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January 25, 2013 Volume 37, Issue 4

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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

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Local Tourism and Convention Bureau Program
- 2) Code Citation: 14 Ill. Adm. Code 550
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
550.20	Amend
550.50	Amend
550.70	Amend
- 4) Statutory Authority: Implementing Section 605-705 of the Civil Administrative Code of Illinois [20 ILCS 605/605-705] and Section 8.25 of the State Finance Act [30 ILCS 105/8.25] and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95]
- 5) A Complete Description of the Subjects and Issues Involved: Change of match requirement in FY13 to allow for only 50% match of grant dollars.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed rules contain incorporations by reference? No
- 10) Are there any proposed amendments containing incorporations by reference? No
- 11) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act (30 ILCS 805).
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity
500 E. Monroe

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62701

217/557-1820

217-782-0038

jolene.clarke@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses and small municipalities affected: Not-for-profits and some city and or county governments
 - B) Reporting, bookkeeping or other procedures required for compliance: quarterly reporting of grant and match expenditures
 - C) Types of professional skills necessary for compliance: management and/or accounting skills.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the Department did not anticipate the need for the rulemaking at the time the Agendas were published.

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

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER 1: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 550

LOCAL TOURISM AND CONVENTION BUREAU PROGRAM

Section

550.10	Purpose
550.20	Definitions
550.30	Allocation of Appropriations to Grantees
550.40	Certification Process
550.50	Grant Application Process
550.60	Program Requirements
550.70	Administrative Match Requirements
550.80	Contractual Requirements

AUTHORITY: Implementing Section 605-705 of the Civil Administrative Code of Illinois [20 ILCS 605/605-705] and Section 8.25 of the State Finance Act [30 ILCS 105/8.25] and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95].

SOURCE: Adopted at 9 Ill. Reg. 4775, effective April 4, 1985; amended at 12 Ill. Reg. 2226, effective January 19, 1988; amended at 14 Ill. Reg. 5091, effective March 20, 1990; emergency amendment at 14 Ill. Reg. 5565, effective March 28, 1990, for a maximum of 150 days; emergency expired August 25, 1990; amended at 14 Ill. Reg. 18746, effective November 9, 1990; amended at 15 Ill. Reg. 1798, effective January 29, 1991; emergency amendment at 15 Ill. Reg. 10498, effective June 26, 1991, for a maximum of 150 days; emergency expired November 23, 1991; amended at 16 Ill. Reg. 3464, effective February 20, 1992; amended at 16 Ill. Reg. 14628, effective September 14, 1992; amended at 19 Ill. Reg. 1808, effective February 7, 1995; amended at 21 Ill. Reg. 9732, effective July 11, 1997; amended at 22 Ill. Reg. 10425, effective June 6, 1998; emergency amendment at 25 Ill. Reg. 9629, effective July 9, 2001, for a maximum of 150 days; emergency expired November 27, 2001; old Part repealed and new Part adopted at 29 Ill. Reg. 4988, effective March 22, 2005; amended at 37 Ill. Reg. _____, effective _____.

Section 550.20 Definitions

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

"Act" – means Section 605-705(a) of the Civil Administrative Code of Illinois [20 ILCS 605/605-705(a)] that establishes a grant program to be referred to as the Local Tourism and Convention Bureau Program.

"Applicant" – means a not-for-profit organization or unit of local government that meets the eligibility requirements.

"Application" – means the completed standardized "Grant Application Form", plus the program specific addendum~~written request submitted by an applicant requesting to be a certified local tourism and convention bureau and requesting grant funds authorized by the Act.~~

"Bureau" – means a certified local tourism and convention bureau.

"Certification/Re-certification" – means the written request submitted by an applicant requesting to be a certified local tourism and convention bureau and requesting grant funds authorized by the Act.

"Chief Executive Officer" – means a full-time (at least 35 hours per week), paid professional of a bureau authorized and qualified to manage and implement a bureau's marketing plan and fulfill all requirements under an LTCB grant whose sole function shall be to promote tourism development within the bureau's designated service area.

"Commodities" – means supplies and materials, including premiums, office products, equipment and printing.

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

"Department Logo" – means a form of recognition as stipulated and supplied by the Department to identify a promotional project/product as being produced in whole or in part through grant funds from the Department.

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

"Feasibility Study" – means a study to determine if a tourism promotional project will result in an increase in overnight stays and visitor travel and if the promotional project is capable of being successfully completed.

