race Track Operator
1305.20	Application
1305.30	Time for Filing Applications
1305.40	Conditions of License
1305.45	Lease of Race Track (Repealed)
1305.50	Written Disclosure
1305.55	Written Disclosure for Corporations
1305.60	Notice of Changes
1305.70	Political Contributions (Repealed)
1305.80	Termination of License
1305.90	Wagering On Races Conducted off of Premises
1305.100	Reciprocal Suspensions
1305.110	Horse Ambulance
1305.120	Ambulance of Racing Strip (Repealed)
1305.130	First Aid Station (Repealed)
1305.140	Emergency Medical Services
1305.150	Illinois Racing Board Office
1305.170	Moving Office (Repealed)
1305.180	Judges' Stand
1305.190	Drivers' Bench
1305.200	Stabling of Horses
1305.220	Stall Numbers and Distance Poles
1305.230	Licensed Outrider
1305.240	Drinking Fountains and Rest Rooms
1305.250	Telephones
1305.260	Broadcasting and Telecasting
1305.270	Pest Control
1305.280	Alcohol Sales
1305.290	Track Lights

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1305.300	Fire Prevention
1305.310	Backstretch Paging System
1305.320	Admissions (Repealed)
1305.330	Inspection Report
1305.340	Lottery Events at Race Tracks (Repealed)
1305.350	Off-Track Betting Agencies of Other States
1305.370	Reporting of Horsemen's Purse Account
1305.380	Notification of Change

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

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); amended October 9, 1973, filed October 19, 1973; amended October 25, 1973, filed December 17, 1973; amended February 15, 1974, filed February 28, 1974; amended October 25, 1974, filed November 7, 1974; added May 9, 1975, filed May 15, 1975; amended August 21, 1976, filed August 21, 1976, filed August 30, 1976; amended at 2 Ill. Reg. 27, p. 275, effective July 10, 1978; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; codified at 5 Ill. Reg. 10923; amended at 6 Ill. Reg. 11063, effective September 1, 1982; amended at 9 Ill. Reg. 9165, effective May 30, 1985; amended at 14 Ill. Reg. 17661, effective October 16, 1990; amended at 14 Ill. Reg. 20052, effective December 4, 1990; amended at 17 Ill. Reg. 3034, effective February 23, 1993; emergency amendment at 23 Ill. Reg. 7776, effective June 28, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13939, effective November 2, 1999; amended at 28 Ill. Reg. 6596, effective April 19, 2004; amended at 28 Ill. Reg. 11260, effective August 1, 2004; amended at 29 Ill. Reg. 8413, effective June 1, 2005; amended at 34 Ill. Reg. 7741, effective May 24, 2010; amended at 37 Ill. Reg. _____, effective _____.

Section 1305.110 Horse Ambulance

There shall be a horse ambulance at all race tracks under the jurisdiction of the Board for the safe and expedient removal of crippled animals from the track. Horse ambulances must be equipped with a screen for use when an animal must be destroyed in view of the general public, a winch to lift dead or injured animals on to the ambulance, and a removable floor or other satisfactory device for the safe loading of a recumbent horse. Drugs for use by the State Veterinarians, when emergency medication is required, shall be stored in a locked box in the State Veterinarian's office in the detention barn. ~~Said ambulance shall also be equipped with a permanently attached and locked box containing drugs solely for the use of the state veterinarians when emergency medication is required.~~

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1325
SECURITY AND ADMISSIONS

Section	
1325.10	Stable Enclosures Fenced
1325.20	Report of Arrival and Departure of Horses
1325.30	Stable Area Security
1325.40	Policing of Premises
1325.50	Admission to Parts of Premises
1325.60	Identification Cards and Badges <u>(Repealed)</u>
1325.70	Admission Statements
1325.80	Admissions Tax
1325.90	Admissions Records
1325.100	Board Approval of Tickets and Credentials
1325.110	Credential and Ticket Specimens
1325.120	Tax Exempt Credentials
1325.130	Tax Exempt Credentials Report (Repealed)
1325.140	Track Responsible for Credentials
1325.150	Board Access to Records
1325.160	Turnstiles and Electronic Scanning Devices
1325.170	Admission to Track
1325.180	Revocation of Credentials
1325.190	Inspections and Searches (Repealed)
1325.200	Investigative Authority

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

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); amended October 25, 1973, filed November 26, 1973; amended March 14, 1975, filed and effective March 27, 1975; amended May 9, 1975, filed May 15, 1975; amended at 4 Ill. Reg. 41, p. 164, effective September 26, 1980; codified at 5 Ill. Reg. 10955; amended at 14 Ill. Reg. 17665, effective October 16, 1990; amended at 15 Ill. Reg. 5748, effective April 4, 1991;

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amended at 31 Ill. Reg. 15099, effective November 1, 2007; amended at 32 Ill. Reg. 16498, effective October 1, 2008; amended at 35 Ill. Reg. 8504, effective May 23, 2011; amended at 37 Ill. Reg. _____, effective _____.

Section 1325.60 Identification Cards and Badges (Repealed)

- a) ~~The state license office shall issue identification buttons or cards to those persons entitled to enter the stable area. The button shall be worn openly at all times while performing duties in the area. The identification card shall be displayed upon request of security guards and watchmen.~~
- b) ~~An identification card or button may be taken up by direction of the state steward upon reasonable cause.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Commercial Driver Training Schools
- 2) Code Citation: 92 Ill. Adm. Code 1060
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1060.20	Amendment
1060.50	Amendment
1060.120	Amendment
1060.200	Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104; 625 ILCS 5/6-419
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends 1060.20 and 1060.120 to strike provisions relating to the execution of a release to investigate an applicant's criminal history. Pursuant to 625 ILCS 5/6-402 and 6-411, applicants to own a commercial driving school or to each at such a school are required to pass a criminal background investigation. During the 97th General Assembly, Public Act 97-835 amended 6-402 and 6-411 to clarify that the results of the investigation can be used in an administrative hearing. Therefore, it is no longer necessary to include these two provisions in the rule.

The proposed amendment to 1060.50 will allow a commercial driving school to share the same building as another business, so long as the school has a separate entrance. Currently, a school must have a direct entrance from the exterior of the building. The proposed amendment will provide schools with greater flexibility in the location of their facilities.

The proposed amendment to 1060.200 encompasses several changes:

- Sets forth specific requirements for the training lot for CDL-accredited commercial driver training schools;
- Provides that the 160 hours of classroom instruction must be completed within a 9-month period;
- Increases the minimum hour of range and over the road instruction from 16 to 20 and increases the minimum number hours of observation from 10 to 20;

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- When remedial training is necessary, eliminates observation as one of the methods allow and as such, decreases the minimum hours from 78 to 60;
 - Generally re-organizes the Section (for example, practice driving was moved from the classroom paragraph to the behind-the-wheel paragraph);
 - To provide for greater flexibility and recognizing that many students are working fulltime, eliminates the requirement that each class have a definitive starting and completion date. This allows the students to schedule the behind-the-wheel training so as to not conflict with their employment.
- 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 proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a state mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

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

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1060
COMMERCIAL DRIVER TRAINING SCHOOLS

Section	
1060.5	Definitions
1060.10	Unlicensed Person May Not Operate Driver Training School
1060.20	Requirements for School Licenses
1060.30	Driver Training School Names
1060.40	Refund of Application Fees
1060.50	School Locations and Facilities
1060.60	Driver Training School Student Instruction Record
1060.70	Driver Training School Course of Instruction
1060.80	Driver Training School Contracts
1060.90	Inspection of School Facilities
1060.100	Licenses
1060.110	Safety Inspection of Driver Training School Motor Vehicles
1060.120	Requirements to Obtain and Retain a Driver Training Instructor's License
1060.130	Examination for Driver Training Instructor
1060.140	Temporary Permit
1060.150	Driver Training School Responsibility for Employees
1060.160	Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.170	Hearings
1060.180	Teen Accreditation
1060.181	Teen Accreditation Classroom and Behind-the-Wheel Requirements
1060.190	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License, Teen Accreditation, CDL Accreditation, and Instructor's License
1060.200	Commercial Driver's License and/or Endorsement and/or Accreditation
1060.210	Driver Training School Responsibility for Employees (Recodified)
1060.220	Solicitation of Students and Pupils for Commercial Driver Training Instruction (Recodified)
1060.230	Hearings (Recodified)
1060.240	Teen Accreditation (Recodified)
1060.250	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License (Recodified)
1060.260	Commercial Driver's License and/or Endorsement and/or Restriction

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Accreditation (Recodified)

AUTHORITY: Implementing Article IV of the Illinois Driver Licensing Law of the Illinois Motor Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and authorized by Section 2-104(b) of the Illinois Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7788, effective May 9, 1994; amended at 20 Ill. Reg. 3861, effective February 14, 1996; amended at 22 Ill. Reg. 22069, effective December 2, 1998; emergency amendment at 24 Ill. Reg. 8403, effective June 2, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15443, effective October 5, 2000; amended at 25 Ill. Reg. 6409, effective April 26, 2001; amended at 26 Ill. Reg. 15020, effective October 1, 2002; emergency amendment at 28 Ill. Reg. 398, effective December 22, 2003, for a maximum of 150 days; emergency expired May 19, 2004; amended at 28 Ill. Reg. 11925, effective July 26, 2004; amended at 30 Ill. Reg. 11377, effective June 14, 2006; amended at 31 Ill. Reg. 16008, effective November 16, 2007; amended at 33 Ill. Reg. 15811, effective October 27, 2009; amended at 34 Ill. Reg. 19099, effective November 22, 2010; amended at 37 Ill. Reg. 4295, effective March 20, 2013; amended at 37 Ill. Reg. _____, effective _____.

Section 1060.20 Requirements for School Licenses

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training school license:
 - 1) Unless the applicant has at least one motor vehicle owned or leased in the name of the driver training school or school owner indicated on the license, and registered by the Secretary of State Vehicle Services Department, that has been safety inspected and insurance certified as required in subsection (e) for use by the school for driver training purposes and driving instruction.
 - 2) Unless the applicant has at least one person who is employed by or associated with the school, and who is licensed or qualified to be licensed

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by the Department as a driver training instructor for that school.

- 3) Unless the physical facilities meet the requirements of this Part.
- 4) Unless the applicant is of good moral character as required pursuant to IVC Section 6-402(a). In making a determination of good moral character, the Department is not limited to, but may consider, the following:
 - A) Whether the applicant has been convicted of a felony or a misdemeanor. The Department shall consider:
 - i) The relationship of any crime of which the applicant has been convicted to the ability to operate a driver training school;
 - ii) The length of time that has elapsed since the applicant's last criminal conviction;
 - iii) Whether the applicant successfully completed any sentence imposed with the convictions;
 - iv) Whether the applicant has multiple convictions for felony or misdemeanor offenses.
 - B) If the person has been indicted, formally charged or otherwise charged with a felony or a misdemeanor, the license shall be either denied or cancelled.
 - i) If the person whose commercial driver training school license has been denied or cancelled under this Part is adjudicated "guilty" by the court systems, the denial or cancellation previously entered on his/her record in accordance with Section 1060.190(b) shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.

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- ii) If the person whose commercial driver training school license has been denied or cancelled under this Part is adjudicated "not guilty" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.
 - iii) If the person whose commercial driver training school license has been denied or cancelled under this Part is granted a disposition of "court supervision" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.
- 5) To any licensed school owner who, during the course of any and all interaction with students:
- A) engaged in activity that puts the student in danger; or
 - B) engaged in reckless behavior; or
 - C) failed to maintain a professional relationship with students at all times.
- b) Only one driver training school license shall be issued to any individual, group, association, partnership or corporation, and the Department shall deny the application of any driver training school if any of the applicants are unqualified or are already licensed or have made application for another driver training school license.
- c) The applicant shall not be a current salaried or contractual employee of the Secretary of State, as mandated by the guidelines of the Secretary of State's Office policy manual that states that an employee shall not advocate or promote specific

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professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State.

- d) No accreditation program shall remain in operation if properly qualified personnel are not available or if other changes occur that would reduce its qualifications. Exception: in the event of fire, flood or other catastrophe, the school may temporarily continue to operate with facilities that are not up to standards only for the duration of the courses that have been started, if the Director of the Department consents. A Secretary of State employee shall determine that no health or safety hazard exists in violation of any local ordinance or State or federal law or regulation before the Director of the Department shall give consent. No new course can be started until facilities meet the minimum requirements for licensing.
- e) No driver training school shall operate in the State of Illinois unless it provides and files with the Department a continuous surety bond in the principal sum of \$10,000 for a non-accredited school, \$40,000 for a CDL or teenage accredited school, \$60,000 for a CDL accredited and teenage accredited school, \$50,000 for a CDL or teenage accredited school with three or more licensed branches, \$70,000 for a CDL accredited and teenage accredited school with three or more licensed branches, underwritten by a company authorized to do business in the State of Illinois, for the protection of the contractual rights of students as provided in IVC Section 6-402(e). All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, _____, of _____, of hereinafter referred to as Principal and _____, a corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of \$10,000 for a non-accredited school, \$40,000 for a CDL or teenage accredited school, \$60,000 for a CDL accredited and teenage accredited school, \$50,000 for a CDL or teenage accredited school with three or more licensed branches, \$70,000 for a CDL accredited and teenage accredited school with three or more licensed branches, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The condition of this obligation is such that the principal has made

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application for a license or permit to the State of Illinois for the purpose of exercising the vocation of a driver training school. If the Principal faithfully complies with the Illinois Vehicle Code and all rules and regulations that have been or may hereafter be in force concerning the license or permit, and shall save and keep harmless the Obligees from all loss or damage that may be sustained as a result of the issuance of the license or permit to the Principal, this obligation shall be void; otherwise, this obligation shall remain in full force and effect. The bond will expire but may be continued by renewal certificate signed by Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the Commercial Driver Training Section of the Department, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after that 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _____ day of _____, 20__.

Principal _____

Surety _____

By _____

Attorney-in-fact

- f) Upon receipt of a properly executed application for a driver training school license, or driver training instructor's license, the Department shall investigate the qualifications of the applicant, and authorized representatives shall inspect the school property and equipment to determine whether the application should be granted or denied.
- g) An owner or manager shall not engage in fraudulent activity as defined in Section 1060.5.
- h) An owner or employee of a commercial driver training school shall not have been declared to have engaged in fraudulent activity within the 5 years prior to making application.
- i) Licenses shall be issued by the Department.
- j) An owner shall not have possession of questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations. This

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includes questionnaires purposely or inadvertently obtained from any Secretary of State employee or any individual acting on behalf of the Secretary of State.

- k) An owner shall not knowingly use unlicensed instructors for the purpose of classroom or behind the wheel instruction.
- l) An owner or applicant shall not be employed as an administrator and/or teacher of a State-approved high school driver education program.
- m) An owner of a commercial driver training school that provides motorcycle instruction shall not provide any person with an Illinois Department of Transportation Rider Education Course Completion Card.
- n) An individual whose commercial driver training school license has been denied, cancelled, suspended or revoked pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.
- o) ~~If an applicant indicates that he/she has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor, including for use at an administrative hearing should one be requested.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1060.50 School Locations and Facilities

- a) Each driver training school must comply with Section 6-409 of the Illinois Vehicle Code [625 ILCS 5/6-409]. In addition, the branch classroom shall be identified as such by a permanent sign which indicates the location of the main office and classroom and which is reasonably visible to the general public from outside the branch classroom.
- b) The established place of business of each driver training school shall comply with Section 6-406 of the Illinois Vehicle Code [625 ILCS 5/6-406] and, in addition:
 - 1) The main office and each branch office shall have a minimum of 150 square feet of office space;

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- 2) Each school facility must post, in a conspicuous place, on or near the permanent school sign, the days and regular hours when open. A school shall not be deemed open for business unless at least one authorized representative of the school is present; and
- 3) The main office and each branch office of the driver training school ~~shall have direct access from the outside. Any business~~ may be ~~conducted~~ in the same building with another business, providing the other business being conducted is legal and that the business has its own entrance.
- c) The established place of business or branch office, branch classroom or advertised address of any driver training school shall comply with all restrictions contained in Section 6-405(b) of the Illinois Vehicle Code [625 ILCS 5/6-405].
- d) Each established main office and branch office facility must maintain a place of business which shall be open to the general public during posted hours on file with the Secretary of State, a minimum of 8 hours per week. The 8 hours must be on Monday through Friday between the hours of 7 a.m. and 5 p.m.
- e) The classroom facility shall contain the following:
 - 1) Sufficient seating facilities and writing surfaces for students;
 - 2) Charts, diagrams, traffic control devices, or pictures relating to the operation of motor vehicles and traffic laws;
 - 3) Blackboards or other forms of illustrative devices which are visible from all seating areas;
 - 4) Textbooks, reference books and pamphlets relating to the proper operation of motor vehicles and traffic laws;
 - 5) Adequate fire extinguishers in operable condition as required pursuant to Section 6-406(c) of the Illinois Drivers Licensing Law of the Illinois Vehicle Code.
- f) Each main classroom or branch classroom shall have:
 - 1) a minimum of 300 square feet of classroom space and the main classroom

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shall be within close proximity of the main office facility;

- 2) installed a heating and ventilating system adequate to maintain a comfortable room temperature for the occupants;
 - 3) installed an adequate lighting system so as to provide sufficient lighting for the occupants.
- g) A driver training school that has an established place of business and a main classroom facility may operate a branch classroom, provided it meets all requirements of the main classroom.
- 1) Upon receipt by the Department of a written request to open a branch classroom or branch office, an authorized representative of the Department shall inspect the branch office or branch classroom, and, if it complies with the provisions of Section 6-406(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code and this Part, the Department shall issue the appropriate license, which must be displayed in a visibly prominent place in the branch facility.
 - 2) When a branch facility is to be closed, the driver training school shall return the branch facility's license to the Secretary of State in a timely manner.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:
 - 1) To any person who:
 - A) has not held a valid driver's license for any 2 year period preceding the date of application for an instructor's license;
 - B) intends to instruct in L and/or M classification, as defined in 92 Ill. Adm. Code 1030.30(e) and (f); and

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- C) has not held the representative classification for 3 consecutive years immediately prior to the date of application;
- 2) To any person who has been convicted of 3 or more offenses against traffic regulations governing the movement of traffic within the 2 year period immediately preceding the date of application for an instructor's license;
 - 3) To any person who has had 2 or more convictions of a violation that caused an auto accident within the 2 year period immediately preceding the date of application for an instructor's license;
 - 4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to IVC Section 11-501, leaving the scene of a fatal accident, pursuant to IVC Section 11-401, reckless homicide, pursuant to Section 9-3 of the Criminal Code of 2012 [720 ILCS 5/9-3], reckless driving, pursuant to IVC Section 11-503, or any sex or drug related offense within 10 years prior to the date of application; or to any person with more than one of these convictions;
 - 5) To any person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;
 - 6) To any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to IVC Section 6-411(d). An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his/her limbs and feet. The physician must also provide his/her address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d) of this Section;
 - 7) To any person who fails to properly and fully complete an application for

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a license or otherwise indicates that he/she is unqualified to receive a driver training instructor's license;

- 8) To any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to IVC Section 6-417;
- 9) To any person who is currently a salaried or contractual employee of the Secretary of State, as mandated by the guidelines of the Secretary of State's Office policy manual that states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State;
- 10) To any person who fails to supply a complete set of fingerprints to the Department as required pursuant to IVC Section 6-411(b);
- 11) To any person who is not at least 21 years of age and a resident of the State of Illinois;
- 12) To any person who has failed to comply with the provisions of this Part pursuant to IVC Section 6-411(d);
- 13) To any person who is not of good moral character as required pursuant to IVC Section 6-411(a). In making a determination of good moral character, the Department is not limited to, but may consider the following:
 - A) If the person has been convicted of a felony or misdemeanor. The Department shall consider:
 - i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school;
 - ii) The length of time that has elapsed since the owner's last criminal conviction;
 - iii) Whether the applicant successfully completed any sentence imposed with the convictions;

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- iv) Whether the applicant has multiple convictions for felony or misdemeanor offenses.
- B) If the person has been indicted or formally or otherwise charged with a felony or a misdemeanor, the license shall be either denied or cancelled.
- i) If the person whose commercial driver training school instructor license has been denied or cancelled under this Part is adjudicated "guilty" by the court systems, the denial or cancellation previously entered on his/her record in accordance with Section 1060.190(b) shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code.
 - ii) If the person whose commercial driver training school instructor license has been denied or cancelled under this Part is adjudicated "not guilty" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code.
 - iii) If the person whose commercial driver training school instructor license has been denied or cancelled under this Part is granted a disposition of "court supervision" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code;
- 14) To any person whose suspension under IVC Section 11-501.1, 11-501.6 or

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11-501.8 has terminated within 10 years prior to the date of application; or to any person with more than one of the above suspensions under IVC Section 11-501.1 or 11-501.6;

- 15) To any person who has not completed a 30-hour course or an equivalent college or university course approved by the Director of the Department.
 - A) Any person possessing a current and valid commercial driver training instructor's license, or who is renewing a commercial driver training license issued by the Secretary of State's Office, shall be exempt from this requirement.
 - B) A driver training school whose instructor provides training to individuals under the age of 18 years is exempt from this requirement and must complete the mandatory 48 hour course as required in Section 1060.180;
- 16) To any person currently licensed by the Secretary of State as a Third Party Certification Program Safety Officer;
- 17) To any instructor or applicant who is an administrator and/or teacher of a State-approved high school driver education program;
- 18) To any currently licensed instructor who has been convicted of violating IVC Section 11-507 or to an applicant who has been convicted of violating IVC Section 11-507 within 10 years prior to the date of application.