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

"Fiscal Year" – means each period of July 1 through June 30, the fiscal year of the State of Illinois.

"Fiscal Year Marketing Plan" – means the planned program of tourism promotional activities for the fiscal year, including goals, objectives, strategies, anticipated results, and performance measures.

"Grant Agreement" – means the executed agreement between the grantee and the Department defining their respective rights and obligations with regard to the awarding of grant funds.

"Grantee" – means a bureau receiving LTCB Program funds from the Department for purposes of promoting tourism in a designated geographic area of the State.

"Illinois Bureau of Tourism" or "(IBOT)" – means the division of the Department that has statutory authority to establish, develop, and implement a grant program for local tourism and convention bureaus.

"In-Kind Contributions" – means donated services, donated space, donated equipment, services of volunteers, services in lieu of cash or any non-monetary item.

"Market Research" – means to research potential economic impact on the grantee's service area, including but not limited to researching recruitment of present and future target markets, such as leisure and business travelers and visitor distribution.

"Matching Funds" – means that portion of the Project Budget Plan that is required to be provided by the grantee.

"Municipality" – means "municipality" as defined in Section 1-1-2(1) of the Illinois Municipal Code [65 ILCS 5/1-1-2(1)].

"Pass-Through Funds" – means -funds received by a bureau from a local entity within its designated geographic service area that are designated for payment of any expenses incurred without proportionate value, either programmatically or financially, being added by the bureau.

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"Population Served" – means the population of the bureau's designated service area according to the latest certified census figures.

"Premium Items" – means tourism promotional items purchased with grant funds and distributed or disseminated at no cost for tourism promotional purposes, including but not limited to tee-shirts, pins, hats, travel packages, and award plaques.

"Program" – means the Local Tourism and Convention Bureau (LTCB) Program.

"Project Budget Plan" – means an itemized budget category breakdown of planned grant and match expenditures associated with the activities described in the Fiscal Year Marketing Plan.

"Promotional Projects" – means Department approved tourism promotional activities that are designed to encourage tourism as described in the Fiscal Year Marketing Plan.

"Service Area" – means a designated geographic area for which the bureau is certified to provide tourism promotional services.

"Services" – means the furnishing of labor by a vendor not involving the delivery of a tangible product other than accompanying reports, designs, logos, or similar artistic services.

"Sponsorship" – means a financial contribution made by a bureau to another entity for the purpose of attracting or retaining an event that will generate tourism in the designated service area.

"Tourism" – means travel by either State residents or out-of-state visitors traveling away from home overnight in paid accommodations or on day trips to places 50 miles or more from the visitor's home.

"Travel/Trade Show" – means an exhibit/marketplace of travel-related products and/or services.

"Unit of Local Government" – means a county, municipality, or township having authority to enact laws and ordinances, administer laws and ordinances, and raise taxes or spend public funds.

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

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

Section 550.50 Grant Application Process

- a) Application by Bureaus for Funds Under the Act:
- 1) All bureaus shall complete an application for funding. The bureau shall retain one copy and submit one original ~~and three copies~~ of the application to the Department's Springfield address. Failure to provide any information requested in the application will result in the application not being processed. A bureau's application for funding under the Local Tourism and Convention Bureau Program shall include, but not be limited to, the following information:
 - A) Standardized application form;
 - BA) Name and signature of the bureau's chief executive officer, salary, and length of employment with the bureau;
 - CB) A Marketing Plan detailing all activities to be initiated through the LTCB grant during the fiscal year;
 - DC) Area to be served, such as municipalities, counties, etc.;
 - ED) Project Budget Plan itemizing budget expenditure activities proposed for LTCB grant and eligible match monies;
 - FE) Line-item breakout of source of local match funds;
 - GF) A certified statement, from the authorized official of the municipalities or counties that support the bureau with local hotel/motel taxes, specifying the amount of local hotel/motel tax that will be provided to the bureau during the fiscal year for the bureau's use and expenditure on eligible program activities and for match for the State grant;
 - HG) Name of the financial institution that will serve as the depository for LTCB grant and match funds;

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- | H) Fund account number for LTCB grant and match funds; and
- | J) Names, titles, and sample signatures for those persons who will be required to authorize all account transactions, with a minimum of two signatures required.
- 2) Upon receipt of applications from bureaus, the Department shall review the applications and:

 - A) Grant the full amount requested; or
 - B) Ask for additional information to clarify or document the information contained in the application; and/or
 - C) Reduce the amount of grant funds requested if there are insufficient match funds, or the projects presented in the Marketing Plan do not focus on important tourism promotional activities and have little substance, i.e., no media promotions planned, no promotional materials being developed, the projects are not reasonable and are not consistent and workable, and the bureau cannot effectively carry out the projects. In the event that funding of a grant request is reduced, the bureau may appeal to the Director of the Department within 10 days after notification. The request for review shall be submitted in writing to the Director and shall contain the reasons for appeal and any additional tourism related information the bureau chooses to submit in support of its appeal. The Department shall notify the bureau in writing of the Director's decision within 15 days after receipt of the appeal.

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

Section 550.70 Administrative Match Requirements

Matching Funds. Each grantee must provide match for grant funds received under the Program. Match expenditures must equal or exceed grant funds expended, as well as any interest earned on grant funds that is also expended, except that, during fiscal year 2013, the Department shall require that any grantee shall provide matching funds equal to no less than 50% of the grant amount. If a grantee fails to match any portion of the grant award in a given fiscal year, that

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portion of the grant shall be refunded to the Department in accordance with the terms of the Grant Agreement. In-kind contributions shall not be used to satisfy match requirements.

- a) Eligible matching funds must satisfy all of the following criteria:
 - 1) Be provided to the grantee for general tourism promotional purposes in the designated service area;
 - 2) Be identified in the grantee's Project Budget Plan for the applicable fiscal year;
 - 3) Be available for expenditure during the applicable grant term;
 - 4) Be supported by grantee's records of deposit;
 - 5) Be expended by the grantee solely for eligible tourism promotional activities and associated administrative costs; and
 - 6) Not be refunded to the provider of the match.
- b) Eligible Sources of Matching Funds. The following sources may be used as match for grant funds:
 - 1) Local hotel/motel tax receipts;
 - 2) Membership dues;
 - 3) Interest on local monies available for expenditure on tourism promotional activities;
 - 4) Cash contributions meeting all requirements of subsection (a); and
 - 5) Federal funds provided directly to the grantee for tourism promotional purposes that do not require match.
- c) Ineligible Sources and/or Expenditures of Matching Funds. These include, but are not limited to:
 - 1) In-kind contributions;

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- 2) State or federal funds other than those allowed in subsection (b)(5);
- 3) Monies used as match for other State or federal grants;
- 4) Penalties, fines, fees, or interest charges assessed as a result of late payment;
- 5) Pass-through funds; and
- 6) Any purchase of alcoholic beverages.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: International Tourism Program
- 2) Code Citation: 14 Ill. Adm. Code 555
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
555.10	Amend
555.20	Amend
555.30	Amend
555.40	Amend
555.50	Amend
555.60	Amend
555.70	Amend
555.80	Amend
555.90	Amend
555.100	Amend
555.110	Amend
555.120	Amend
555.130	Amend
- 4) Statutory Authority: Implementing and authorized by Section 605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707] (see PA 91-683)
- 5) A Complete Description of the Subjects and Issues Involved: Change of match requirement in FY13 to allow for only 50% match of grant dollars. SB3802 includes a provision for a temporary 50% reduction in the local matching requirements under the Local Tourism and International Tourism programs.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings containing incorporations by reference? No

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- 11) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

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

217/557-1820
217-782-0038
jolene.clarke@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses and small municipalities affected: Not-for-profits and some city and or county governments
 - B) Reporting, bookkeeping or other procedures required for compliance: quarterly reporting of grant and match expenditures
 - C) Types of professional skills necessary for compliance: management and/or accounting skills.
- 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 Department did not anticipate the need for the rulemaking at the time the Agendas were published.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY~~COMMUNITY AFFAIRS~~

PART 555

INTERNATIONAL TOURISM GRANT PROGRAM

Section

- 555.10 Purpose
- 555.20 Definitions
- 555.30 Eligible Applicants
- 555.40 Eligible Use of Funds
- 555.50 Form of Application
- 555.60 Application Procedure
- 555.70 Matching Funds
- 555.80 Computation of Time
- 555.90 Evaluation and Selection Process
- 555.100 Allocation of Appropriations
- 555.110 Funding Limitation
- 555.120 Grant Agreement
- 555.130 Grant Administrative Requirements

AUTHORITY: Implementing and authorized by Section 605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707].