~~b) If an applicant indicates that he/she has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor, including for use at an administrative hearing should one be requested.~~

be) No driver training instructor shall provide behind-the-wheel instruction in a vehicle that is classified higher than the classification of the instructor's driver's license. An instructor may hold two classifications: one classification from Classes A, B, C and D, and one classification from Classes L and M, as defined in 92 Ill. Adm. Code 1030.30. An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C and D vehicles. An

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instructor holding a Class B commercial driver's license may teach students to drive all Class B, C and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.

- | cd) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70, the written test, as provided in 92 Ill. Adm. Code 1030.80, and the highway safety sign test, and shall submit all applicable fees as set out in IVC Section 6-411 before being issued an instructor's license for classroom instruction only.
- | de) All instructors who have ceased to be employed or associated with the designated school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.
- | ef) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130.
- | fg) An instructor shall not engage in fraudulent activity as defined in Section 1060.5.
- | gh) During any and all interaction with students, an instructor:
 - 1) shall not engage in activity that puts the student in danger;
 - 2) shall not engage in reckless behavior; and
 - 3) shall maintain a professional relationship with students at all times.
- | hi) An instructor shall not have possession of questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations. This includes questionnaires purposely or inadvertently obtained from any Secretary of State employee or any individual acting on behalf of the

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Secretary of State.

- | ~~ij~~) An individual whose commercial driver training school instructor license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.
- | ~~jk~~) An instructor of a commercial driver training school that provides motorcycle instruction shall not provide any person with an Illinois Department of Transportation Rider Education Course Completion Card.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1060.200 Commercial Driver's License and/or Endorsement and/or Accreditation

- | a) ~~Accreditation of the Program—~~
Each commercial driver training school that desires to offer instruction to those individuals who wish to obtain a CDL and/or endorsement and/or restriction must be accredited by the Secretary of State through the Department of Driver Services before instruction can be offered or advertised.
 - 1) Upon receipt of proper application for accreditation, the Secretary of State shall investigate the program and verify the information contained in the application. A Secretary of State employee shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Secretary of State employee shall verify that the school meets the standards for CDL accreditation set forth in this Section 1060.200(b) through (e) in addition to all other applicable Sections within this Part. These standards shall be furnished to the school by the Secretary of State before the visit, if the school requests them. If all qualifications and standards are met, the school shall be accredited to offer instruction on how to operate a vehicle with CDL and/or endorsement and/or restriction classification.
 - 2) The accreditation of each school is renewable upon the expiration date of the school license, provided all qualifications and standards are met and the school has been in compliance with this Part.
 - 3) Only qualified teaching personnel who already possess a CDL and/or endorsement and/or restriction classification may teach the drive portion

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of instruction.

- b) ~~Required Facilities—All CDL, endorsement and/or restriction accredited schools must provide all classroom and vehicle facilities and equipment prescribed in IVC Chapter 6, Article IV and Section 1060.50. Those who desire to provide instruction to persons who wish to obtain a CDL, endorsement and/or restriction classified license must additionally provide a vehicle training area, owned or leased by the school, with sufficient space to properly accommodate the number of vehicles the school has in operation and appropriate off-street maneuvers.~~
- 1) ~~All CDL, endorsement and/or restriction accredited schools must provide all classroom and vehicle facilities and equipment prescribed in IVC Chapter 6, Article IV and Section 1060.50.~~
 - 2) ~~Those who desire to provide instruction to persons who wish to obtain a CDL, endorsement and/or restriction classified license must additionally provide a vehicle training area, owned or leased by the school. The area must:~~
 - A) ~~be a minimum of 27,000 square feet;~~
 - B) ~~be made of a solid surface and be able to accept paint, which includes but is not limited to concrete, asphalt and crushed compacted limestone;~~
 - C) ~~have adequate lighting, approved by the Secretary of State, which is required for yard instruction to take place after dark;~~
 - D) ~~have adequate parking space to accommodate all students when in the training area;~~
 - E) ~~be maintained and be free of disrepair, including, but not limited to, potholes and ruts; and~~
 - F) ~~contain restroom facilities if the school's main or branch location is not within 100 feet of the training facility.~~
- c+) Required Course of Instruction:

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- 1A) CDL accredited driving schools must administer driving instruction that corresponds to a curriculum provided to the school by the Secretary of State. Each CDL accredited driving school must provide the minimum of 160 hours of instruction in not less than a 4 week period to each student, as indicated in the curriculum. A student must complete the 160 hours of instruction within 9 months after starting instruction.
- 2B) The following curriculum must be offered to each first time CDL student in a minimum of 4 weeks. Each student must receive 160 hours of CDL instruction as outlined in this subsection (b)(1)(B). The training schedule outlined must follow the Illinois Occupational Skill Standards, Entry-Level Truck Driver Manual (March 1999) endorsed for Illinois by the Illinois Occupational Skill Standards and Credentialing Counsel. This manual is available from the Secretary of State Driver Facility, 650 Roppolo Drive, Elk Grove Village IL 60007.
- Ai) Classroom. 40 hours of classroom instruction; this includes, but is not limited to, preparation for the Secretary of State's written examinations and all chapters of this curriculum.
- Bi) Range. A minimum of 2016 hours of ~~vehicle training area~~ behind-the-wheel instruction. This requires one-on-one instruction with a properly licensed CDL instructor and vehicle on an approved vehicle training area.
- Ciii) Over the Road. A minimum of 2016 hours of behind-the-wheel instruction on public streets and highways. This requires one-on-one instruction with a properly licensed CDL instructor and vehicle.
- Div) Observation. 2010 hours of observation experience composed of behind-the-wheel range observation of the vehicle training area and over-the-road training.
- Eiv) Remedial Training. 6078 hours of additional classroom training, behind-the-wheel range observation, and ~~vehicle training area~~/over-the-road training based on each CDL student's specific needs.

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- ~~3C~~) Instructional materials shall be available and shall include a form of video delivery.
- ~~4D~~) A professional library containing an assortment of reference and textbooks, pamphlets, and other publications, including but not limited to the CDL Study Guide, available for the use of students and teachers.
- ~~5E~~) A brush-up course of instruction may be offered to individuals who currently hold or have held a CDL issued under the requirements of 49 CFR 383, as incorporated in Section 1060.5. The school must maintain records that verify students qualify for a brush-up course. This course may be offered on an hourly basis. No brush-up course may be offered to any individual who has never held a CDL ~~or its equivalent~~.
- ~~6F~~) Classroom Instruction – CDL, endorsement and/or restriction classification instruction:
- ~~Ai~~) ~~Each classroom course must have a definite starting date and completion date.~~—A listing of students enrolled in each course shall be sent to the Secretary of State, within 3 days after the third day of classroom instruction, on forms provided by the Secretary of State.
- ~~Bi~~) Classroom instruction shall include subject matter relating to the rules of the road as contained in the CDL Study Guide, safe driving practices, pedestrian safety, defensive driving techniques, behavioral characteristics of drivers, federal regulations relating to the Department of Transportation and CDL standards (49 CFR 383), vehicle insurance, the use of safety devices, and the effects of alcohol and drugs on driving.
- ~~iii~~) ~~Practice driving instruction must comply with the curriculum provided by the Office of the Secretary of State.~~
- ~~Civ~~) Audio-visual materials shall be used as a supplement to the teacher's presentation, but not as a replacement. ~~Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and shall include outside reading as well as preparation for~~

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~~testing.~~

- ~~Dv)~~ ~~A regular schedule of classroom testing shall be followed.~~ Student progress is to be periodically evaluated. Criteria for passing or failing the course shall be evident to the student, and successful completion clearly defined.
- ~~Evi)~~ Each student shall be informed, prior to the time instruction begins, of the amount of any and all fees or charges made for enrollment or registration, tuition, use of equipment, or materials provided by the CDL, endorsement and/or restriction accredited driver training program.
- ~~vii)~~ ~~Instruction of each student in the class shall begin on the date and location designated by advertisement and continue throughout the designed period, unless the course is cancelled and the student is refunded any fees already paid.~~
- ~~7G)~~ Laboratory Instruction – For persons taking instruction for CDL, endorsement and/or restriction classification:
- ~~Ai)~~ Behind-the-wheel instruction shall not begin until the student is enrolled in a classroom program of CDL, endorsement and/or restriction classification driver training and obtains the required knowledge for the safe operation of a vehicle in traffic as provided in 49 CFR 383.110-121.
- ~~Bii)~~ Each student must have in his/her possession, when engaged in vehicle operation, a valid and properly classified instruction permit or driver's license.
- ~~Ciii)~~ Practice driving instruction must comply with the curriculum provided by the Office of the Secretary of State, and shall include but not be limited to pre-trip inspection, actual experience in starting, stopping, shifting, turning, backing, docking, parking, steering and emergency situation procedures.
- ~~Div)~~ CDL skills testing for classification A must be given in a representative power unit with a multi-range transmission with no

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fewer than 9 forward gears and a representative trailer at least 48 feet long with a tandem axle.

~~82~~) Student Ratio Per Course

- A) The total number of students enrolled in each CDL accredited ~~driving school during course in~~ any ~~30-day-given~~ period shall not exceed 5 students per each currently licensed instructor.
- B) The total number of students enrolled in each CDL accredited ~~driving school during course in~~ any ~~given30-day~~ period shall not exceed 6 students for each currently registered CDL vehicle.

~~de~~) Classroom Teacher Qualifications

- 1) Each CDL, endorsement and/or restriction accredited driver training school must have at least one classroom instructor employed by the school who meets the standards of IVC Section 6-411.
- 2) Required Classroom Teacher Qualifications:
 - A) A driver training instructor teaching the classroom portion of a CDL, endorsement and/or restriction accredited course must comply with Sections 1060.120 and 1060.130.
 - B) The instructor must possess good physical and mental health, as determined by a physician. An application/physical examination form, provided by the Secretary of State, shall be completed by the instructor and a physician.
 - C) A classroom instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, this Part and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704). The written examination shall consist of 125 questions (90 multiple choice and 35 true/false) and the instructor must correctly answer 106 questions to pass.

~~ed~~) CDL, Endorsement and/or Restriction Behind-the-Wheel Teacher Qualifications

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- 1) Each CDL, endorsement and/or restriction accredited driver training school must have at least one behind-the-wheel instructor employed by the school who meets the standards of IVC Section 6-411.
- 2) Required Behind-the-Wheel Teacher Qualifications:
 - A) A driver training instructor teaching the behind-the-wheel portion of a CDL, endorsement and/or restriction accredited course must comply with the provisions of Sections 1060.120 and 1060.130 and be licensed in a classification representative of the vehicle in which he or she intends to teach for at least 3 consecutive years immediately prior to application (a one month lapse in renewal will not negate the 3 consecutive years requirement).
 - B) The instructor must possess good physical and mental health, as determined by a physician. An application/physical examination form, provided by the Secretary of State, shall be completed by the instructor and a physician.
 - C) The instructor shall give instruction only in the classification, endorsement and/or restriction in which he/she is licensed.
 - D) A behind-the-wheel instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704), as provided for in subsection (c)(1)(C). In addition, a behind-the-wheel instructor must pass a practical test regarding his/her ability to drive a vehicle of CDL, endorsement and/or restriction classification (92 Ill. Adm. Code 1030.85).

| **fe)** Student Instruction Records

- 1) Records shall be maintained by schools that document daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the dates of classroom instruction, behind-the-wheel instruction and observation time. Students are to be identified by their name, address and other personal information. A driver license number also must be entered on the student record. The records are to be on file in the office of the

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management for a period of 3 years.

- 2) The driver school with a CDL, endorsement and/or restriction accreditation must meet all requirements of Section 1060.60.
- 3) The school and each student must maintain separate but identical logs of the student's behind-the-wheel instruction and observation time. The logs must include the dates of instruction, type of instruction, student/instructor signatures and odometer readings of the vehicles used for instruction.
- 4) A Secretary of State form shall be used for submitting names of those students who have satisfactorily fulfilled the CDL accreditation course. The form shall be signed by an authorized official of the school.

| **gf)** The Secretary of State shall suspend, revoke, cancel or deny the license and/or accreditation of any driver training school or driver training instructor if the school or instructor fails to comply with this Part or 49 CFR 383.

| **hg)** The Secretary of State may reduce the amount of scheduled skills testing for CDL Accredited schools that have a student failure rate of 45% or greater in the preceding 2 calendar months.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Film Production Services Tax Credit Program
- 2) Code Citation: 14 Ill. Adm. Code 528
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
528.20	Amend
528.30	Amend
528.62	Amend
528.63	Amend
528.70	Amend
528.75	Amend
- 4) Statutory Authority: Implemented and authorized by the Film Production Services Tax Credit Act of 2008 [35 ILCS 16]
- 5) Effective Date of Rulemaking: July 12, 2013
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 36 Ill. Reg. 9823; July 13, 2012.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Amendments: This rulemaking will preserve and expand the existing workforce in Illinois, supporting the film industry in Illinois.
- 16) Information and questions regarding this rulemaking shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield, IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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TITLE 14: COMMERCE

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 528

ILLINOIS FILM PRODUCTION SERVICES TAX CREDIT PROGRAM

Section	
528.10	Purpose
528.20	Definitions
528.30	Eligibility Determination
528.40	Application Process and Requirements
528.50	Evaluation of Application
528.60	Approval/Denial of Applications
528.62	Economic Impact Data
528.63	Diversity Impact Data
528.65	Accredited Production Certification
528.70	Request for Tax Credit Certificate
528.71	Approval/Denial of Tax Credit Certificate Request
528.75	Amount and Duration of Tax Credit
528.80	Interim and Final Film Tax Credit Certifications (Repealed)
528.85	Transfer of Tax Credit
528.90	Non-Compliance Provisions (Repealed)
528.100	Books and Records
528.110	Data for Reports to the General Assembly
528.120	Confidentiality of Documents and Data

AUTHORITY: Implemented and authorized by the Film Production Services Tax Credit Act of 2008 [35 ILCS 16].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 957, effective December 26, 2003; emergency expired May 23, 2004; adopted at 28 Ill. Reg. 14506, effective October 22, 2004; amended at 31 Ill. Reg. 2253, effective January 18, 2007; amended at 37 Ill. Reg. 12010, effective July 12, 2013.

Section 528.20 Definitions

The following definitions are applicable to this Part:

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"Accredited Production" means, for productions commencing before May 1, 2006, a film, video, commercial, or television production that has been certified by the Department in which the aggregate Illinois labor expenditures included in the cost of the production exceed \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of ~~less than 30 minutes~~29 minutes or less. For productions commencing on or after May 1, 2006, "accredited production" means a film, video, commercial, or television production that has been certified by the Department in which the aggregate Illinois production spending included in the cost of the production exceeds \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of ~~less than 30 minutes~~29 minutes or less. "Accredited production" does not include a production that:

is news, current events, or public programming, or a program that includes weather or market reports;

~~*is a talk show;*~~

is a production in respect of a game, questionnaire, or contest;

is a sports event or live activity;

is a gala presentation or awards show;

is a finished production that solicits funds;

is a production produced by a film production company if records, as required by 18 USC 2257, are to be maintained by that film production company with respect to any performer portrayed in that single media or multimedia program; or

is a production produced primarily for industrial, corporate, or institutional purposes. (Section 10 of the Act)

"Accredited Production Certificate" means a certificate issued by the Department certifying that the production is an accredited production that meets the guidelines of the Act. (Section 10 of the Act)

"Act" means the Film Production Services Tax Credit Act [35 ILCS ~~1615~~].

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"Applicant" means a taxpayer that is a film production company or a taxpayer working in association with a film production company that is operating or has operated an accredited production located within the State of Illinois and that owns the copyright in the accredited production throughout the Illinois production period or has contracted directly with the owner of the copyright in the accredited production or a person acting on behalf of the owner to provide services for the accredited production, where the owner of the copyright is not an eligible production corporation. (Section 10 of the Act)

"Business Owned by a Person with a Disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operation of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under ~~section~~Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability". [30 ILCS 575/2(A)(4.1)]

"Commercial Domicile" means the principal place from which the trade or business of a person is directed or managed.

"Credit" or "Tax Credit" means:

~~For an accredited production approved by the Department on or before January 1, 2005 and commencing before May 1, 2006, the amount equal to 25% of the Illinois labor expenditure approved by the Department. For Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department, in an accredited production approved by the Department after January 1, 2005 and commencing before May 1, 2006, the applicant shall receive an enhanced credit of 10% in addition to the 25% credit.~~

~~For an accredited production commencing on or after May 1, 2006, the amount equal to:~~

~~20% of the Illinois production spending for the taxable year; plus~~

~~15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or~~

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~~high unemployment, as determined by the Department. (Section 10 of the Act)~~

For an accredited production commencing on or after January 1, 2009, the amount equal to:

30% of the Illinois production spending for the taxable year; plus

15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department (Section 10 of this Act).

"Department" means the Illinois Department of Commerce and Economic Opportunity, formerly known as the Illinois Department of Commerce and Community Affairs.

"Director" means the Director of the Department.

"Diversity Data or Information" means data pertaining to gender, race, ethnicity and disability of all employees of the applicant.

"Diversity Plan" means a written document through which the applicant assures the Department that minorities and females will have equal opportunities in recruitment, selection, appointment, promotion, training, and related employment areas in the accredited production. The diversity plan must also describe the manner in which the applicant plans on hiring vendors certified by the Business Enterprise Council under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] with respect to the accredited production. The diversity plan must also detail the manner in which the applicant proposes to achieve its goals to ensure employment of protected classes to achieve a diverse workforce, rather than merely to assure nondiscrimination.

"Economic Impact Data" means data pertaining to the types of jobs (production, talent and vendor) created and retained in Illinois, as well as the total amount an applicant spends in Illinois on the accredited production.

"Employee of the Applicant" or "Employee", ~~for means, for accredited productions commencing before May 1, 2006, any employee, agent, vendor, or~~

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~~contractor whose Illinois wages are included in the cost of the accredited production. For~~ accredited productions commencing on or after May 1, 2006, ~~"employee of the applicant" or "employee"~~ shall mean only an individual who is an employee of the applicant for purposes of employment taxes imposed under ~~subtitle~~Subtitle C of the Internal Revenue Code (26 USC ~~subtitle~~Subtitle C).

"Entry Level Positions" means the lowest level of a hierarchy in a production, including untrained or unskilled labor working on a production, such as a production assistant.