SOURCE: Emergency rule adopted at 24 Ill. Reg. 3391, effective February 14, 2000, for a maximum of 150 days; emergency expired July 12, 2000; adopted at 25 Ill. Reg. 3005, effective February 9, 2001; amended at 37 Ill. Reg. _____, effective _____.

Section 555.10 Purpose

Section 605-707 of the Civil Administrative Code of Illinois (International Tourism Program) [20 ILCS 605/605-707] authorizes the Department of Commerce and Economic Opportunity~~Community Affairs~~ to awardmake grants to and work in cooperation~~partner~~ with certified local tourism and convention bureaus and regional tourism development organizations to develop, coordinate and promote~~for the purpose of coordinating and promoting~~ international tourism efforts.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

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

Section 555.20 Definitions

The following definitions are applicable to this Part:

~~"Agreement" means a written document executed by the Grantee and the Department defining the rights and obligations with respect to the Project.~~

"Applicant": means a certified local tourism and convention bureau or a certified regional tourism development organization submitting an Application for Program Grant Funds as provided for under the Statute.

"Application": means a written request for Program Grant Funds, containing and program funds, including the required information forms and/or attachments.

"Approved Expenditures": means costs approved to be expended for the completion of the Project.

~~"Certified local tourism and convention bureau" means the local bureau recognized by the Department as a Grantee entitled to receive funds under the Statute.~~

"Department": means the Department of Commerce and Economic Opportunity~~Community Affairs.~~

"Director": means the Director of the Department of Commerce and Economic Opportunity~~Community Affairs.~~

~~"Domestic" means within the boundaries of the United States.~~

"Eligible Expenditure~~Projects~~": means costs that are considered appropriate and, if a grant is awarded, are costs approved by the Department for funding. Examples of Eligible Expenditures are set forth in Section 555.40(a)(1) and (b)(1) include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects.

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"Fiscal ~~Year~~": means the period from July 1 of any given year through June 30 of the subsequent year~~July 1 through June 30, the fiscal year of the State of Illinois.~~

"Grant Agreement": means a written document executed between the Grantee and the Department setting forth the obligations and rights of the parties, describing the purpose of the grant, identifying the manner in which Grant Funds will be disbursed, specifying the grant term during which Grant Funds shall be expended, and requiring unobligated and/or unspent Grant Funds to be returned to the Department.

"Grant Amount" or "Grant Funds": means a monetary amount that the Department awarded to a Grantee to be expended on Approved Expenditures.

"Grantee" means an Applicant~~a certified local tourism and convention bureau~~ that has been awarded a grant under the ~~International Tourism~~ Program based on submission of its Application.

"Illinois Trade Office" is ~~a division of the Department that performs all functions relating to the International Tourism Program.~~

"Ineligible Expenditures": means costs that are not eligible for consideration for funding and cannot be paid for with Grant Funds and Matching Funds. Examples of Ineligible Expenditures are set forth in Section 555.40(a)(2) and (b)(2)~~Projects~~ include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages.

"In-kind Contribution" means noncash contributions necessary to complete the Project for which the cash value is easily documented (i.e., donated labor, equipment, supplies and materials) and are otherwise eligible grant and match expenditures as set forth in Sections 555.40 and 555.70.

"Illinois Office of Tourism": means the division of the Department that has the delegated authority to perform all administrative functions related to the Statute.

"International": ~~when pertaining to a country,~~ means any country other than the United States.

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"Local Convention and Tourism Bureau": means a not-for-profit entity or unit of local government that meets the certification requirements as set forth in Section 555.40 and is certified by the Department.

"Matching Funds": means the portion of the Total Project Cost that is required to be provided by the Grantee through cash expenditures and/or In-kind Contributions means the Grantee's local funds equaling 50% of the total project expenditures.

"Program": means the International Tourism Grant Program.

"Project": means the activities that werework that is described by the Applicant in its~~the~~ Application and is approved by the Department for funding.

"Regional Tourism Development Organization": means a not-for-profit entity that meets the certification requirements set forth in the Regional Tourism Development Organization Program rules (14 Ill. Adm. Code 515.60) and is certified by the Department.

"Statute": means Section 605-707 of the Civil Administrative Code of Illinois, which is the statutory authority forestablishes the Program [20 ILCS 605/605-707].