"Female" shall mean *a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.* [30 ILCS 575/2(A)(2)]

"Female Owned Business" *means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.* [30 ILCS 575/2(A)(4)]-

"Illinois Labor Expenditure" means Illinois gross wages paid to employees of the applicant for services on the accredited production. To qualify as an Illinois labor expenditure, the expenditure must be:

reasonable in the circumstances;

included in the federal income tax basis of the property. For purposes of this provision, an expenditure that is immediately expensed as an advertising cost under Treasury Regulations section 1.162-1(a) or as a qualified film, television or commercial production cost under section 181 of the Internal Revenue Code shall be treated as included in the federal income tax basis of the accredited production if the expenditure would be required to be capitalized under section 263A of the Internal Revenue Code if that section applied to the accredited production;

incurred by the applicant for services on or after January 1, 2004;

incurred for the production stages of the accredited production, from the final script stage to the end of the post-production stage;

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limited to the first \$25,000 of wages paid or incurred to each employee of an accredited production commencing before May 1, 2006 and the first \$100,000 of wages paid or incurred to each employee of an accredited production commencing on or after May 1, 2006;

for an accredited production commencing before May 1, 2006, exclusive of Illinois gross wages and benefits paid to or incurred for the 2 highest paid employees of the accredited production;

directly attributable to the accredited production;

paid in the tax year for which the applicant is claiming the credit or no later than 60 days after the end of the tax year;

paid to persons residing in Illinois at the time the payments were made;
and

paid for services rendered in Illinois. (Section 10 of the Act)

"Illinois Production Spending" means *the expenses incurred by the applicant, that are reasonable under the circumstances and directly attributable to the accredited production, including, without limitation, all of the following:*

expenses to purchase, from vendors within Illinois, tangible personal property that is used in the accredited production in Illinois;

expenses to acquire services, from vendors in Illinois, for film production, editing, or processing in Illinois; and

the compensation, not to exceed \$100,000 for any one employee of the applicant, for contractual or salaried employees who are Illinois residents performing services with respect to the accredited production in Illinois.

(Section 10 of the Act)[35 ILCS15/10]

"Illinois Resident" means an individual who is domiciled in this State during the accredited production. Except in a case ~~in which~~^{where} the applicant has actual knowledge, as shown in its books and records, that an individual is not an Illinois resident, the possession by an individual of ~~an~~ driver's license or other identification issued by this State prior to the commencement of the accredited

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production shall be sufficient proof that the individual is an Illinois resident and the address on the license or identification shall be deemed correct.

"Jobs Created and Retained" shall be measured in full-time equivalent jobs. In the case of a person hired as an "extra", each person hired for each day shall be deemed a full-time equivalent job for that day, based on the film industry standard equivalency of a "hire", which is a per day, per person standard. In other words, when the film industry hires an "extra" it considers each "extra" position to be a one day job that was created to fill a particular position for a particular purpose for a particular time.

"Management Position" means anyone in a supervisory or managerial position who has control over other employees who report to that individual. Management roles include, but are not limited to, coordinators, directors, managers, supervisors, masters and department heads.

"Minority" *shall mean a person who is a citizen or lawful resident of the United States and who is:*

African American (a person having origins in any of the black racial groups in Africa);

Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);

Asian American (a person having origins in any of the original peoples of the Far East, Southeast, Asia, the Indian Subcontinent or the Pacific Islands); or

Native American or Alaskan Native (a person having origins in any of the original peoples of North America). [30 ILCS 575/2(A)(1)].

"Minority Owned Business" means a *business concern that is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock is owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are*

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controlled by one or more of the minority individuals who own it. [30 ILCS 575/2(A)(3)].

"Person with a Disability" means *a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under Section 2(A)(2.1) of the Business Enterprise for Minorities, Females, and Person with Disabilities Act.* [30 ILCS 575/2(A)(2.05)]

"Commencement or Start of Principal Filming or Taping" means the date on which actual filming or taping of an accredited production commences. In other words, principal filming or taping begins at the culmination of preparation activity and starts with photography or taping of principal actors or action. In the case of an animated production, the commencement or start of filming or taping is the date on which begins the creation of artwork to be used in actual frames in the film.

"Production Staff and Crew" means office, production and post-production staff~~office production staff and on-set technicians~~, including, but not limited to, accountants, coordinators, secretaries, camera, casting, construction, costume, electric, editing, grip, location, hair, make-up, props, swing gang, set decorating, sound, special effects, transportation, and visual effects.

"State" means the State of Illinois.

"Talent Related Positions" means any speaking, background or extra roles that appear in front of the camera. Talent refers to on screen performers holding these positions.

"Tax Credit Certificate" means the tax credit certificate issued by the Department to the applicant certifying that it has complied with all statutory requirements of the Act and this Part and that it is entitled to a credit under the Act.

"Taxpayer" means any person as defined by and subject to the tax imposed by the Illinois Income Tax Act [35 ILCS 5/1501(a)(18), (a)(24)].

"Treasury Regulations" means the rules of the U.S. Internal Revenue Service published at Title 26 of the Code of Federal Regulations.

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"Vendor in Illinois." Expenditures for purchases of tangible personal property or services from a vendor in Illinois shall mean:

Purchases of tangible personal property for use in Illinois on an accredited production from a person who is registered under the Illinois Retailers' Occupation Tax Act (ROTA) [35 ILCS 120]. A copy of the purchase receipt showing that the purchase was made at an Illinois location and that Illinois Retailers' Occupation Tax was paid shall be sufficient proof that the purchase was made from a vendor in Illinois. For tangible personal property ordered by mail, telephone or internet, a copy of the seller's ROTA registration certificate, along with a receipt showing that Illinois Use Tax was collected by the vendor, shall be sufficient proof that the purchase was made from a vendor in Illinois. Documentation that shows that Illinois Use Tax was collected by the vendor, but either does not show an Illinois address for the sale or is not accompanied by a ROTA registration certificate, shall not be sufficient proof that the purchase was made from a vendor in Illinois.

The lease or rental of real property located in Illinois for use in an accredited production, including hotels or other lodging for employees working on the accredited production.

The lease or rental of an automobile (as defined in the Illinois Automobile Renting Occupation and Use Tax Act [35 ILCS 155]) for use in an accredited production on which the rentor collects the Illinois Automobile Renting Occupation and Use Tax from the rentee.

The lease or rental of other tangible personal property for use in an accredited production if the owner of the property has paid Illinois Use Tax on the property. A copy of the invoice or receipt for the lease or rental showing an Illinois address for the lessor, and showing that no other state's sales tax is collected from the lessee, shall be sufficient proof that the transaction was with a vendor in Illinois.

The purchase of financial services (including insurance and the borrowing of funds) from a lender or insurer whose commercial domicile is in this State.

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The purchase of other services with respect to an accredited production from an Illinois resident or from a person whose commercial domicile is in this State. For purposes of this provision only, the commercial domicile of a person whose business address (as shown in the records of the applicant) is in this State.

A vendor in Illinois that is a corporation, limited partnership, limited liability company, or limited liability partnership must register and remain an entity in good standing with the Illinois Secretary of State, Department of Business Services, throughout the duration of the production.

"Vendor Related Positions" means jobs obtained or created through a subcontractor, which includes but is not limited to security, janitorial, printing, florist, dry cleaners, and limousine services.

"Wages" means all compensation paid for services rendered by an employee in connection with an accredited production, including health, life, and disability insurance premiums, FICA taxes, pension contributions, expense reimbursement, and accrued vacation and sick pay.

(Source: Amended at 37 Ill. Reg. 12010, effective July 12, 2013)

Section 528.30 Eligibility Determination

Applicants must satisfy all of the following criteria in order to be eligible for a credit:

- a) Ownership of Copyright in Accredited Production
 - 1) The applicant must *own the copyright in the accredited production throughout the Illinois production period; or*
 - 2) The applicant has *contracted directly with the owner of the copyright in the accredited production, or a person acting on behalf of the owner, to provide services for the production, where the owner, of the copyright is not an eligible production corporation.* (Section 10 of the Act)
- b) Aggregate Illinois Labor Expenditures — Accredited Productions Commencing Before May 1, 2006

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~~In order to qualify for a credit under the Act, the applicant must incur, in the 12-month period after the commencement of principal filming or taping of the production, Illinois labor expenditures that exceed the following amounts from pre-production through post-production:~~

- ~~1) \$100,000 for productions of 30 minutes or longer;~~
- ~~2) \$50,000 for productions of 29 minutes or less.~~

b)e) Aggregate Illinois Production Spending – Accredited Productions Commencing on or After May 1, 2006

In order to qualify for a credit under the Act, the applicant must incur, in the 12-month period after the commencement of principal filming or taping of the production, Illinois production spending that exceeds the following amounts from pre-production through post-production:

- 1) \$100,000 for productions of 30 minutes or longer;
- 2) \$50,000 for productions of ~~29 minutes or less~~ than 30 minutes.

c)d) Diversity Plan

The applicant must submit a diversity plan that meets the criteria set forth in Section 528.20 of this Part.

d)e) Competitive Need for Credit

The applicant must file a written statement or other documentation evidencing that the receipt of the credit is essential to the decision to operate the accredited production in Illinois. The documentation must show that the applicant has multi-state or international location options and could reasonably locate outside the State, or can demonstrate that at least one other state or nation is being considered for the accredited production, or other documentation showing that the receipt of the credit is a major factor in the applicant's decision to locate the accredited production in Illinois.

e)f) Training Programs

In order to qualify for a credit, the applicant must advise the Department whether it *intends to participate in training, education, and recruitment programs*, if available, *that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry and are designed to promote*

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and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population. (Section 30(a)(4) of the Act)~~[30 ILCS 15/30(a)(4)]~~

(Source: Amended at 37 Ill. Reg. 12010, effective July 12, 2013)

Section 528.62 Economic Impact Data

~~The Each quarter, the~~ applicant or its representative shall use its best efforts in submitting its economic information to the Department related to the following:

- a) Jobs Created and Retained. This information shall document the number of jobs created and retained for production, talent and vendor type jobs. Additionally, with respect to the production type of jobs, the applicant must use its best efforts to supply information disclosing the number of production type jobs created and/or retained and whether the production type jobs were entry, management or skilled labor.
- b) Production Costs. This information shall document the amount of production costs in various industries in Illinois. Industry production costs include, but are not limited to, vendor expenditures for catering, dry cleaning, janitorial services, maid services, security, transportation, etc.

(Source: Amended at 37 Ill. Reg. 12010, effective July 12, 2013)

Section 528.63 Diversity Impact Data

~~The Each quarter, the~~ applicant or its representative shall use its best efforts in submitting its diversity information to the Department related to gender and ethnicity of all employees hired and the business ownership status of vendors hired. This information shall include job creation number for:

- a) Production staff and crew;
- b) Entry level positions;
- c) Management positions;
- d) Talent related positions; and

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- e) Vendors (ownership status, i.e., businesses owned by minorities, females and persons with disabilities).

(Source: Amended at 37 Ill. Reg. 12010, effective July 12, 2013)

Section 528.70 Request for Tax Credit Certificate

The applicant may request a tax credit certificate from the Department certifying the actual amount of the credit awarded to the applicant at any time following the completion of the accredited production, but in no event later than 2 years following the completion of the production. In a case where a single application was filed for two or more productions, a single tax credit certificate may, at the request of the applicant, be issued for more than one production. The tax credit will be issued upon the Department's verification of all costs submitted as qualifying as the applicant's Illinois labor expenditures and verification that the applicant has met or made good-faith efforts in achieving the goals of the diversity plan included with its application as described in Section 528.20 of this Part.

- a) If an accredited production is not completed prior to the close of the applicant's taxable year, at the election of the applicant, a tax credit certificate dated as of the last day of the taxable year may be used for Illinois labor expenditures incurred during that taxable year or within 60 days after the close of that taxable year or Illinois production spending incurred during that taxable year. (Section 10 of the Act)
- b) ~~In the case of an accredited production commencing before May 1, 2006, in which some Illinois labor expenditures are incurred in a taxable year of the applicant and some are incurred more than 60 days after the close of that taxable year:~~
- 1) ~~The applicant may request a single tax credit certificate for all Illinois labor expenditures incurred. If all Illinois labor expenditures are incurred not later than 60 days after the close of the last full taxable year of production, the tax credit certificate may be dated as of the last day of that taxable year as provided in subsection (a); or~~
 - 2) ~~The applicant may submit a separate request for a tax credit certificate for each taxable year in which Illinois labor expenditures are incurred. Each request may, at the applicant's election, include Illinois labor expenditures incurred no later than 60 days after the end of the tax year as provided in~~

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~~subsection (b)(1) or only those Illinois labor expenditures incurred in the taxable year; provided that no Illinois labor expenditure may be claimed or allowed on more than one request.~~

- ~~b)e)~~ In the case of an accredited production commencing on or after May 1, 2006, in which some Illinois production spending is incurred in a taxable year of the applicant and some is incurred after the close of that taxable year:
- 1) The applicant may request a single tax credit certificate for all Illinois production spending incurred; or
 - 2) The applicant may submit a separate request for a tax credit certificate for each taxable year in which Illinois production spending is incurred.
- ~~c)d)~~ With each request for a tax credit certificate filed on or after the effective date of this rulemaking, the applicant shall provide:
- 1) An itemized statement of the Illinois labor expenditures or Illinois production spending for which the credit is claimed and of Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment for which additional credit is claimed;
 - 2) Copies of the books and records of the applicant for the accredited production, showing the Illinois labor expenditures or Illinois production spending for which the credit is claimed, and all documentation necessary to support its computation; and
 - 3) An attestation by a licensed certified public accountant (CPA), in the form prescribed by the Department, that the computations are supported by the copies of the books, records and other documents of the applicant that are attached to the request and that the licensed CPA~~certified public accountant~~ has examined the books, records and other documents according to procedures agreed upon by the Department. An examination of the books, records or other documents must be performed by the licensed CPA quarterly or at the conclusion of production if production lasted less than a quarter. The attestation and examination must be performed by a licensed CPA~~certified public accountant~~:

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- A) who is qualified and independent of the applicant under the professional standards established by principles of the American Institute of Certified Public Accountants, specifically the Statements on Standards of Attestation Engagements at AT Sec. 101 (Attest Engagements) and AT Sec. 201 (Agree-Upon Procedures Engagements) the Securities and Exchange Commission regulations at 17 CFR 210.2-01; and
- B) whose engagement to provide the attestation was approved by the Department before work on the engagement was commenced.

(Source: Amended at 37 Ill. Reg. 12010, effective July 12, 2013)

Section 528.75 Amount and Duration of Tax Credit

~~a) For accredited productions commencing on or after January 1, 2009, eligible applicants will be awarded a credit equal to 30% of the Illinois production spending approved by the Department plus 15% of Illinois labor expenditures approved by the Department for employees who earn more than \$1,000 on the production and live in geographic areas of high poverty or high unemployment in Illinois. (Section 10 of the Act) For tax years beginning on or after January 1, 2004, a person who has been awarded a credit under the Act is entitled to claim the credit against the taxes imposed under Section 201(a) and (b) of the Illinois Income Tax Act [35 ILCS 5/201(a) and (b)] in an amount determined by the Department. If the applicant is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under sections 702 and 704 and Subchapter S of the Internal Revenue Code (26 USCA 702 and 704). For tax years ending prior to July 11, 2005 (the effective date of Public Act 94-0171), the credit may not be carried forward or back. For tax years ending on or after July 11, 2005, if the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a tax liability, the earlier credit shall be applied first. In no event shall a credit under the Act reduce the taxpayer's liability to less than zero. [35 ILCS 5/213] b) For accredited productions commencing before May 1, 2006, eligible applicants will be awarded a credit equal to 25% of the Illinois labor expenditures approved by the Department for an accredited production. In addition, accredited productions approved by the Department after January 1, 2005 will be entitled to an additional 10% film tax credit for the Illinois labor expenditures approved by the Department for employees who earn more than \$1,000 on the production and live in geographic areas of high poverty or high unemployment in Illinois.~~

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~~(Section 10 of the Act)c)For accredited productions commencing on or after May 1, 2006, eligible applicants will be awarded a credit equal to 20% of the Illinois production spending approved by the Department plus 15% of Illinois labor expenditures approved by the Department for employees who earn more than \$1,000 on the production and live in geographic areas of high poverty or high unemployment in Illinois. (Section 10 of the Act)~~

(Source: Amended at 37 Ill. Reg. 12010, effective July 12, 2013)

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- 1) Heading of the Part: Illinois Live Theater Production Tax Credit Program
- 2) Code Citation: 14 Ill. Adm. Code 532
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
532.10	New
532.20	New
532.30	New
532.40	New
532.50	New
532.60	New
532.70	New
532.80	New
532.90	New
532.100	New
532.110	New
532.120	New
- 4) Statutory Authority: Implemented and authorized by the Illinois Live Theater Production Credit Act [35 ILCS 17]
- 5) Effective Date of Rulemaking: July 12, 2013
- 6) Do these rules contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 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 Proposal published in *Illinois Register*: 36 Ill. Reg. 9841; July 13, 2012
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will these rules replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking will preserve and expand the existing workforce in Illinois, supporting the live theater industry in Illinois.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield, IL 62701

217/557-1820

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

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TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 532

ILLINOIS LIVE THEATER PRODUCTION TAX CREDIT PROGRAM

Section

532.10	Purpose
532.20	Definitions
532.30	Live Theater Tax Credit Directives
532.40	Live Theater Tax Credit Amount
532.50	Application for Accredited Theater Production Certificate
532.60	Approval/Denial of Accredited Theater Production Certificate
532.70	Request for Theater Tax Credit Award
532.80	Approval/Denial of Theater Tax Credit Award
532.90	Calculation of Theater Tax Credit Award
532.100	Live Theater Tax Credit Program Evaluation and Report to Illinois General Assembly
532.110	Transfer of Theater Tax Credit Award
532.120	Confidentiality of Documents and Record Retention Requirements

AUTHORITY: Implementing and authorized by the Live Theater Production Tax Credit Act [35 ILCS 17].

SOURCE: Adopted at 37 Ill. Reg. 12028, effective July 12, 2013.

Section 532.10 Purpose

The Department shall make live theater tax credit awards under the Live Theater Production Tax Credit Act for the purpose of preserving and expanding the existing work force in Illinois, supporting the live theater industry in Illinois, promoting tourism in Illinois and stimulating economic development in Illinois. Moreover, *it shall be the policy of this State to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population through the creation and implementation of training, education and recruitment programs organized in cooperation with Illinois colleges and universities, labor organizations and the commercial for-profit live theater industry.* [35 ILCS 17/10-5]

Section 532.20 Definitions

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The following definitions are applicable to this Part:

"Accredited Theater Production" means a for-profit live stage presentation in a qualified production facility, as defined in this Section, that is either a pre-Broadway production or a long-run production for which the aggregate Illinois labor and marketing expenditures exceed \$100,000. [35 ILCS 17/10-10]

"Accredited Theater Production Certificate" means a certificate issued by the Department certifying that the production is an accredited theater production that meets the guidelines of the Act. [35 ILCS 17/10-10]

"Act" means the Live Theater Production Tax Credit Act [35 ILCS 17].

"Applicant" means:

a taxpayer that is a theater producer, owner, licensee, operator, or presenter that is presenting or has presented a live stage presentation located within the State of Illinois who:

owns or licenses the theatrical rights of the stage presentation for the Illinois production period; or

has contracted or will contract directly with the owner or licensee of the theatrical rights or a person acting on behalf of the owner or licensee to provide live performances of the production.

an applicant that directly or indirectly owns, controls, or operates multiple qualified production facilities shall be presumed to be and considered for the purposes of the Act to be a single applicant; provided, however, that, as to each of the applicant's qualified production facilities, the applicant shall be eligible to separately and contemporaneously apply for and obtain accredited theater production certificates, stage accredited theater productions, and apply for and receive a tax credit award certificate for each of the applicant's accredited theater productions performed at each of the applicant's qualified production facilities. [35 ILCS 17/10-10]

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"Broadway's Theater District" means the theater district located in Midtown Manhattan New York and shall include any theater with more than 500 seats that the American Theater Wing and the Broadway League have deemed eligible for the Tony Awards or any theaters that appear on the Broadway box-office charts.

"Department" means the Illinois Department of Commerce and Economic Opportunity. [35 ILCS 17/10-10]

"Director" means the Director of the Department. [35 ILCS 17/10-10]

"Diversity Data or Information" means data pertaining to gender, race, ethnicity and disability of all employees of the applicant.

"Diversity Plan" means a written document through which the applicant assures the Department that minorities, females and persons with disabilities will have equal opportunities in recruitment, selection, appointment, promotion, training and related employment areas in the accredited production. The diversity plan must also describe the manner in which the applicant plans on hiring vendors certified by the Business Enterprise Council under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] with respect to the accredited production. The diversity plan must also detail the manner in which the applicant proposes to achieve its goals to ensure employment of protected classes (minorities, females and persons with disabilities) to achieve a diverse workforce rather than merely to assure nondiscrimination.

"Economic Impact Data" means data pertaining to the types of jobs (production, talent and vendor) created and retained in Illinois, as well as the total amount an applicant spends in Illinois on the accredited theater production.

"Employee" means any individual who is an employee of the applicant for purposes of employment taxes imposed under subtitle C of the Internal Revenue Code (42 USC subtitle C), any production staff or crew and any individual in a non-talent position.

"Female-Owned Business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock is owned by one or more females, and the management and daily business operations of which are controlled by one or more of the females who own it. [30 ILCS 575/2(A)(4)]

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"Illinois Labor Expenditure" means gross salary or wages, including, but not limited to, taxes, benefits and any other consideration incurred or paid to non-talent employees of the applicant for services rendered to and on behalf of the accredited theater production. To qualify as an Illinois labor expenditure, the expenditure must be:

incurred or paid by the applicant on or after June 1, 2012 for services related to any portion of an accredited theater production from its pre-production stages, including, but not limited to, the writing of the script, casting, hiring of service providers, purchases from vendors, marketing, advertising, public relations, load in, rehearsals, performances, other accredited theater production related activities, and load out;

directly attributable to the accredited theater production;

limited to the first \$100,000 of wages incurred or paid to each employee of an accredited theater production in each tax year;

included in the federal income tax basis of the property;

paid in the tax year for which the applicant is claiming the tax credit award, or no later than 60 days after the end of the tax year;

paid to persons residing in Illinois at the time payments were made; and

reasonable in the circumstances. [35 ILCS 17/10-10]

"Illinois Production Spending" means any and all expenses directly or indirectly incurred relating to an accredited theater production presented in any qualified production facility of the applicant and associated to the performance run in that qualified production facility, including, but not limited to, expenditure for:

national marketing, public relations and the creation and placement of print, electronic, television, billboard and other forms of advertising; and

the construction and fabrication of scenic materials and elements; provided, however, that the maximum amount of expenditures attributable

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to the construction and fabrication of scenic materials and elements eligible for a tax credit award shall not exceed \$500,000 per applicant per production in any single tax year. [35 ILCS 17/10-10]

"Illinois Resident" means an individual who is domiciled in this State during the accredited theater production. Except in a case when the applicant has actual knowledge, as shown in its books and records, that an individual is not an Illinois resident, the possession by an individual of an Illinois driver's license or other identification issued by this State prior to the commencement of the accredited theater production shall be sufficient proof that the individual is an Illinois resident and the address on the license or identification shall be deemed correct.

"Long-Run Production" means a live stage production that is performed in a qualified production facility for longer than 8 weeks, with at least 6 performances per week, and includes a production that spans the end of one tax year and the commencement of a new tax year that, in combination, meets the criteria set forth in this definition making it a long-run production eligible for a theater tax credit award in each tax year or portion of a tax year. [35 ILCS 17/10-10]

"Minority" means a person who is a citizen or lawful resident of the United States and who is African American (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race); Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or Native American or Alaskan Native (a person having origins in any of the original peoples of North America). [30 ILCS 575/2(A)(1)]

"Minority-Owned Business" means a business concern that is at least 51% owned by one or more minority persons or, in the case of a corporation, at least 51% of the stock is owned by one or more minority persons, and the management and daily business operations of which are controlled by one or more of the minority individuals who own it. [30 ILCS 575/2(A)(3)]

"Non-Talent" means any person who is not a performer. A performer includes, but is not limited to, principal actors, ensemble actors, understudies, swings and members of the orchestra ensemble that are part of the theatrical performance.

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"Person with a Disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under Section 2(A)(2.1) of the Business Enterprise for Minorities, Females, and Person with Disabilities Act. [30 ILCS 575/2(A)(2.05]

"Pre-Broadway Production" means a live stage production that, in its original or adaptive version, is performed in a qualified production facility having a presentation scheduled for Broadway's Theater District in New York City within 12 months after its Illinois presentation. [35 ILCS 17/10-10]

"Qualified Production Facility" means an existing and permanent facility located in the State in which live theatrical productions are, or are intended to be, exclusively presented that contains at least one stage, a seating capacity of 1,200 or more seats, and dressing rooms, storage areas and other ancillary amenities necessary for the accredited theater production. [35 ILCS 17/10-10]

"State" means the State of Illinois.

"Tax year" means a calendar year for the period January 1 to and including December 31. [35 ILCS 17/10-10]

"Theater Tax Credit Award" means the issuance to a taxpayer by the Department of a tax credit award in conformance with Sections 10-40 and 10-45 of the Act. [35 ILCS 17/10-10]

"Training Plan" means a written document through which the applicant pledges to provide training, education and recruitment in accordance with the Act.

"Vendor" means an Illinois based supplier of any goods or services. Expenditures for purchases of tangible personal property or services from a vendor shall mean:

Purchases of tangible personal property for use in Illinois on an accredited theater production from a person who is registered under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] (ROTA). A copy of the purchase receipt showing that the purchase was made at an Illinois location and that ROT was paid shall be sufficient proof that the purchase was made from a vendor in Illinois. For tangible personal property ordered by mail, telephone or internet, a copy of the seller's ROTA registration certificate along with a receipt showing that Illinois Use Tax was collected

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by the vendor shall be sufficient proof that the purchase was made from a vendor in Illinois. Documentation that shows that Illinois Use Tax was collected by the vendor, but either does not show an Illinois address for the sale or is not accompanied by a ROTA registration certificate, shall not be sufficient proof that the purchase was made from a vendor in Illinois.

The lease or rental of real property located in Illinois for use in an accredited theater production, including hotels or other lodging for employees working on the accredited theater production.

The lease or rental of an automobile (as defined in the Illinois Automobile Renting Occupation and Use Tax Act [35 ILCS 155]) for use in an accredited theater production on which the renter collects the Illinois Automobile Renting Occupation and Use Tax from the rentee.

The lease or rental of other tangible personal property for use in an accredited theater production if the owner of the property has paid Illinois Use Tax on the property. A copy of the invoice or receipt for the lease or rental showing an Illinois address for the lessor, and showing that no other state's sales tax is collected from the lessee, shall be sufficient proof that the transaction was with an vendor in Illinois.

The purchase of financial services (including insurance and the borrowing of funds) from a lender or insurer whose commercial domicile is in this State.

The purchase of other services with respect to an accredited theater production from an Illinois resident or from a person whose commercial domicile is in this State. For purposes of this definition only, the commercial domicile of a person is in this State if the person's business address (as shown in the records of the applicant) is in this State.

"Vendor-Related Positions" means jobs obtained or created through a subcontractor, which includes, but is not limited to, security, janitorial, printing, florist, dry cleaners and limousine services.

Section 532.30 Live Theater Tax Credit Directives

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- a) For taxable years beginning on and after January 1, 2012, subject to the limitations and requirements provided in the Act, *an applicant is entitled to a theater tax credit award as approved by the Department for qualifying Illinois labor expenditures and Illinois production spending for each tax year in which the applicant is awarded an accredited theater production certificate issued by the Department.* [35 ILCS 17/10-20]
- b) In accordance with the purpose of the Act, *credits shall be awarded on a first-come, first-served basis* as described in Section 532.40(c). [35 ILCS 17/10-20]
- c) *To accomplish the purposes of the Act, the Department may use the training programs provided under Section 605-800 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois* [20 ILCS 605]. [35 ILCS 17/10-35]

Section 532.40 Live Theater Tax Credit Amount

- a) The maximum monetary *amount of tax credits awarded pursuant to the Act shall not exceed* the actual amount as directed in the Act *in any State fiscal year.* [35 ILCS 17/10-20]
- b) Each theater tax credit award shall be limited to \$500,000 per accredited theater production per tax year in an effort to provide overall support to the live theater industry in Illinois.
- c) If applications for theater tax credits exceed the maximum monetary cap amount, for credits established by the Act, credits shall be awarded on a first-come, first-served basis, based on the date on which each properly completed application for an accredited theater production certificate is received by the Department. If more than one application for an accredited theater production certificate is received on the same day, the credits will be awarded based on the time of submission on that particular day.
- d) If the amount of credits applied for in any fiscal year exceeds the amount authorized to be awarded under Section 10-20 of the Act, the excess credit amount shall be awarded in the next fiscal year in which credits remain available for award and shall be treated as having been applied for on the first day of that fiscal year.

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Section 532.50 Application for Accredited Theater Production Certificate

- a) In order to obtain a theater tax credit award, an applicant must first receive an accredited theater production certificate establishing that the applicant has satisfied the requirements of the Act and this Part.
- b) *In order to qualify for a theater tax credit award under the Act, an applicant must file an application, on forms prescribed by the Department, providing information necessary to calculate the tax credit award and any additional information as reasonably required by the Department.* [35 ILCS 17/10-40(a)] The Department shall only accept applications that are submitted electronically via the standard application form provided by the Department. The applicant will be required to provide information including, but not limited to, the following:
 - 1) Legal name, address and telephone number of applicant.
 - 2) Whether the applicant is a:
 - A) Theater producer;
 - B) Owner;
 - C) Licensee;
 - D) Operator; or
 - E) Presenter.
 - 3) Name, title and telephone number of the primary contact person.
 - 4) Type of business entity:
 - A) Individual or sole proprietorship;
 - B) Partnership;
 - C) Corporation;
 - D) Subchapter S corporation;

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- E) Limited liability company; or
 - F) Other (applicant will provide description).
- 5) Date of incorporation or formation.
 - 6) Federal Employer Identification Number (FEIN) or Tax Identification Number (TIN).
 - 7) Production title and whether the production is a:
 - A) Pre-Broadway production; or
 - B) Long-run production.
 - 8) Estimated opening night of the production run and estimated number of performances in Illinois.
 - 9) Estimated total budget of production.
 - 10) Estimated total Illinois labor expenditure.
 - 11) Estimated number of Illinois residents to be hired to work on the production.
 - 12) For a Pre-Broadway production, applicant must provide tangible evidence that the production is scheduled to be performed in Broadway's Theater District within 12 months after the end of the Illinois run.
 - 13) The applicant must certify that it is and will remain in good standing with applicable state authorities, it is not currently operating under, or subject to, any cease and desist order, or subject to any informal or formal regulatory action, and, to the best of the applicant's knowledge, that it is not currently the subject of any investigation by any state or federal regulatory, law enforcement or legal authority. Should the applicant become the subject of an investigation by any state or federal regulatory, law enforcement or legal authority, the applicant shall promptly notify the Department of that investigation. The applicant acknowledges that,

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should it become delinquent in its good standing status with any applicable state authority or if it later becomes subject to a cease and desist order or memorandum of understanding, or is found in violation pursuant to any regulatory action or any court action or proceeding before any administrative agency, the Department is authorized to deny the applicant's request for an accredited theater production certificate.

- c) An application must be submitted to the Department no sooner than 180 calendar days prior to the opening of ticket sales for the accredited theater production and no later than the last business day prior to the opening of the accredited theater production.
- d) The Department will evaluate applications for accredited theater production certificates from eligible applicants in accordance with the following requirements:
 - 1) *The Applicant intends to make the expenditure in the State.* [35 ILCS 17/10-30]
 - 2) *The applicant's accredited theater production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and will strengthen the economy of Illinois.* [35 ILCS 17/10-30]
 - 3) *A suitable diversity plan has been created by the applicant and the following requirements related to the implementation of a diversity plan have been met: the applicant has filed with the Department a diversity plan outlining specific goals for hiring Illinois labor expenditure eligible minority persons and females, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, and for using vendors receiving certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; the Department has approved the plan as meeting the requirements established by the Department and verified that the applicant has met or made good faith efforts in achieving those goals; and the Department has adopted any rules that are necessary to ensure compliance with the provisions set forth in this subsection (d)(3) and necessary to require that the applicant's plan reflects the diversity of the population of this State.* [35 ILCS 17/10-30(a)(3)]

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- 4) *The applicant's accredited theater production application provides a detailed training plan to participate in training, education and recruitment programs that are organized in cooperation with at least one of the following: Illinois colleges and universities; labor organizations; and the holders of accredited theater production certificates. Training plans are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of Illinois. [35 ILCS 17/10-30(a)(4)]*
- 5) *The applicant illustrates evidence of a competitive need for credit. If not for the theater tax credit award, the applicant's accredited theater production would not occur in Illinois, which may be demonstrated by any means, including, but not limited to, evidence that: the applicant, presenter, owner, or licensee of the production rights has other state or international location options at which to present the production and could reasonably and efficiently locate outside of the State; at least one other state or nation could be considered for the production; the receipt of the theater tax credit award is a major factor in the decision of the applicant, presenter, production owner or licensee as to where the production will be presented and that without the theater tax credit award the applicant likely would not create or retain jobs in Illinois; or receipt of the theater tax credit award is essential to the applicant's decision to create or retain new jobs in the State. [35 ILCS 17/10-30(a)(5)]* The Department maintains sole discretion to review any information, materials or evidence to determine whether an applicant has established a competitive need for the credit in accordance with the Act.
- 6) *The theater tax credit award will result in an overall positive impact to the State, as determined by the Department using the best available data. [35 ILCS 17/10-30]*
- e) The applicant is responsible for the accuracy of all data, information and documentation included in the application. Once submitted, applications shall become the property of the Department.
- f) Upon written request, the applicant shall issue any necessary authorization to the appropriate federal, State or local authority for the release of information concerning a production being considered under this Part, including, but not

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limited to, financial reports and records relating to the applicant or the accredited theater production for which the theater tax credit award is requested.

- g) The Department is not responsible for any errors or delays in providing an application denial or approval caused by errors in any of the application information provided by the applicant or by any technical problems beyond the Department's control.
- h) Prior to substantive evaluation of an application for an accredited theater production certificate, the Department shall review all applications to determine that all required information and documentation has been provided. Applicants will be notified, in writing, of any application deficiencies and will be allowed 5 business days to correct those deficiencies through submission of additional documentation. If the applicant successfully cures any deficiencies within the 5-day period, the applicant will keep its numeric place in the queue. If an applicant does not correct the application deficiencies within 5 business days, then the Department may treat the application as newly submitted for purposes of determining the priority of applications and the applicant will lose its numeric place in the queue.
- i) The Department will provide interested applicants with information upon request and also be available via the Department's website. Submittal of an application does not commit the Department to award assistance or to pay any costs incurred by the applicant in the preparation of an application.

Section 532.60 Approval/Denial of Accredited Theater Production Certificate

- a) The Department reserves the right to make inquiries, to conduct studies and to review information with respect to the application. The Department also reserves the right to request information from the applicant that is necessary to calculate the amount of the theater tax credit award.
- b) The Department reserves the right to reject any application that does not comply with the statutory requirements of the Act and this Part. Upon receipt of an application, the Department shall review the application for completeness and approve or deny it within 60 days from the date of receipt. Applications are subject to final approval by the Director of the Department.

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- c) Applicants shall be notified in writing as to the Department's evaluation of all completed applications. If the Department denies an application for an accredited theater production certificate, it will specify the reasons for denial in writing. All decisions made by the Department are deemed absolute and not subject to an appeal process.
- d) Upon approval of an application, the Department will issue an accredited theater production certificate certifying that the production is an accredited theater production that meets the statutory requirements of the Act and this Part. Each accredited theater production certificate will be assigned a number to establish the applicant's place in the queue for the relevant tax year.
- e) When the Department issues an accredited theater production certificate, this certificate does not automatically entitle the applicant to a theater tax credit award.

Section 532.70 Request for Theater Tax Credit Award

- a) After an applicant has received an accredited theater production certificate, it can request a theater tax credit award from the Department. In accordance with the Act, the theater tax credit award shall only be awarded to an applicant if:
 - 1) The total amount of theater tax credit awards awarded pursuant to the Act has not exceeded the annual fiscal maximum monetary cap amount.
 - 2) The applicant successfully demonstrates to the Department that it complied with its diversity plan or that it made good-faith efforts to comply with its diversity plan.
 - 3) The applicant successfully demonstrates to the Department that it fulfilled its training plan or that it made good-faith efforts to comply with its training plan.
- b) An applicant with an accredited theater production certificate shall provide the following with its request for a theater tax credit award:
 - 1) An itemized statement of the Illinois labor expenditures or Illinois production spending for which the credit is claimed and of Illinois labor expenditures generated by the employment of residents of geographic

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areas of high poverty or high unemployment for which additional credit is claimed;

- 2) Copies of the books and records of the applicant for the accredited theater production, showing the Illinois labor expenditures or Illinois production spending for which the credit is claimed, and all documentation necessary to support its computation; and
- 3) Independent Accountant's Report
 - A) An independent accountant's report, prepared by a licensed certified public accountant, in the form prescribed by the Department, that is supported by the copies of the books, records and other documents of the applicant that are attached to the request. The licensed certified public accountant must attest that he or she has examined the books, records and other documents according to procedures agreed upon by the Department. The attestation and examination must be performed by a licensed certified public accountant:
 - i) under the professional standards established by the American Institute of Certified Public Accountants, specifically the Statements on Standards of Attestation Engagements at AT Sec. 101 (Attest Engagements) and AT Sec. 201 (Agreed-Upon Procedures Engagements); and
 - ii) whose engagement to provide the attestation was approved by the Department before work on the engagement is commenced.
 - B) An independent accountant's report must be submitted to the Department within 60 calendar days after the end of the Illinois production run. If the independent accountant's report is not received by the Department, the applicant will forfeit its place in the queue.
- c) A request for a theater tax credit award must be made to the Department by March 1 in order to claim a theater tax credit for expenditures in the prior tax year.

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Section 532.80 Approval/Denial of Theater Tax Credit Award

- a) When an applicant submits its request for a theater tax credit award, the Department will review and verify the applicant's final diversity hiring numbers for crew, vendors and talent to determine whether it met the goals outlined in its diversity plan before issuing the theater tax credit award.
- b) In the event the applicant fails to meet the goals of its diversity plan, the applicant must then demonstrate it made good-faith efforts to achieve its diversity goals in order to receive a theater tax credit award. To be considered, the applicant must submit an affidavit attesting to its good-faith efforts. Good-faith efforts that the Department will consider include, but are not limited to, documentation demonstrating that the applicant communicated (written correspondence, phone call, email, meetings) with minority, female and disabled vendors, applicable unions, and talent and workforce agencies/entities. The applicant may also submit any other documentation to the Department demonstrating its good-faith attempts.

Section 532.90 Calculation of Theater Tax Credit Award

- a) *The theater tax credit award shall be calculated each tax year based upon the filing by the applicant on forms prescribed by the Department containing information regarding qualifying and quantified Illinois labor expenditures, as defined in Section 10-10 of the Act, net of the limitation in that Section, and Illinois production spending, as defined in Section 10-10, net of the limitation in that Section. From the amount calculated, the applicant shall be entitled to receive a tax credit award of up to:*
 - 1) *20% of the Illinois labor expenditures for each tax year; plus*
 - 2) *20% of the Illinois production spending for each tax year; plus*
 - 3) *15% of the Illinois labor expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year, as determined by the Department. [35 ILCS 17/10-45]*
- b) The theater tax credit award shall not exceed \$500,000 for any accredited theater production.

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- c) If an accredited theater production receives only a portion of the theater tax credit award to which the Department has determined it is entitled due to the annual fiscal cap on the amount of credits that can be awarded, the accredited theater production shall be eligible to receive the remainder of its credits in the next tax year. If an accredited theater production does not receive any theater tax credit award due to the annual fiscal cap on the amount of credits that can be awarded, the accredited theater production shall not be entitled to any theater tax credit award in the following tax years.
- d) *The theater tax credit award shall state the amount of the tax credit award to which the applicant is entitled for that tax year and shall contemporaneously notify the applicant and Illinois Department of Revenue in accordance with Section 222 of the Illinois Income Tax Act [35 ILCS 5/222]. [35 ILCS 17/10-40]*

Section 532.100 Live Theater Tax Credit Program Evaluation and Report to Illinois General Assembly

- a) In determining whether the live theater tax credit program is effective in creating and retaining jobs in Illinois, the Department is responsible for determining the overall success of the program. Correspondingly, on a quarterly basis, the Department is required to advise the Illinois General Assembly of the live theater tax credit program's economic impact. *The Department's evaluation shall include:*
 - 1) *An assessment of the effectiveness of the program in creating and retaining new jobs in Illinois;*
 - 2) *An assessment of the revenue impact of the program;*
 - 3) *In the discretion of the Department, a review of the practices and experiences of other states or nations with similar programs; and*
 - 4) *An assessment of the overall success of the program. The Department may make a recommendation to extend, modify, or not extend the program based on the evaluation. [35 ILCS 17/10-50]*
- b) *At the end of each fiscal quarter, the Department shall submit to the General Assembly a report that includes, without limitation:*

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- 1) *An assessment of the economic impact of the program, including the number of jobs created and retained, and whether the job positions are entry level, management, vendor, or production related;*
 - 2) *The amount of accredited theater production spending brought to Illinois, including the amount of spending and type of Illinois vendors hired in connection with an accredited theater production; and*
 - 3) *A determination of whether those receiving qualifying Illinois labor expenditure salaries or wages reflect the geographical, racial and ethnic, gender, and income level diversity of the State of Illinois. [35 ILCS 17/10-50(b)]*
- c) *At the end of each fiscal year, the Department shall submit to the General Assembly a report that includes, without limitation:*
- 1) *The identification of each vendor that provided goods or services that were included in an accredited theater production's Illinois production spending;*
 - 2) *A statement of the amount paid to each identified vendor by the accredited theater production and whether the vendor is a minority or female owned business as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; and*
 - 3) *A description of the steps taken by the Department to encourage accredited theater productions to use vendors who are minority or female owned businesses. [35 ILCS 17/10-50(c)]*

Section 532.110 Transfer of Theater Tax Credit Award

- a) *A sale, assignment, or transfer of the credit may be made by the taxpayer earning the credit within one year after the credit is awarded in accordance with this Part. [35 ILCS 5/222(c)]*
- b) For purposes of this Section, a tax credit is earned on the date that the theater tax credit award is issued under Section 532.80.

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- c) For purposes of this Section, a tax credit earned by *a partnership, limited liability company or Subchapter S corporation, the tax credit is allowed to the partners, unit holders, or shareholders in accordance with the determination of income and distributive share of income under sections 702 and 704 and subchapter S of the Internal Revenue Code.* [35 ILCS 5/222(b)]
- d) *The tax credit award may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 years following the excess credit year. The tax credit award shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset liability, the earlier credit shall be applied first. In no event may a credit under this Section reduce the taxpayer's liability to less than zero.* [35 ILCS 5/222(e)]
- e) Transfer of a theater tax credit award shall be made as follows:
- 1) The applicant earning the credit shall request the transfer from the Department, in writing, identifying the transferees (name, tax identification number, mailing address) and the amount to be transferred, and the applicant shall return the theater tax credit award to the Department, together with its transfer request.
 - 2) A request for transfer may be submitted with the applicant's request for the theater tax credit award under Section 532.80, in which case the Department may issue the requested certificates of transfer in lieu of the tax credit award.
 - 3) If the transfer request is timely and meets the requirements of this Section, the Department shall issue a certificate of transfer, identifying the original theater tax credit award and stating the amount of the credit transferred.
 - 4) If the applicant earning the credit transfers less than the full amount of the credit, the Department shall issue a certificate of transfer to the applicant identifying the original theater tax credit award and stating the amount of tax credit retained by the applicant.
 - 5) If the person transferring the credit is a partner or shareholder in a partnership or Subchapter S corporation that earned the credit, that person shall submit to the Department, in lieu of the original theater tax credit

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award, copies of the tax credit awards and copies of the Schedule K-1-P received by that person from the partnership or Subchapter S corporation stating that person's share of the credit.

Section 532.120 Confidentiality of Documents and Record Retention Requirements

- a) *Any documentary materials or data made available or received from an applicant by any agent or employee of the Department are confidential and are not public records to the extent that the materials or data consist of commercial or financial information regarding the operation of or the production of the applicant or recipient of any tax credit award under the Act. [35 ILCS 17/10-55] The Department will not permit public inspection or copying of any material that is or would be confidential under State law, specifically including the exemptions set forth in the Freedom of Information Act [5 ILCS 140].*
- b) *In accordance with the Act, an applicant is required at all times keep proper books and records of accounts relating to the tax credit award, in accordance with generally accepted accounting principles consistently applied, and make, upon reasonable written request by the Department, those books and records available for reasonable Department inspection and audit during the applicant's normal business hours. Any documents or data made available to or received from the applicant by any agent, employee, officer, or service provider to the Department shall be deemed confidential and shall not constitute public records to the extent that the documents or data consist of commercial or financial information regarding the operation by the applicant of any theater or any accredited theater production, or any recipient of any tax credit award under the Act. [35 ILCS 17/10-15(5)]*
- c) *If an applicant submits information it considers to be of a confidential nature as part of its application or request for a tax credit award, that information shall be marked or labeled "CONFIDENTIAL". The applicant shall also submit a statement briefly setting forth the grounds on which that information should be treated as confidential. The Department, based on the proprietary nature of the material and privacy of the applicant's confidential information, shall not disclose those materials to the public.*

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- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) Section Number: Adopted Action:
 3000.140 Amendment
 3000.614 Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3), (5), (6), (7), (10), (13), (15), and (20) of this Act [230 ILCS 10/5 (c) (2), (3), (5), (6), (7), (10), (13), (15), and (20)]
- 5) Effective date of Rulemaking: July 9, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: 37 Ill. Reg. 1837; February 15, 2013
- 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 agreement letter issued by JCAR? There have been no changes.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
3000.100	Amendment	37 Ill. Reg. 9855, July 12, 2013
3000.600	Amendment	37 Ill. Reg. 9855, July 12, 2013
3000.640	Amendment	37 Ill. Reg. 9855, July 12, 2013

- 15) Summary and Purpose of Rulemaking: The rulemaking makes the following changes to the riverboat gambling rules (86 Ill. Admin. Code 3000):

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Licenses and applicants must promptly disclose changes of information pertaining to criminal arrests or criminal proceeding dispositions, and the Administrator may unilaterally impose fines for failure to make prompt disclosures: The current Section 3000.140 (86 Ill. Admin. Code 3000.140) provides that licensees and applicants for licenses have a continuing duty to promptly disclose any material changes in information provided to the Board and that the failure to do so may result in discipline up to and including revocation of a license. The Board has consistently used this Section to require the prompt disclosure of criminal arrests and criminal proceeding dispositions by licensees and applicants, and has issued fines for the failure to do so.

The proposed rulemaking adds a new subsection (c) to Section 3000.140, authorizing the Administrator to impose a uniform schedule of fines when a licensee fails to disclose to the Board information regarding criminal arrests and/or dispositions, thereby eliminating the need to bring a separate Disciplinary Complaint to the Board every time a violation of this subsection occurs. Under the rules as presently written, only the Board, and not the Administrator, has authority to impose fines or other penalties for violations. The Board has power to make a delegation of disciplinary authority under 5(c)(20) of the Riverboat Gambling Act [230 ILCS 10/5 (c)(20)].

The fines imposed by the Administrator under the new provision will be \$250 for a first violation, \$500 for a second violation, and an additional \$250 in the fine amount for each subsequent violation. This is the same fine schedule currently followed by the Board in these situations. The Administrator can impose the fines in conjunction with any additional or further disciplinary action imposed by the Board.

Payment of the fines shall be due within 21 days after service is complete, unless the licensee or applicant timely files an answer requiring the appointment of a hearing officer.

The enactment of this rule change will permit the Board to more effectively utilize its time by focusing on issues requiring greater discretion and deliberation. In light of the standard and uncomplicated nature of the violations covered by the present rulemaking, the Administrator can impose the provided fines with equal efficiency and fairness.

Advance testing: The rulemaking adds a new subsection (e) to Section 3000.614 ("Tournaments, Enhanced Payouts and Give-aways"), requiring the advance testing of any tournament, enhanced payout, or give-away for which eligibility or the amount of an award or prize is determined by an information system. The purpose of this requirement is to ensure the integrity of these promotions and tournaments.

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- 16) Information and Questions regarding this adopted rulemaking may be addressed to:

Emily Mattison
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

314/814-6700
Fax No. 312/814-7253
emily.mattison@igb.illinois.gov

The full text of the Adopted Amendments begin on the next page.

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TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section	
3000.100	Definitions
3000.101	Invalidity
3000.102	Public Inquiries
3000.103	Organization of the Illinois Gaming Board
3000.104	Rulemaking Procedures
3000.105	Board Meetings
3000.110	Disciplinary Actions
3000.115	Records Retention
3000.120	Place to Submit Materials
3000.130	No Opinion or Approval of the Board
3000.140	Duty to Disclose Changes in Information
3000.141	Applicant/Licensee Disclosure of Agents
3000.150	Owner's and Supplier's Duty to Investigate
3000.155	Investigatory Proceedings
3000.160	Duty to Report Misconduct
3000.161	Communication with Other Agencies
3000.165	Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170	Fair Market Value of Contracts
3000.180	Weapons on Riverboat

SUBPART B: LICENSES

Section	
3000.200	Classification of Licenses
3000.210	Fees and Bonds
3000.220	Applications
3000.221	Other Required Forms
3000.222	Identification and Requirements of Key Persons
3000.223	Disclosure of Ownership and Control

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3000.224	Economic Disassociation
3000.225	Business Entity and Personal Disclosure Filings
3000.230	Owner's Licenses
3000.231	Distributions
3000.232	Undue Economic Concentration
3000.234	Acquisition of Ownership Interest By Institutional Investors
3000.235	Transferability of Ownership Interest
3000.236	Owner's License Renewal
3000.237	Renewed Owner's Licenses, Term and Restrictions
3000.238	Appointment of Receiver for an Owner's License
3000.240	Supplier's Licenses
3000.241	Renewal of Supplier's License
3000.242	Amendment to Supplier's Product List
3000.243	Bankruptcy or Change in Ownership of Supplier
3000.244	Surrender of Supplier's License
3000.245	Occupational Licenses
3000.250	Transferability of Licenses
3000.260	Waiver of Requirements
3000.270	Certification and Registration of Electronic Gaming Devices
3000.271	Analysis of Questioned Electronic Gaming Devices
3000.272	Certification of Voucher Systems
3000.280	Registration of All Gaming Devices
3000.281	Transfer of Registration (Repealed)
3000.282	Seizure of Gaming Devices (Repealed)
3000.283	Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284	Disposal of Gaming Devices
3000.285	Certification and Registration of Voucher Validation Terminals

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section	
3000.300	General Requirements – Internal Control System
3000.310	Approval of Internal Control System
3000.320	Minimum Standards for Internal Control Systems
3000.330	Review of Procedures (Repealed)
3000.340	Operating Procedures (Repealed)
3000.350	Modifications (Repealed)

SUBPART D: HEARINGS ON NOTICE OF DENIAL,

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RESTRICTION OF LICENSE, PLACEMENT ON BOARD EXCLUSION LIST OR
REMOVAL FROM BOARD EXCLUSION LIST OR SELF-EXCLUSION LIST

Section	
3000.400	Coverage of Subpart
3000.405	Requests for Hearings
3000.410	Appearances
3000.415	Discovery
3000.420	Motions for Summary Judgment
3000.424	Subpoena of Witnesses
3000.425	Proceedings
3000.430	Evidence
3000.431	Prohibition on Ex Parte Communication
3000.435	Sanctions and Penalties
3000.440	Transmittal of Record and Recommendation to the Board
3000.445	Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing

SUBPART E: CRUISING

Section	
3000.500	Riverboat Cruises
3000.510	Cancelled or Disrupted Cruises

SUBPART F: CONDUCT OF GAMING

Section	
3000.600	Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602	Disposition of Unauthorized Winnings
3000.605	Authorized Games
3000.606	Gaming Positions
3000.610	Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614	Tournaments, Enhanced Payouts and Give-aways
3000.615	Payout Percentage for Electronic Gaming Devices
3000.616	Cashing-In
3000.620	Submission of Chips for Review and Approval
3000.625	Chip Specifications
3000.630	Primary, Secondary and Reserve Sets of Gaming Chips
3000.631	Tournament Chips

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3000.635	Issuance and Use of Tokens for Gaming
3000.636	Distribution of Coupons for Complimentary Chips, Tokens, Vouchers, Cash and Electronic Credits
3000.640	Exchange of Chips, Tokens, and Vouchers
3000.645	Receipt of Gaming Chips or Tokens from Manufacturer or Distributor
3000.650	Inventory of Chips
3000.655	Destruction of Chips, Tokens, and Vouchers
3000.660	Minimum Standards for Electronic Gaming Devices
3000.661	Minimum Standards for Voucher Systems
3000.665	Integrity of Electronic Gaming Devices
3000.666	Bill Validator Requirements
3000.667	Integrity of Voucher Systems
3000.670	Computer Monitoring Requirements of Electronic Gaming Devices
3000.671	Computer Monitoring Requirements of Voucher Systems

SUBPART G: EXCLUSION OF PERSONS

Section	
3000.700	Organization of Subpart
3000.701	Duty to Exclude
3000.705	Voluntary Self-Exclusion Policy (Repealed)
3000.710	Distribution and Availability of Board Exclusion List
3000.720	Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
3000.725	Duty of Licensees
3000.730	Procedure for Entry of Names
3000.740	Petition for Removal from the Board Exclusion List
3000.745	Voluntary Self-Exclusion Policy
3000.750	Establishment of a Self-Exclusion List
3000.751	Locations to Execute Self-Exclusion Forms
3000.755	Information Required for Placement on the Self-Exclusion List
3000.756	Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
3000.760	Distribution and Availability of Confidential Self-Exclusion List
3000.770	Duties of Licensees
3000.780	Request for Removal from the IGB Self-Exclusion List
3000.782	Required Information, Recommendations, Forms and Interviews
3000.785	Appeal of a Notice of Denial of Removal
3000.786	Duties of Owner Licensees to Persons Removed from the Self-Exclusion List
3000.787	Placement on the Self-Exclusion List Following Removal
3000.790	Duties of the Board

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SUBPART H: SURVEILLANCE AND SECURITY

Section	
3000.800	Required Surveillance Equipment
3000.810	Riverboat and Board Surveillance Room Requirements
3000.820	Segregated Telephone Communication
3000.830	Surveillance Logs
3000.840	Storage and Retrieval
3000.850	Dock Site Board Facility
3000.860	Maintenance and Testing

SUBPART I: LIQUOR LICENSES

Section	
3000.900	Liquor Control Commission
3000.910	Liquor Licenses
3000.920	Disciplinary Action
3000.930	Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section	
3000.1000	Ownership Records
3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual and Special Audits and Other Reporting Requirements
3000.1040	Accounting Controls Within the Cashier's Cage
3000.1050	Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
3000.1060	Handling of Cash at Gaming Tables
3000.1070	Tips or Gratuities
3000.1071	Admission Tax and Wagering Tax
3000.1072	Cash Reserve Requirements

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section	
3000.1100	Coverage of Subpart

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3000.1105	Duty to Maintain Suitability
3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
3000.1120	Appearances
3000.1125	Answer
3000.1126	Appointment of Hearing Officer
3000.1130	Discovery
3000.1135	Motions for Summary Disposition
3000.1139	Subpoena of Witnesses
3000.1140	Proceedings
3000.1145	Evidence
3000.1146	Prohibition of Ex Parte Communication
3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967,

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effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 34 Ill. Reg. 3285, effective February 26, 2010; amended at 34 Ill. Reg. 3748, effective March 11, 2010; amended at 34 Ill. Reg. 4768, effective March 16, 2010; amended at 34 Ill. Reg. 5200, effective March 24, 2010; amended at 34 Ill. Reg. 15386, effective September 23, 2010; amended at 36 Ill. Reg. 13199, effective July 31, 2012; amended at 37 Ill. Reg. 12050, effective July 9, 2013.

SUBPART A: GENERAL PROVISIONS

Section 3000.140 Duty to Disclose Changes in Information

- a) Board licensees and applicants for licenses issued by the Board shall have a continuing duty to disclose promptly any material changes in information provided to the Board. The duty to disclose changes in information shall continue throughout any period of licensure granted by the Board. Board licensees or applicants for licenses must maintain current release of information forms as originally submitted to the Board.
- b) In addition to and without limiting disclosure of changes of information required under subsection (a), licensees and applicants for licensure shall periodically disclose changes in or new agreements, whether oral or written, relating to:
 - 1) Lobbying, legal services, financial consulting services, and management consulting services;
 - 2) Accounting, data processing and other financial and administrative services;
 - 3) Construction contracts;
 - 4) Installation, accounting or operation of Voucher Systems;
 - 5) Installation, accounting or operation of Computer Monitoring Systems;
 - 6) Agreements with or involving Key Persons and relatives of Key Persons;

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- 7) Agreements to sell, grant, gift, pledge, hypothecate or otherwise transfer or share an ownership interest or interests in a holder of an Owner's License; and
- 8) Agreements to sell, grant, gift, pledge, hypothecate or otherwise transfer or share stock options, warrants, stock appreciation rights, or agreements in lieu thereof, relating to an ownership interest or interests or benefits of such ownership interest or interests in a holder of an Owner's License.

c) Updating Criminal History Information and Penalties

- 1) In addition to, and without limiting disclosure of, changes of information required under subsection (a), licensees and applicants for licensure shall periodically and promptly disclose changes relating to criminal arrest or criminal proceeding disposition history, whether charged or not charged, concerning any criminal offense under the laws of any jurisdiction or Uniform Code of Military Conduct, in any state or foreign country, including any arrest or disposition that has been expunged or sealed.
- 2) The Administrator may impose the following fines as disciplinary action for any violation of this subsection (c): \$250 for a first violation and \$500 for a second violation. For each subsequent violation, the fine imposed by the Administrator shall increase by \$250. These fines may be imposed in conjunction with additional or further disciplinary action taken against a licensee. Payment of the fine shall be due within 21 days after service is complete, unless the licensee timely files an answer requiring the appointment of a hearing officer.

d)e) The failure to meet the requirements of subsection (a), ~~or (b)~~ or (c) may result in discipline up to and including revocation of a license.

(Source: Amended at 37 Ill. Reg. 12050, effective July 9, 2013)

SUBPART F: CONDUCT OF GAMING

Section 3000.614 Tournaments, Enhanced Payouts and Give-aways

- a) For purposes of this Section, the following terms shall have the following

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meanings:

- 1) **Enhanced Payout:** An event sponsored by a Riverboat Gaming Operation wherein Gaming patrons participate in a Game or an approved variation of a Game and thereby qualify for receiving, upon a specified outcome in such Game, a payment or thing of value in excess of payouts contained in the Internal Control System or as displayed on the Gaming Device. The cost of such excess payment or thing of value may be subtracted from Gross Receipts in determining Adjusted Gross Receipts.
 - 2) **Tournament:** A contest sponsored by a Riverboat Gaming Operation wherein patrons play or wager on a Game or Games and receive, separate from any applicable winnings from wagers, prizes that include the total of any entry fees to the contest and cash or non-cash prizes offered by the Riverboat Gaming Operation in conjunction with the contest. The cost of cash or non-cash prizes and entry fees for a Tournament may not be subtracted from Gross Receipts in determining Adjusted Gross Receipts.
 - 3) **Give-away:** A Game where patron entry to the Game is determined by attendance on a riverboat or the attainment of a certain outcome or an accumulation of points/credits on a Gaming Device. The cost of prizes paid in a Give-away may not be subtracted from Gross Receipts in Determining Adjusted Gross Receipts.
- b) Tournaments, Enhanced Payouts or Give-aways may only be conducted when:
- 1) Documented in the Internal Control System of the holder of an Owner's License;
 - 2) In conformance with the Act, this Part and the Internal Control System; and
 - 3) Approved by the Administrator.
- c) The Internal Control System provisions for the conduct of Tournaments, Enhanced Payouts or Give-aways involving Gaming shall be submitted by the holder of an Owner's License pursuant to Sections 3000.300 through 3000.320.
- d) Requests for the conduct of specific Tournaments, Enhanced Payouts and Give-

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aways involving Gaming must be received in writing by the Administrator at least 14 days prior to the proposed date of implementation.

- e) Any Tournament, Enhanced Payout or Give-away for which eligibility or amount of any award or prize is determined by an information system shall be reasonably tested in advance to ensure the integrity of the Tournament, Enhanced Payout or Give-away.

(Source: Amended at 37 Ill. Reg. 12050, effective July 9, 2013)

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- 1) Heading of the Part: Control of Communicable Diseases Code
- 2) Code Citation: 77 Ill. Adm. Code 690
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
690.900	Amended
690.1500	New
690.1510	New
690.1520	New
690.1530	New
690.1540	New
- 4) Statutory Authority: Communicable Disease Report Act [745 ILCS 45] and the Department of Public Health Act [20 ILCS 2305]
- 5) Effective Date of Rulemaking: July 15, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 36 Ill. Reg. 15918; November 9, 2012
- 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:

1. In the Table of Contents, in the heading for Section 690.1500, "Multi-" was changed to "Extensively"; in the heading for Section 690.1530, "MDRO" was changed to "XDRO"; in the heading for Section 690.1540, "Registry" was deleted.

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2. "MDRO" and "MDROs" were changed to "XDRO" and "XDROs" throughout the rules. "Multi-Drug" was changed to "Extensively Drug-".
3. In the Definitions (Section 690.900), "Carbapenam" was changed to "Carbapenem".
4. The definition of "Extensively Drug Resistant Organisms" in Section 690.900 was revised to read: "A micro-organism that is non-susceptible to at least one agent in all but two or fewer antimicrobial categories."
5. The definitions of "Multi-Drug Resistant Organism", "Multi-Drug Resistant Organism Isolate" and "Non-Susceptible to Any Carbapenem Antibiotic" in Section 690.900 were deleted.
6. In Section 690.900, the definition of "Non-Duplicative MDRO Isolate" was amended to read: "Non-Duplicative Isolate" – The first isolate obtained from any source during each unique patient/resident encounter, including those obtained for active surveillance or clinical decision making."
7. In Section 690.900, the definition of "Registry" was changed to: "A data collection and information system that is designed to support organized care management."
8. In Section 690.1520(a), the text was deleted and replaced with: "A facility required to submit XDRO information shall report each Non-Duplicative XDRO Isolate, as specified in this Section, to the Department."
9. In Section 690.1520(a)(1), "(if available)" was added after "Social Security Number" and was also added in subsection (a)(2) after "ethnicity".
10. In Section 690.1520(a)(3), the text was deleted and replaced with: "specimen collection date, specimen source, isolate genus, isolate species, specific carbapenemase name (if known), antibiotic resistance criteria for entry into the Registry".
11. In Section 690.1520(c), "one month after the culture acquisition date" was deleted and "seven calendar days after the test result is finalized" was added.
12. In Section 690.1520(d), text was deleted and new text added.
13. Section 690.1520(e) was deleted.

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14. In Section 690.1520(f) (new (e)), text beginning with "all MDROs related..." was deleted and replaced with new text.

15. In Section 690.1530(a) "recovered from any specimen source" was deleted; "one month after the culture acquisition date" was deleted and "seven calendar days after the test result is finalized" was added.

16. In Section 690.1530(b)(1), "shall" was changed to "may".

17. In the heading of Section 690.1540, "Registry" was deleted.

The following changes were made in response to comments and suggestions of JCAR:

In Section 690.1500(a), "XDRO" was added after "Organism".

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? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Proposed Sections:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
690.10	Renumbered	37 Ill. Reg. 4479; April 12, 2013
690.20	Renumbered	37 Ill. Reg. 4479; April 12, 2013
690.30	Renumbered	37 Ill. Reg. 4479; April 12, 2013
690.100	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.110	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.200	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.295	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.320	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.322	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.327	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.330	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.350	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.360	Amendment	37 Ill. Reg. 4479; April 12, 2013

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690.362	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.365	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.368	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.380	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.395	New Section	37 Ill. Reg. 4479; April 12, 2013
690.400	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.410	Repealed	37 Ill. Reg. 4479; April 12, 2013
690.420	Repealed	37 Ill. Reg. 4479; April 12, 2013
690.441	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.442	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.450	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.451	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.452	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.460	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.468	New Section	37 Ill. Reg. 4479; April 12, 2013
690.469	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.475	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.480	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.490	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.495	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.510	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.520	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.550	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.565	New Section	37 Ill. Reg. 4479; April 12, 2013
690.570	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.580	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.590	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.595	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.600	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.601	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.620	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.630	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.640	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.650	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.658	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.660	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.670	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.698	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.710	Amendment	37 Ill. Reg. 4479; April 12, 2013

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690.725	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.730	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.740	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.745	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.750	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.752	Amendment	37 Ill. Reg. 4479; April 12, 2013
690.900	Renumbered	37 Ill. Reg. 4479; April 12, 2013
690.1000	Renumbered	37 Ill. Reg. 4479; April 12, 2013
690.1010	Renumbered	37 Ill. Reg. 4479; April 12, 2013

15) Summary and Purpose of Rulemaking: The amendments establish new provisions for the Department's Extensively Drug-Resistant Organism (XDRO) Registry. The Registry allows the Department to collect data on persons entering health care facilities who have been diagnosed with an XDRO infection. The amendments include definitions; the entities that are required to submit information; the information required to be reported; reporting methods; and availability of information.

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:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONSPART 690
CONTROL OF COMMUNICABLE DISEASES CODE

SUBPART A: REPORTABLE DISEASES AND CONDITIONS

Section	
690.100	Diseases and Conditions
690.110	Diseases Repealed from This Part

SUBPART B: REPORTING

Section	
690.200	Reporting

SUBPART C: DETAILED PROCEDURES FOR THE CONTROL OF
COMMUNICABLE DISEASES

Section	
690.290	Acquired Immunodeficiency Syndrome (AIDS) (Repealed)
690.295	Any Unusual Case or Cluster of Cases That May Indicate a Public Health Hazard, Including, But Not Limited to, Glanders, Orf, Monkeypox, Viral Hemorrhagic Fever (Reportable by telephone immediately (within 3 hours))
690.300	Amebiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
690.310	Animal Bites (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
690.320	Anthrax (Reportable by telephone immediately, within 3 hours, upon initial clinical suspicion of the disease)
690.322	Arboviral Infections (including, but not limited to, California encephalitis, St. Louis encephalitis and West Nile virus) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
690.325	Blastomycosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
690.327	Botulism, Foodborne, Intestinal Botulism (Formerly Infant), Wound, or Other (Reportable by telephone immediately, within 3 hours upon initial clinical

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- suspicion of the disease for foodborne botulism or within 24 hours by telephone or facsimile for other types)
- 690.330 Brucellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible (within 7 days), unless suspected bioterrorist event or part of an outbreak, then reportable immediately (within 3 hours) by telephone)
- 690.335 Campylobacteriosis (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.340 Chancroid (Repealed)
- 690.350 Chickenpox (Varicella) (Reportable by telephone, facsimile or electronically , within 24 hours)
- 690.360 Cholera (*Vibrio cholerae* O1 or O139) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.362 Creutzfeldt-Jakob Disease (CJD) (all laboratory confirmed and probable cases) (Reportable by mail, telephone, facsimile or electronically within 7 days after confirmation of the disease)
- 690.365 Cryptosporidiosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.368 Cyclosporiasis (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.370 Diarrhea of the Newborn (Reportable by telephone as soon as possible, within 24 hours) (Repealed)
- 690.380 Diphtheria (Reportable by telephone as soon as possible, within 24 hours)
- 690.385 Ehrlichiosis, Human Granulocytotropic anaplasmosis (HGA) (See Tickborne Disease)
- 690.386 Ehrlichiosis, Human Monocytotropic (HME) (See Tickborne Disease)
- 690.390 Encephalitis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.400 *Escherichia coli* Infections (*E. coli* O157:H7 and Other Shiga toxin-producing *E. coli*, Enterotoxigenic *E. coli*, Enteropathogenic *E. coli* and Enteroinvasive *E. coli*) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.410 Foodborne or Waterborne Illness (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.420 Giardiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.430 Gonorrhea (Repealed)
- 690.440 Granuloma Inguinale (Repealed)
- 690.441 *Haemophilus influenzae*, Meningitis and Other Invasive Disease (Reportable by telephone or facsimile, within 24 hours)
- 690.442 Hantavirus Pulmonary Syndrome (Reportable by telephone or facsimile, within

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- 24 hours)
- 690.444 Hemolytic Uremic Syndrome, Post-diarrheal (Reportable by telephone or facsimile, within 24 hours)
- 690.450 Hepatitis A (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.451 Hepatitis B and Hepatitis D (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.452 Hepatitis C, Acute Infection and Non-Acute Confirmed Infection (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.453 Hepatitis, Viral, Other (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.460 Histoplasmosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.465 Influenza, Death (in persons less than 18 years of age) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.469 Influenza A, Novel Virus (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion or laboratory test order)
- 690.470 Intestinal Worms (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.475 Legionellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.480 Leprosy (Hansen's Disease) (infectious and non-infectious cases are reportable) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.490 Leptospirosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.495 Listeriosis (when both mother and newborn are positive, report mother only) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.500 Lymphogranuloma Venereum (Lymphogranuloma Inguinale Lymphopathia Venereum) (Repealed)
- 690.505 Lyme Disease (See Tickborne Disease)
- 690.510 Malaria (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.520 Measles (Reportable by telephone as soon as possible, within 24 hours)
- 690.530 Meningitis, Aseptic (Including Arboviral Infections) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.540 Meningococemia (Reportable by telephone as soon as possible) (Repealed)

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- 690.550 Mumps (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.555 Neisseria meningitidis, Meningitis and Invasive Disease (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.560 Ophthalmia Neonatorum (Gonococcal) (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.570 Plague (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease)
- 690.580 Poliomyelitis (Reportable by telephone as soon as possible, within 24 hours)
- 690.590 Psittacosis (Ornithosis) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.595 Q-fever (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days, unless suspected bioterrorist event or part of an outbreak, then reportable immediately (within 3 hours) by telephone)
- 690.600 Rabies, Human (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.601 Rabies, Potential Human Exposure (Reportable by telephone or facsimile, within 24 hours)
- 690.610 Rocky Mountain Spotted Fever (See Tickborne Disease)
- 690.620 Rubella (German Measles) (Including Congenital Rubella Syndrome) (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.630 Salmonellosis (Other than Typhoid Fever) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.635 Severe Acute Respiratory Syndrome (SARS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease)
- 690.640 Shigellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.650 Smallpox (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease)
- 690.655 Smallpox vaccination, complications of (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.658 Staphylococcus aureus, Methicillin Resistant (MRSA) Infection, Clusters of 2 or More Laboratory Confirmed Cases Occurring in Community Settings (including, but not limited to, schools, correctional facilities, day care settings, and sports teams) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.660 Staphylococcus aureus, Methicillin Resistant (MRSA), Occurring In Infants Under 61 Days of Age (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.661 Staphylococcus aureus Infections with Intermediate (Minimum inhibitory

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- concentration (MIC) between 4 and 8) (VISA) or High Level Resistance to Vancomycin (MIC greater than or equal to 16) (VRSA) (Reportable by telephone or facsimile, within 24 hours)
- 690.670 Streptococcal Infections, Group A, Invasive Disease (Including Streptococcal Toxic Shock Syndrome and necrotizing fasciitis) and Sequelae to Group A Streptococcal Infections (rheumatic fever and acute glomerulonephritis) (Reportable by telephone or facsimile, within 24 hours)
- 690.675 Streptococcal Infections, Group B, Invasive Disease, of the Newborn (birth to 3 months) (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.678 Streptococcus pneumoniae, Invasive Disease in Children Less than 5 Years (Including Antibiotic Susceptibility Test Results) (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.680 Syphilis (Repealed)
- 690.690 Tetanus (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.695 Toxic Shock Syndrome due to Staphylococcus aureus Infection (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.698 Tickborne Disease (includes Ehrlichiosis, Anaplasmosis, Lyme disease and Rocky Mountain spotted fever) (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.700 Trachoma (Repealed)
- 690.710 Trichinosis (Trichinellosis) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.720 Tuberculosis (Repealed)
- 690.725 Tularemia (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days, unless suspected bioterrorist event or part of an outbreak, then reportable immediately (within 3 hours) by telephone)
- 690.730 Typhoid Fever (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.740 Typhus (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.745 Vibriosis (Non-cholera Vibrio Infections) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.750 Pertussis (Whooping Cough) (Reportable by telephone as soon as possible, within 24 hours)
- 690.752 Yersiniosis (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.800 Any Suspected Bioterrorist Threat or Event (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease)

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SUBPART D: DEFINITIONS

Section
690.900 Definition of Terms

SUBPART E: GENERAL PROCEDURES

Section
690.1000 General Procedures for the Control of Communicable Diseases
690.1010 Incorporated and Referenced Materials

SUBPART F: SEXUALLY TRANSMITTED DISEASES (Repealed)

Section
690.1100 The Control of Sexually Transmitted Diseases (Repealed)

SUBPART G: PROCEDURES FOR WHEN DEATH OCCURS FROM
COMMUNICABLE DISEASES

Section
690.1200 Death of a Person Who Had a Known or Suspected Communicable Disease
690.1210 Funerals (Repealed)

SUBPART H: ISOLATION, QUARANTINE, AND CLOSURE

Section
690.1300 General Purpose
690.1305 Department of Public Health Authority
690.1310 Local Health Authority
690.1315 Responsibilities and Duties of the Certified Local Health Department
690.1320 Responsibilities and Duties of Health Care Providers
690.1325 Conditions and Principles for Isolation and Quarantine
690.1330 Order and Procedure for Isolation, Quarantine and Closure
690.1335 Isolation or Quarantine Premises
690.1340 Enforcement
690.1345 Relief from Isolation, Quarantine, or Closure
690.1350 Consolidation
690.1355 Access to Medical or Health Information

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690.1360	Right to Counsel
690.1365	Service of Isolation, Quarantine, or Closure Order
690.1370	Documentation
690.1375	Voluntary Isolation, Quarantine, or Closure
690.1380	Physical Examination, Testing and Collection of Laboratory Specimens
690.1385	Vaccinations, Medications, or Other Treatments
690.1390	Observation and Monitoring
690.1400	Transportation of Persons Subject to Public Health or Court Order
690.1405	Information Sharing
690.1410	Amendment and Termination of Orders
690.1415	Penalties

SUBPART I: REGISTRIESSection

<u>690.1500</u>	<u>Extensively Drug-Resistant Organism Registry</u>
<u>690.1510</u>	<u>Entities Required to Submit Information</u>
<u>690.1520</u>	<u>Information Required to be Reported</u>
<u>690.1530</u>	<u>Methods of Reporting XDRO Registry Information</u>
<u>690.1540</u>	<u>Availability of Information</u>

690.EXHIBIT A Typhoid Fever Agreement (Repealed)

AUTHORITY: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

SOURCE: Amended July 1, 1977; emergency amendment at 3 Ill. Reg. 14, p. 7, effective March 21, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 52, p. 131, effective December 7, 1979; emergency amendment at 4 Ill. Reg. 21, p. 97, effective May 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 38, p. 183, effective September 9, 1980; amended at 7 Ill. Reg. 16183, effective November 23, 1983; codified at 8 Ill. Reg. 14273; amended at 8 Ill. Reg. 24135, effective November 29, 1984; emergency amendment at 9 Ill. Reg. 6331, effective April 18, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9124, effective June 3, 1985; amended at 9 Ill. Reg. 11643, effective July 19, 1985; amended at 10 Ill. Reg. 10730, effective June 3, 1986; amended at 11 Ill. Reg. 7677, effective July 1, 1987; amended at 12 Ill. Reg. 10045, effective May 27, 1988; amended at 15 Ill. Reg. 11679, effective August 15, 1991; amended at 18 Ill. Reg. 10158, effective July 15, 1994; amended at 23 Ill. Reg. 10849, effective August 20, 1999; amended at 25 Ill. Reg. 3937, effective April 1, 2001; amended at 26 Ill. Reg. 10701, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 592, effective January 2, 2003, for a

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maximum of 150 days; emergency expired May 31, 2003; amended at 27 Ill. Reg. 10294, effective June 30, 2003; amended at 30 Ill. Reg. 14565, effective August 23, 2006; amended at 32 Ill. Reg. 3777, effective March 3, 2008; amended at 37 Ill. Reg. 12063, effective July 15, 2013.

SUBPART D: DEFINITIONS

Section 690.900 Definition of Terms

For the purpose of this Part, the following shall be the accepted definitions of terms.

"Acceptable Laboratory" – A laboratory that is certified under the Centers for Medicare and Medicaid Services, Department of Health and Human Services, Laboratory Requirements (42 CFR 493), which implements the Clinical Laboratory Improvement Amendments of 1988 (42 USC 263).

"Act" – The Department of Public Health Act of the Civil Administrative Code of Illinois [20 ILCS 2305].

"Airborne Precautions" or "Airborne Infection Isolation Precautions" – Infection control measures designed to reduce the risk of transmission of infectious agents that may be suspended in the air in either dust particles or small particle aerosols (airborne droplet nuclei (5 µm or smaller in size)) (see Section 690.1010(a)(7)).

"Authenticated Fecal Specimen" – A specimen is considered to be authenticated when a public health authority or a person authorized by a public health authority has observed one or more of the following:

The patient produce the specimen.

Conditions such that no one other than the case, carrier or contact could be the source of the specimen.

"Bioterrorist Threat or Event" – The intentional use of any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant or another living organism.

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"Carbapenem Antibiotics" – A class of broad-spectrum Beta-lactam antibiotics.

"Carrier" – A person or deceased person who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for others.

"Case" – Any person or deceased person having a recent illness due to a communicable disease.

"Confirmed Case" – A case that is classified as confirmed per federal or State case definitions.

"Probable Case" – A case that is classified as probable per federal or State case definitions.

"Suspect Case" – A person whose medical history or symptoms suggest that he or she may have or may be developing a communicable disease and does not yet meet the case definition of a probable or confirmed case.

"Certified Local Health Department" – A local health authority that is certified pursuant to Section 600.210 of the Certified Local Health Department Code (77 Ill. Adm. Code 600).

"Chain of Custody" – The methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing, and transporting the specimens and reporting test results.

"Child Care Facility" – A center, private home, or drop-in facility open on a regular basis where children are enrolled for care or education.

"Cleaning" – The removal of visible soil (organic and inorganic material) from objects and surfaces; it normally is accomplished by manual or mechanical means using water with detergents or enzymatic products.

"Clinical Materials" – A clinical isolate containing the infectious agent or other material containing the infectious agent or evidence of the infectious agent.

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"Cluster" – Two or more persons with a similar illness, usually associated by place or time, unless defined otherwise in Subpart C of this Part.

"Communicable Disease" – An illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate source to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment.

"Contact" – Any person known to have been associated sufficiently with a case or carrier of a communicable disease to have been the source of infection for that person or to have been associated sufficiently with the case or carrier of a communicable disease to have become infected by the case or carrier.

"Contact Precautions" – Infection control measures designed to reduce the risk of transmission of infectious agents that can be spread through direct contact with the patient or indirect contact with potentially infectious items or surfaces (see Section 690.1010(a)(7)).

"Contagious Disease" – An infectious disease that can be transmitted from person to person.

"Dangerously Contagious or Infectious Disease" – An illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment, and may pose an imminent and significant threat to the public health, resulting in severe morbidity or high mortality.

"Decontamination" – A procedure that removes pathogenic microorganisms from objects so they are safe to handle, use or discard.

"Department" – Illinois Department of Public Health.

"Director" – The Director of the Department, or his or her duly designated officer or agent.

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"Diarrhea" – The presence of 3 or more loose stools within a 24-hour period.

"Disinfection" – A process, generally less lethal than sterilization, that eliminates virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (e.g., bacterial spores).

"Droplet Precautions" – Infection control measures designed to reduce the risk of transmission of infectious agents via large particle droplets that do not remain suspended in the air and are usually generated by coughing, sneezing, or talking (see Section 690.1010(a)(7)).

"Emergency" – An occurrence or imminent threat of an illness or health condition that:

is believed to be caused by any of the following:

bioterrorism;

the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin;

a natural disaster;

a chemical attack or accidental release; or

a nuclear attack or incident; and

poses a high probability of any of the following harms:

a large number of deaths in the affected population;

a large number of serious or long-term disabilities in the affected population; or

widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

"Epidemic" – The occurrence in a community or region of cases of a

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communicable disease (or an outbreak) clearly in excess of expectancy.

"Extensively Drug-Resistant Organisms" – A micro-organism that is non-susceptible to at least one agent in all but two or fewer antimicrobial categories.

"Fever" – The elevation of body temperature above the normal (typically considered greater than or equal to 100.4 degrees Fahrenheit).

"First Responder" – Those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in section 2 of the Homeland Security Act of 2002 (6 USC 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations.

"Food Handler" – A person who produces, prepares, packages or dispenses food or drink.

"Health Care Facility" – Any institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical treatment centers, home health agencies, hospices, hospitals, end-stage renal disease facilities, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day care centers.

"Health Care Provider" – Any person or entity who provides health care services, including, but not limited to, hospitals, medical clinics and offices, long-term care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency workers.

"Health Care Worker" – Any person who is employed by (or volunteers his or her services to) a health care facility to provide direct personal services to others. This definition includes, but is not limited to, physicians, dentists, nurses and nursing assistants.

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"Incubation Period" – The time interval between initial contact with an infectious agent and the first appearance of symptoms associated with the infection.

"Infectious Disease" – A disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, prion, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

"Institution" – An established organization or foundation, especially one dedicated to education, public service, or culture, or a place for the care of persons who are destitute, disabled, or mentally ill.

"Isolation" – The physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.

"Isolation, Modified" – A selective, partial limitation of freedom of movement or actions of a person or group of persons infected with, or reasonably suspected to be infected with, a contagious or infectious disease. Modified isolation is designed to meet particular situations and includes, but is not limited to, the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Isolation Precautions" – Infection control measures for preventing the transmission of infectious agents, i.e., Standard Precautions, Airborne Precautions (also known as Airborne Infection Isolation Precautions), Contact Precautions, and Droplet Precautions (see Section 690.1010(a)(7)).

"Least Restrictive" – The minimal limitation of the freedom of movement and communication of a person or group of persons while under an order of isolation or an order of quarantine, which also effectively protects unexposed and susceptible persons from disease transmission.

"Local Health Authority" – The health authority (i.e., full-time official health department, as recognized by the Department) having jurisdiction over a particular area, including city, village, township and county boards of health and health departments and the responsible executive officers of such boards, or any

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person legally authorized to act for such health authority. In areas without a health department recognized by the Department, the local health authority shall be the Department.

"Medical Record" – A written or electronic account of a patient's medical history, current illness, diagnosis, details of treatments, chronological progress notes, and discharge recommendations.

"Non-Duplicative Isolate" – The first isolate obtained from any source during each unique patient/resident encounter, including those obtained for active surveillance or clinical decision making.

"Observation" – The practice of close medical or other supervision of contacts in order to promote prompt recognition of infection or illness, but without restricting their movements.

"Observation and Monitoring" – Close medical or other supervision, including, but not limited to, review of current health status, by health care personnel, of a person or group of persons on a voluntary or involuntary basis to permit prompt recognition of infection or illness.

"Outbreak" – The occurrence of illness in a person or a group of epidemiologically associated persons, with the rate of frequency clearly in excess of normal expectations. The number of cases indicating presence of an outbreak is disease-specific.

"Premises" – The physical portion of a building or other structure and its surrounding area so designated by the Director of the Department, his authorized representative, or the local health authority.

"Public Health Order" – A written or verbal command, directive, instruction or proclamation issued or delivered by the Department or certified local health department.

"Quarantine" – The physical separation and confinement of an individual or groups of individuals who are or may have been exposed to a contagious disease or possibly contagious disease and who do not show signs or symptoms.

"Registry" – A data collection and information system that is designed to support

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orgainzed care management.

"Sensitive Occupation" – An occupation involving the direct care of others, especially young children and the elderly, or any other occupation so designated by the Department or the local health authority, including, but not limited to, health care workers and child care facility personnel.

"Sentinel Surveillance" – A means of monitoring the prevalence and/or incidence of infectious disease or syndromes through reporting of cases, suspected cases, or carriers or submission of clinical materials by selected sites.

"Specimens" – Include, but are not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests.

"Standard Precautions" – Infection prevention and control measures that apply to all patients regardless of diagnosis or presumed infection status (see Section 690.1010(a)(7)).

"Sterilization" – The use of a physical or chemical process to destroy all microbial life, including large numbers of highly resistant bacterial endospores.

"Susceptible (non-immune)" – A person who is not known to possess sufficient resistance against a particular pathogenic agent to prevent developing infection or disease if or when exposed to the agent.

"Syndromic Surveillance" – Surveillance using health-related data that precede diagnosis and signal a sufficient probability of a case or an outbreak to warrant further public health response.

"Tests" – Include, but are not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the public's health, safety, and welfare.

"Transmission" – Any mechanism by which an infectious agent is spread from a source or reservoir to a person, including direct, indirect, and airborne transmission.

"Voluntary Compliance" – Deliberate consented compliance of a person or group of persons that occurs at the request of the Department or local health authority

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prior to instituting a mandatory order for isolation, quarantine, closure, physical examination, testing, collection of laboratory specimens, observation, monitoring, or medical treatment pursuant to this Subpart.

(Source: Amended at 37 Ill. Reg. 12063, effective July 15, 2013)

SUBPART I: REGISTRIESSection 690.1500 Extensively Drug-Resistant Organism Registry

- a) This Section establishes an Extensively Drug-Resistant Organism (XDRO) Registry to collect data on persons entering health care facilities who have been diagnosed with an XDRO infection. Options for treating patients with XDRO infections are often limited, and XDRO infections are associated with increased lengths of stay, costs and mortality. The Registry is established to protect patients and to stop the spread of communicable disease in health care facilities.
- b) XDROs to be included in the registry include non-duplicative XDROs considered to be of epidemiologic importance due to either severity of clinical disease, potential for transmission of genetic elements, or opportunities for effective control efforts.

(Source: Added at 37 Ill. Reg. 12063, effective July 15, 2013)

Section 690.1510 Entities Required to Submit Information

The Department requires the following health care facilities to report patient XDRO incident information:

- a) Hospitals;
- b) Hospital-affiliated clinical laboratories;
- c) Independent or free-standing laboratories;
- d) Long-term care facilities; and
- e) Long-term acute care hospitals (LTACHs)

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(Source: Added at 37 Ill. Reg. 12063, effective July 15, 2013)

Section 690.1520 Information Required to be Reported

- a) A facility required to submit XDRO information shall report each Non-Duplicative XDRO Isolate, as specified in this Section, to the Department.

- b) The information to be reported shall be provided in a format designated by the Department and may be submitted either by direct electronic transmission or entry into a website. The information to be reported is divided into four subject areas, each containing a particular set of information. The four subject areas of the incidence report shall include the following:
 - 1) Patient Data and Address – patient's full name (including maiden name, when applicable and available), last four digits of the Social Security number (if available), telephone number and residential address, including street address, city, county, state and postal code;
 - 2) Personal Data – patient's birth date, sex, race and ethnicity (if available);
 - 3) Culture Data – specimen collection date, specimen source, isolate genus, isolate species, specific carbapenemase name (if known), antibiotic resistance criteria for entry into the Registry; and
 - 4) Facility Data – facility identification number provided by the Department, the medical record number, and the date of admission.

- c) Each XDRO report shall be submitted within seven calendar days after the test result is finalized.

- d) Upon request from the Department or the Department's designee, each reporting facility shall provide access to additional information from all medical, pathological and other pertinent records related to the XDRO diagnosis, treatment, and follow-up for the purposes of infection control and quality improvement.

- e) Beginning September 1, 2013, reporting facilities shall report carbapenem-resistant enterobacteriaceae (e.g., E. coli, Klebsiella species, Enterobacter species,

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Proteus species, Citrobacter species, Serratia species, Morganella species, or Providentia species) based on laboratory test results:

- 1) Molecular test (e.g., polymerase chain reaction (PCR)) specific for carbapenemase;
- 2) Phenotypic test (e.g., Modified Hodge) specific for carbapenemase production; or
- 3) For E. coli and Klebsiella species only: nonsusceptible to one of the following carbapenems: doripenem, meropenem, or imipenem and resistant to all of the following third generation cephalosporin that were tested: ceftriaxone, cefotaxime, and ceftazidime.

(Source: Added at 37 Ill. Reg. 12063, effective July 15, 2013)

Section 690.1530 Methods of Reporting XDRO Registry Information

- a) All patients identified at a reporting facility with a non-duplicative XDRO are reportable to the Registry within seven calendar days after the test result is finalized.
- b) A reporting facility may report XDRO infections by one of the following methods:
 - 1) Option #1. Electronic Reporting: Health care facilities that have the capacity to submit laboratory data electronically may use this option.
 - 2) Option #2. Manual Entry into a Website: Facilities that do not have the capacity to submit laboratory data electronically shall submit the data through a Department-approved website.
- c) All reporting facilities are responsible for complete case finding, which means identifying all non-duplicative XDRO isolates.

(Source: Added at 37 Ill. Reg. 12063, effective July 15, 2013)

Section 690.1540 Availability of Information

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- a) The Department will use information in the XDRO Registry for the following purposes:
- 1) To provide appropriate information to a physician or institution providing care or treatment to a person;
 - 2) To alert health care facilities of the admission of a patient with an XDRO infection; and
 - 3) To assess the burden of XDROs in health care facilities located in Illinois.
- b) The Department will maintain the confidentiality of information in the XDRO Registry that would identify individual patients. The Department will handle confidentiality of XDRO Registry information as set forth in Section 690.200(d).
- c) The Department may release summary statistics from the XDRO Registry to highlight or prevent a population based public health problem or to highlight the State or regional burden of XDROs. Any summary statistics released by the Department will not reveal the identity of the reporting health care facility or a patient.
- d) The availability of XDRO Registry information will be in accordance with the Health and Hazardous Substances Registry Code (77 Ill. Adm. Code 840.30(a), (b), (c), (d), (e), (f), (g), (j) and (k)).

(Source: Added at 37 Ill. Reg. 12063, effective July 15, 2013)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Payment of Maintenance Charges and Income Management at the Illinois Veterans Homes
- 2) Code Citation: 95 Ill. Adm. Code 108
- 3) Section Number: 108.130 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 2, 2.03 and 2.04 authorized by Sections 2 and 2.06 of the Department of Veterans Affairs Act [20 ILCS 2805/2, 2.03, 2.04 and 2.06]
- 5) Effective Date of Rulemaking: July 10, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 2471; February 22, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes. JCAR objected to the Department's implementation of the allowance calculation methodology created in this rulemaking prior to adoption of the rule.
- 11) Differences between Proposal and Final Version: None
- 12) Have all 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 rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking pertains to the implementation of an allowance calculation methodology for veteran residents of the Department's

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENT

Homes so that the allowance is commensurate with increased maintenance fees and provides the veteran resident an increase in their monthly allowance.

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

Jaime E. Martinez
General Counsel
Department of Veterans Affairs
833 S. Spring Street
P.O. Box 19432
Springfield, Illinois 62794-9432

312/814-5391

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENT

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRSPART 108
PAYMENT OF MAINTENANCE CHARGES AND INCOME MANAGEMENT
AT THE ILLINOIS VETERANS HOMES

Section

108.10	Resident Liability for Payment of Maintenance Charges
108.20	Allowances for Unusual Expenses
108.30	Investigation of Financial Condition of Residents
108.40	Filing of Financial Statements
108.50	Income Used in Computing Maintenance Charge
108.60	Rejection of Application or Discharge from Homes
108.70	Allowance Based on Total Income
108.80	Purchase of Personal Items
108.90	Due Date of Maintenance Charges
108.100	Liability of Conservator
108.110	Transmittal of Funds
108.120	Failure to Pay Maintenance Charges
108.130	Assessment of Maintenance Charges
108.140	Deposit Requirements
108.150	Allowable Unusual Expenses
108.160	Claims Against the Residents' Estates
108.170	Maintenance Charges for Member With Dependent

AUTHORITY: Implementing Sections 2, 2.03 and 2.04 authorized by Sections 2 and 2.06 of the Department of Veterans Affairs Act [20 ILCS 2805].

SOURCE: Rules filed and effective December 15, 1977; codified at 6 Ill. Reg. 17, p. 64, effective May 1, 1979; codified at 6 Ill. Reg. 8440; amended at 12 Ill. Reg. 4225, effective February 29, 1988; amended at 25 Ill. Reg. 8841, effective June 29, 2001; amended at 37 Ill. Reg. 12087, effective July 10, 2013.

Section 108.130 Assessment of Maintenance Charges

- a) Maintenance charges for each resident of an Illinois Veterans Home shall be assessed at the rate of 90% of all income ~~in excess of \$100 per month up to~~, but not exceeding the average annual per capita cost of maintenance as computed

DEPARTMENT OF VETERANS' AFFAIRS

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annually.

- b) Veteran and spouse, both at a Home, will each pay maintenance charges based upon one-half of their combined monthly income, and are each entitled to the monthly allowance amount ~~\$100 exclusion~~.

- c) Monthly Allowance
Residents shall be entitled to a month allowance of \$100/month for every \$1000 in paid monthly maintenance charges.

EXAMPLE: A \$100 allowance will be provided to the resident (and qualifying resident spouse) for \$.01 to \$1000 in paid maintenance charges. A \$200 allowance will be provided to the resident (and qualify resident spouse) for \$1000.01 to \$2000 in paid maintenance charges. A \$300 allowance will be provided to the resident (and qualifying resident spouse) for \$2000.01 to \$3000 in paid maintenance charges; etc.

(Source: Amended at 37 Ill. Reg. 12087, effective July 10, 2013)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: MIA/POW Scholarship
- 2) Code Citation: 95 Ill. Adm. Code 116
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
116.50	Amendment
116.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 30-14.2 of Article 30 of the School Code [105 ILCS 5/30-14.2]
- 5) Effective Date of Rulemaking: July 10, 2013
- 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 rulemakings, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notices of Proposal published in the *Illinois Register*: 37 Ill. Reg. 1591; February 8, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all 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 rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking pertains to the implementation of the statutory eligibility of MIA/POW Scholarship claimants that can establish a 30-year Illinois residency post-service.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

Jaime E. Martinez
General Counsel
Department of Veterans' Affairs
833 S. Spring Street
P.O. Box 19432
Springfield, Illinois 62794-9432

312/814-5391

- 17) Do this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRSPART 116
MIA/POW SCHOLARSHIP

Section	
116.10	Administration of and Payment of Funds for the Scholarship
116.20	Payment by the Comptroller to Illinois State-Supported Institutions of Higher Learning
116.30	Determination of Eligibility of Dependents
116.40	Eligibility Requirements
116.50	Definition of Eligible Veterans or Servicepersons of Service persons
116.60	Dependents of Dishonorable Discharged Veterans
116.70	Demonstration of Financial Need
116.80	Documentation
116.90	Issuance of Identification Card (I.D.)
116.100	Duration of the Scholarship
116.110	Full-Time Enrollment
116.120	Part-Time Enrollment
116.130	Receipt of points for Part-Time Enrollment
116.140	Semester System and Summer Term
116.150	Time to Complete Course of Study
116.160	Termination of Scholarships
116.170	Reimbursement of Tuition and Application Fees
116.180	Reimbursement of Other Fees
116.190	Non-Reimbursable Fees
116.200	Coverage of Tuition and Fees
116.210	Application for Reimbursement
116.220	Responsibility of Institutions to Submit Information Relative to Reimbursement
116.230	Simultaneous Reimbursement
116.240	Use of the Scholarship at Two or More Institutions Simultaneously
116.250	Appealing an Award Denial
116.260	Audit Procedures
116.270	Dependents with Physical, Mental or Developmental Disabilities
116.280	Reimbursement to Therapeutic, Rehabilitative or Education Facilities

AUTHORITY: Implementing and authorized by Section 30-14.2 of the School Code [105 ILCS 5].

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 4 Ill. Reg. 12, p. 555, effective April 1, 1980; codified at 6 Ill. Reg. 8452; amended at 11 Ill. Reg. 11170, effective July 1, 1987; amended at 16 Ill. Reg. 7704, effective April 30, 1992; amended at 37 Ill. Reg. 12091, effective July 10, 2013.

Section 116.50 Definition of Eligible Veterans ~~or Servicepersons~~ of Service-persons

Eligible ~~veteran~~veterans or ~~serviceperson~~servicepersons means any veteran or serviceperson:

- a) who has:
 - 1) been declared by the U.S. Department of Defense or the U.S. ~~Department of Veterans Affairs Administration~~ to be a Prisoner-of-War, ~~or to be Missing-in-Action;~~ or,
 - 2) ~~have~~ died as the result of a service-connected disability or ~~is~~be permanently disabled from service-connected causes with 100% disability; and
- b) who, at the time of entering ~~the~~ service, was an Illinois resident or was an Illinois resident within ~~six~~ months ~~after~~of entering ~~the~~such service, ~~or, until July 24, 2014, became an Illinois resident within 6 months after leaving the service and can establish at least 30 years of continuous residency in the State of Illinois.~~

(Source: Amended at 37 Ill. Reg. 12091, effective July 10, 2013)

Section 116.80 Documentation

- a) The applicant must provide the following official documentation when applicable:
 - 1)~~a)~~ Marriage Certificate
 - 2)~~b)~~ Divorce Decree
 - 3)~~c)~~ Birth Certificate
 - 4)~~d)~~ Adoption Decree
 - 5)~~e)~~ Letters of Guardianship

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- ~~6)f)~~ Death Certificate or Report of Casualty
 - ~~7)g)~~ DD 214 or Discharge
 - ~~8)h)~~ Proof of Disability (Statement from Department of Defense or U.S. Department of Veterans' Affairs~~Veterans Administration~~).
- b) The definition of "eligible veteran or serviceperson" contained in Section 116.50 provides that, until July 1, 2014, eligibility may be established if the otherwise eligible veteran or serviceperson became an Illinois resident within 6 months after leaving military service and can establish 30 years of continuous residency in the State of Illinois.
- 1) If the eligible veterans' or servicepersons' DD 214 does not indicate Illinois residency when entering and/or separating from the Armed Forces, he/she may verify establishment of residency within 6 months after leaving military service by providing one or more of the following documents:
 - A) Illinois driver's license issued during the relevant 6 month period;
 - B) Illinois high school or college transcripts demonstrating attendance during the relevant 6 month period;
 - C) Utility bills/rent receipts in the applicant's name during the relevant 6 month period;
 - D) Illinois motor vehicle registration issued during the relevant 6 month period;
 - E) Residential lease in the applicant's name during the relevant 6 month period;
 - F) Statement of benefits history from the Illinois Department of Healthcare and Family Services or Department of Human Services during the relevant 6 month period;
 - G) Statement of benefits from the Illinois Department of Employment

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Security during the relevant 6 month period;

- H) State of Illinois identification card issued during the relevant 6 month period; or
- I) Letter of employment on company letterhead verified by certification in accordance with Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109].

2) If the eligible veterans' or servicepersons' DD 214 does not indicate Illinois residency when entering and/or separating from the Armed Forces, he/she may verify 30 years of continuous residency by providing a combination of sufficient documentation of one or more of the documents listed in this subsection (b)(2), including tax returns, voting records, property records, utility records and driving records.

- A) Copies of Illinois Income Tax forms for each of the 30 years of required residency. If records are unavailable, provide a statement of the record from the Illinois Department of Revenue that provides an accounting of Illinois Income Tax records currently available;
- B) Copies of Illinois voter registration documents for each of the 30 years of required residency. If records are unavailable, provide a statement of the record from the county clerk where residency has been established that provides a record of voter registration records that are currently available;
- C) Copies of property records to include residential mortgages, deeds or residential leases that provide proof of 30 years of required residency within the State of Illinois;
- D) Copies of utility records to include electricity, water, waste removal, cable or internet service that provides proof of 30 years of required residency within the State of Illinois;
- E) Copies of driving records to include driver's license record, insurance, and ownership of vehicle titled in the State of Illinois that provides proof of 30 years of required residency within the

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

[State of Illinois.](#)

(Source: Amended at 37 Ill. Reg. 12091, effective July 10, 2013)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Veterans' Scratch-off Lottery Grant Program
- 2) Code Citation: 95 Ill. Adm. Code 125
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
125.10	Amendment
125.50	Amendment
125.60	Amendment
125.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6]
- 5) Effective Date of Rulemaking: July 10, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notices of Proposal published in the *Illinois Register*: 37 Ill. Reg. 1184; February 1, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all 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 rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking pertains to the implementation of an additional statutory approved program category that includes employment and employment training and reporting and compliance requirements for all grantees.

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted rulemakings shall be directed to:

Jaime E. Martinez
General Counsel
Department of Veterans' Affairs
833 S. Spring Street
P.O. Box 19432
Springfield, Illinois 62794-9432

312/814-5391

- 17) Do this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRSPART 125
VETERANS' SCRATCH-OFF LOTTERY GRANT PROGRAM

Section

125.10	Program Objectives
125.15	Definitions
125.20	Eligibility Requirements
125.30	Assistance Formula
125.40	General Procedures for Grant Applications and Awards
125.50	Eligible Project Costs
125.60	Project Evaluation Priorities
125.70	Funding Authorization Committee Program Compliance Requirements
125.80	Disqualification
125.APPENDIX A	Project Evaluation Criteria

AUTHORITY: Implementing and authorized by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6].

SOURCE: Adopted at 34 Ill. Reg. 7776, effective May 20, 2010; amended at 37 Ill. Reg. 12098, effective July 10, 2013.

Section 125.10 Program Objectives

The purpose of the program is to make grants, fund additional services, and conduct additional research relating to veterans' post traumatic stress disorder, veterans' homelessness, the health insurance costs of veterans, veterans' disability benefits, ~~and the~~ long-term care of veterans, and veteran employment and employment training.

(Source: Amended at 37 Ill. Reg. 12098, effective July 10, 2013)

Section 125.50 Eligible Project Costs

- a) Grant assistance may be obtained for the following items:
 - 1) Research or services relating to veterans' PTSD or TBI, including such things as contract payments to physicians or psychologists, laboratory

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

researchers and/or laboratory fees, contract labor, job training, computer/software purchase/lease, and necessary office equipment and supplies. The Department will consider, on a case-by-case basis, building lease arrangements when no government-owned facility is available and:

- A) State statute or local ordinance prohibits a unit of local government from entering into a rental agreement; or
 - B) Other circumstances beyond the control of the unit of local government or non-governmental tax exempt organization prohibit other arrangements.
- 2) Programs designed to prevent, eliminate or alleviate veterans' homelessness, including such things as renovation of existing shelters to better serve homeless veterans, expansion of existing shelters for homeless veterans, contract payment to counselors or; caseworkers, training and education, employment assistance, and necessary supplies.
 - 3) Veterans' disability benefits, such as assistance in obtaining benefits, counseling, prosthetics, job training, accessibility of the home of a disabled veteran ~~home accessibility~~, and automobile modifications to accommodate the veteran's disability. Applicant must employ a certified Veterans Service Officer or Officers to be eligible for grants under this subsection (a)(3).—Veterans Service Organizations receiving funding pursuant to Section 25 of the Department of Veterans' Affairs Act [20 ILCS 2805/25] shall be ineligible for grant funding from this program for Veteran Service Officers during the same period of time covered by the Section 25 award, and Veterans Service Organizations that elect to accept a grant from this program for Veterans Service Officer funding are ineligible for Section 25 awards for the year covered by this program grant.
 - 4) Long-term veterans' care, including remodeling existing facilities, supplies, equipment, clothing, medicine, and all things necessary for the morale, welfare and recreation of the veterans being served.
 - 5) Health insurance costs for veterans.
 - 6) Veteran employment and employment training.

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- b) No assistance from this fund shall be used to supplant existing moneys that the Department currently expends for the purposes listed in subsection (a). All grants that are to benefit the Illinois Veterans Homes shall be limited to 50% of the total expenditure made by the grantee on behalf of a Veterans Home.
- c) Project costs for which grant funding is sought cannot be incurred by the project applicant until after grant approval notification. Costs incurred prior to Department approval are ineligible for grant assistance.

(Source: Amended at 37 Ill. Reg. 12098, effective July 10, 2013)

Section 125.60 Project Evaluation Priorities

The following factors are used by the Department in evaluating and recommending project applications for funding assistance consideration (see Appendix A):

- a) The applicant must be a government agency or a registered tax exempt ~~organization~~ ~~agency~~ at the time of application;
- b) projects providing services to a currently unserved or underserved population of veterans;
- c) projects located in areas of high demand or readily accessible to major population centers;
- d) projects proposing innovative research or benefits;
- e) projects for which long-term operations and maintenance capability is clearly demonstrated by the local sponsor and the degree to which the applicant relies upon program grant funding;
- f) the applicant's record of providing benefits to veterans or the ~~applicant's~~ ~~applicants~~ record of providing services to non-veterans similar to the proposed services to be provided to veterans and the applicant's understanding of veterans' service and issues.

(Source: Amended at 37 Ill. Reg. 12098, effective July 10, 2013)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

Section 125.70 Funding Authorization Committee Program Compliance Requirements

The Funding Authorization Committee shall consist of ~~three~~ two members appointed by the Director. ~~One of the three members and one member shall be a member~~ of the Veterans' Advisory Council ~~appointed by the President of the Council~~. The Director of the Illinois Lottery ~~Director~~ shall appoint one member of the Committee as chair. Staff members from the Department, as determined by the Director, shall advise the Committee. The Committee shall meet no less than quarterly at times and places announced by the Department.

- a) Funding Authorization Committee Actions
 - 1) The Committee may recommend that a grant application be:
 - A) approved;
 - B) not approved;
 - C) supplemented with more information and reconsidered at the next meeting;
 - D) held for reconsideration at the next meeting of the Committee; or
 - E) approved pending meeting standards (see Sections 125.50 and 125.60) not presented to the Committee.
 - 2) Failure of an application to receive a two-thirds vote reflecting subsection (a)(1)(A), (C), (D) or (E) shall be considered to be not approved by the Committee.
- b) The Director may veto an approved application, but may not overrule a failure to approve. The Committee may not overrule the Director's veto.
- c) Property acquired or developed with program grant assistance may not be converted to a use that would deny use for veterans as provided by terms of the Grant Agreement without prior Department approval.
- d) Financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of 5 years after final payment is made by the Department.

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- e) Grant funds may not be used except pursuant to a written Grant Agreement. In the event of a disbursement of grant funds without a proper Grant Agreement, that disbursement is void and the Department will take action under the Grant Funds Recovery Act [30 ILCS 705] to recover any funds disbursed. At a minimum, a Grant Agreement must:
- 1) Describe the purpose of the grant and be signed by the Director and the grantee;
 - 2) Specify the manner in which payments will be made, what constitutes permissible expenditure of the grant funds, and the financial controls applicable to the grant;
 - 3) The period of time for which the grant is valid;
 - 4) Contain a provision that any grantees receiving grant funds are required to permit the Department, the Auditor General, or the Attorney General to inspect and audit any books, records, or papers related to the program, project, or use for which grant funds were provided;
 - 5) Contain a provision that all funds remaining at the end of the Grant Agreement or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee shall be returned to the State within 45 days; and
 - 6) Contain a provision in which the grantee certifies under oath that all information in the Grant Agreement is true and correct to the best of the grantee's knowledge, information, and belief; that the funds shall be used only for the purposes described in the Grant Agreement; and that the award of grant funds is conditioned upon such certification. [730 ILCS 705/4(b)(3) through (6)]
- fe) The local sponsoring agency is required to enter into ~~aan~~ Grant Agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant amount and program activity.
- gf) All grant recipients shall publically acknowledge the grant by a statement on any written material being distributed, a sign located where it may be seen by the

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

general public at the location of real property used by the recipient, a sign or decal on any vehicles or durable equipment purchased pursuant to a grant, or other appropriate public acknowledgement of the grant.

- hg) It shall be understood by the project sponsor that a Department representative may make periodic inspections of the project as the project progresses, and that a final inspection and audit must be made by a representative of the Department prior to acceptance of the completed project.
- ih) Grants are for a period of one year. Expenditure authorizations passed by the Committee may be extended by the Department for no more than 12 months.
- ji) *For those grants in excess of \$25,000, the filing of quarterly reports describing the progress of the program, project, or use and the expenditure of the grant funds related to it shall be submitted to the Funding Authorization Committee. [30 ILCS 705/4(b)(2)]*
- ki) Each recipient of a program grant must file a report with the Department no later than 30 days after the conclusion of the grant period, detailing the expenditures made by the grantee. If a service grant, the report shall include: specific assistance given to veterans; how many veterans were assisted; ~~and~~ an evaluation of whether the service achieved its goals and; is valuable enough to continue in operation; ~~and whether the service may continue to operate~~ without continued use of program funding. If a research grant, the report shall include the results of the research, any conclusion that can be drawn from the research, and a report suitable for inclusion in a peer review publication.
- lj) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses or claims arising under, through or by virtue of the operation and maintenance of grant-assisted facilities or programs.
- mk) The applicant's previous grant history with the Department will be considered when reviewing grant applications.

(Source: Amended at 37 Ill. Reg. 12098, effective July 10, 2013)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF HEARING ON PROPOSED AMENDMENT

- 1) Heading of the Part: Fire Prevention and Safety
- 2) Code Citation: 41 Ill. Adm. Code 100
- 3) Register Citation to Notice of Proposed Amendments: 37 Ill. Reg. 8191, June 28, 2013
- 4) Date, Time and Location of Public Hearing:

Tuesday, August 6, 2013, starting at 9:00 AM
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

- 5) Other Pertinent Information:

Each person presenting oral testimony shall sign in prior to testifying and shall be called one at a time to the podium to give their testimony. The order of those testifying shall be according to the order in which persons signed in when arriving for the hearing. Prior to testifying each person must also complete a witness slip providing his or her name and identifying whom they represent.

The OSFM encourages each person presenting oral testimony to provide a written copy of testimony at the time the oral testimony is presented.

Each person will be allowed to testify for 10 minutes. Upon reaching their 10-minute limit they will be asked to conclude their comments in order to allow the next person to testify. Once all others have testified, those persons who have previously testified shall be afforded the opportunity to testify for an additional 10 minutes if so desired.

In order to facilitate the orderly conduct of the hearing, the hearing officer may impose other rules of procedure as he or she deems fit and proper.

Those individuals who are unable to attend the public hearing but wish to comment upon the proposed amendments should submit their written comments on or before Monday August 12, 2013 by mail or facsimile only and sent to the agency contact person. The public comment period will close at midnight on Monday August 12, 2013. To be considered, all comments must be postmarked or received by August 12, 2013. Oral comments communicated outside of the hearing are ex parte communications and cannot

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF HEARING ON PROPOSED AMENDMENT

be considered. Again, all comments outside of the hearing must be in writing and be timely submitted to be considered.

6) Name and Address of Agency Contact Person:

Ken Wood, P.E. EFO
Fire Protection Engineer
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago, IL 60601

312/814-2962
Facsimile: 312/814-3459

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Children's Health Insurance Program
- 2) Code Citation: 89 Ill. Adm. Code 125
- 3) The Notice of Proposed Amendments being corrected appeared at: 37 Ill. Reg.10253;
July 12, 2013
- 4) The information being corrected is as follows: The heading of the Part "Covering All Kids Health Insurance Program" in the introductory notice pages of these proposed amendments should be entitled "Children's Health Insurance Program".

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO AND
FILING PROHIBITION OF PROPOSED RULEMAKING

DEPARTMENT OF INSURANCE

Heading of the Part: Health Maintenance Organization

Code Citation: 50 Ill. Adm. Code 5421

Section Numbers: 5421.20 5421.40 5421.60 5421.110 5421.113
5421.30 5421.50 5421.100 5421.112 5421.141

Date Originally Published in the Illinois Register: 8/17/12
36 Ill. Reg. 12957

At its meeting on July 9, 2013, the Joint Committee on Administrative Rules voted to object to the above proposed rulemaking and prohibit its filing with the Secretary of State. The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest, safety or welfare. The reason for the Objection and Prohibition is as follows:

JCAR objects to and prohibits filing of the rulemaking of the Department of Insurance titled Health Maintenance Organization (50 Ill. Adm. Code 5421; 36 Ill. Reg. 12957) because, by retaining the 50% cap on copayments and deductibles, the aim of permitting some HMO customers to obtain high deductible plans, as expressed by PA 97-1148, is not achieved. JCAR finds that this constitutes a threat to the public interest.

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

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

Heading of the Part: Illinois Film Production Services Tax Credit Program

Code Citation: 14 Ill. Adm. Code 528

Section Numbers: 528.20 528.30 528.62 528.63 528.70 528.75

Date Originally Published in the Illinois Register: 7/13/12
36 Ill. Reg. 9823

At its meeting on July 9, 2013, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that, with respect to the Department's rulemaking titled Illinois Film Production Services Tax Credit Program (14 Ill. Adm. Code 528; 36 Ill. Reg. 9823), DCEO be more timely in updating its rules when statutory changes are enacted.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO EMERGENCY RULEMAKING

DEPARTMENT OF NATURAL RESOURCES

Heading of the Part: Illinois Youth Recreation Corps Grant Program

Code Citation: 17 Ill. Adm. Code 3075

Section Numbers: 3075.10 3075.30 3075.50 3075.70
3075.20 3075.40 3075.60 3075.80

Date Originally Published in the Illinois Register: 6/28/13
37 Ill Reg. 8953

At its meeting on July 9, 2013, the Joint Committee on Administrative Rules considered the above-cited emergency rule and recommended that, when the Department proposes a permanent version of the rulemaking, it include the wage rate to be paid to youth and supervisors. Section 5-10(c) of the Illinois Administrative Procedure Act specifically states that no agency policy is valid, and shall not be invoked, unless adopted as rule.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO EMERGENCY RULEMAKING

DEPARTMENT OF NATURAL RESOURCES

Heading of the Part: Illinois Veteran Recreation Corps Grant Program

Code Citation: 17 Ill. Adm. Code 3080

Section Numbers: 3080.10 3080.30 3080.50 3080.70
3080.20 3080.40 3080.60 3080.80

Date Originally Published in the Illinois Register: 6/28/13
37 Ill. Reg. 8963

At its meeting on July 9, 2013, the Joint Committee on Administrative Rules considered the above-cited emergency rule and recommended that, when the Department proposes a permanent version of the rulemaking, it include the wage rate to be paid to veterans and supervisors. Section 5-10(c) of the Illinois Administrative Procedure Act specifically states that no agency policy is valid, and shall not be invoked, unless adopted as rule.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

DEPARTMENT OF VETERANS' AFFAIRS

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES
STATEMENT OF OBJECTION TO PROPOSED AMENDMENT

- 1) Heading of the Part: Payment of Maintenance Charges and Income Management at the Illinois Veterans Homes
- 2) Code Citation: 95 Ill. Adm. Code 108
- 3) Section Number: 108.130 Proposed Action: Amendment
- 4) Date Notice of Proposed Rulemaking Published in the Illinois Register: February 2, 2013; 37 Ill. Reg. 2471
- 5) Date JCAR Statement of Objection Published in the Illinois Register: July 5, 2013; 37 Ill. Reg. 9811
- 6) Summary of Action Taken by the Agency: At its meeting on June 11, 2013, the Joint Committee on Administrative Rules (JCAR) objected to the above-cited rulemaking because the Department of Veterans' Affairs (DVA) implemented the allowance calculation methodology created in this rulemaking prior to adoption of the rule. Pursuant to Section 5-10(c) of the Illinois Administrative Procedure Act specifically states that no agency policy is valid, and shall not be invoked, unless adopted as rule.

In response to this Objection, DVA regrets the delay and will attempt to file rulemakings in a more expedient manner in the future.

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

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Child Health Examination Code

Code Citation: 77 Ill. Adm. Code 665

Section Numbers: 665.105 665.240 665.Appendix F

Date Originally Published in the Illinois Register: 1/4/13
37 Ill. Reg. 60

At its meeting on July 9, 2013, with respect to the Department of Public Health's rulemaking titled Child Health Examination Code (77 Ill. Adm. Code 665; 37 Ill. Reg. 60 - 1/4/13), JCAR objected to the Department's failure to adhere to the statutory directive that it implement these provisions of PA 95-159 by 9/13/07.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

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

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Immunization Code

Code Citation: 77 Ill. Adm. Code 695

Section Numbers: 695.5 695.10 695.30 695.50
695.5 695.7 695.20 695.40 695.Appendix B

Date Originally Published in the Illinois Register: 1/4/13
37 Ill. Reg. 77

At its meeting on July 9, 2013, with respect to the Department of Public Health's rulemaking titled Immunization Code (77 Ill. Adm. Code 695; 37 Ill. Reg. 77 - 1/4/13), JCAR objected to the Department's failure to adhere to the statutory directive that it implement these provisions of PA 95-159 by 9/13/07.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 9, 2013 through July 15, 2013. The rulemakings are scheduled for review at the Committee's August 13, 2013 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
8/22/13	<u>Department of Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)	4/26/13 37 Ill. Reg. 5268	8/13/13
8/24/13	<u>Department of Insurance</u> , Construction and Filing of Life Insurance and Annuity Forms (50 Ill. Adm. Code 1405)	9/7/12 36 Ill. Reg. 13797	8/13/13

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2013 SECOND QUARTER INCOME TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the 2nd Quarter of 2013. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Commercial Domicile

Credits – Other Rulings

Net Operating Loss and Net Operating Loss Deduction

Residency/Nonresidency

Subtraction Modifications – Pensions

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2013 SECOND QUARTER INCOME TAX SUNSHINE INDEX

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2013 SECOND QUARTER INCOME TAX SUNSHINE INDEX

COMMERCIAL DOMICILE

IT 13-0002-PLR 06/13/2013 Under the facts represented, the commercial domicile of the taxpayer is not in Illinois.

CREDITS – OTHER RULINGS

IT 13-0005-GIL 04/09/2013 Criteria for determining whether a school qualifies for the education expense credit explained.

NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION

IT 13-0007-GIL 05/07/2013 Corporation that incurred Illinois net losses, and then ceased conducting business in Illinois, is not barred from carrying the losses forward and deducting them in subsequent years when it is again conducting business in Illinois, subject to the same limitations as if it had continuously conducted business in Illinois.

RESIDENCY/NONRESIDENCY

IT 13-0008-GIL 06/27/2013 Under 86 Ill. Adm. Code Section 100.3020(f)(2), an individual who was an Illinois resident in one year and, in the following year, spent 160 days in Illinois, 150 in Florida and 55 in Wisconsin would be presumed to be an Illinois resident in that following year.

SUBTRACTION MODIFICATIONS – PENSIONS

IT 13-0006-GIL 04/10/2013 Income from an annuity purchased for a retiree by a qualified pension plan may qualify for the subtraction for retirement income.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 37, Issue 30 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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**JOINT COMMITTEE ON
ADMINISTRATIVE RULES
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