"Total Project Cost": means all necessary and reasonable Eligible Expenditures required to complete~~costs related to the completion of~~ the Project as identified in the budget of the Grant Agreement, ~~but is limited to the eligible use of funds as set forth in Section 555.40.~~

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

Section 555.30 Eligible Applicants

Certified Local Tourism and Convention Bureaus or Regional Tourism Development Organizations certified Illinois local tourism and convention bureaus recognized by the Department as certified under the Statute may apply for International Tourism Program fundinggrants.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

Section 555.40 Eligible Use of Funds

- a) ~~Projects and activities for which grant funds can be utilized by certified local tourism and convention bureaus in Chicago include, but are not limited to, the following:~~
- 1) ~~Eligible Projects include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects.~~
 - 2) ~~Ineligible Projects include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages.~~

~~b) Expenditures~~ Projects and activities for which grant funds can be utilized by Grantees ~~located~~ certified local tourism and convention bureaus outside Chicago include, but are not limited to, the following:

- a) ~~1)~~ Eligible Expenditures, including ~~Projects include~~, but ~~are~~ not limited to, the following activities: brochures that target international markets, advertising, web site development and maintenance, in-country trade representations, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, training, association fees, travel expenses, and salaries for international program staff performing duties set forth in the Grant Agreement's scope of work associated with Eligible Projects.
- b) ~~2)~~ Ineligible Expenditures ~~Projects~~ include, but are not limited to, the purchase of equipment, administrative expenses, ~~(salaries not associated with~~ international activities, and the purchase of alcoholic beverages.

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

Section 555.50 Form of Application

- a) All communications relating to the Application procedures defined in Section 555.60 shall be ~~addressed~~ sent to the International Tourism Grant Program Manager and sent to: , Illinois Trade Office of the Illinois Department of Commerce and Economic Opportunity ~~Community Affairs, Illinois Office of~~

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Tourism, 100 W. Randolph Street, Suite 3-400, Chicago, Illinois 60601.

- b) An Application shall be typed in the current approved format provided by the Department, which shall be sent to an eligible Applicant upon request.
- c) An Application shall contain one original and 63 copies.
- d) An Application shall include supporting documents and attachments under a single cover.

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

Section 555.60 Application Procedure

- a) Applications for funding under this Program must be received no less than 60 days prior to the beginning of the Department's Fiscal Year or as otherwise determined by the Department~~next fiscal year~~.
- b) An Application will be considered delivered and submitted on the date it is postmarked or hand delivered to the Illinois Office of Tourism's Chicago office (see Section 555.50)~~An Application will be considered delivered on the day it is postmarked or hand delivered to the Department's Illinois Trade Office.~~
- c) Within 3010 business days after the Department receives the Application, the International Tourism Program Manager shall notify of the Illinois Trade Office shall issue a receipt to the Applicant acknowledging the date on which the Department received the Application, and whether, after a brief initial review, the Application and attachments, if any, are complete. This notice is not in any way an acknowledgment by the Department as to the adequacy of the substance of the Application. If the Application and attachments are incomplete, the Applicant shall be notified of the deficiencies. The Applicant will then have 2010 business days to cure any deficiencies. In the event the Applicant fails to cure all deficiencies within the 2010 business days, the Application shall be considered null and void and returned to the Applicant.
- d) Within 90 days from the date an Application is determined to be complete, the~~The~~ International Tourism Grant Program Manager shall notify the Applicant whether the that its Application has been approved or rejected. If the Application has been rejected, the program manager~~International Tourism Program Manager~~ shall state

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the reasons for ~~the~~that determination.

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

Section 555.70 Matching Funds

- a) ~~The Grantee shall provide Matching Funds to be expended towards the Total Project Cost that are~~An Applicant must provide a dollar-for-dollar match for funds received under this Program. Match expenditures must equal or exceed grant funds expended. Local match shall:
- 1) ~~Under~~Be under the control of the Grantee. For purposes of the Grant, control shall mean that the Grantee can successfully demonstrate the following control and accountability requirements:~~Applicant;~~
 - A) The Grantee's chief executive officer maintains responsibility for establishing review and approval policies and procedures with respect to the Grantee's daily operations; and
 - B) The Grantee's chief executive officer has approval authority for expenses charged to the Grantee's operating budget and approval over the Grantee expenses attributable to the Grant. Within this requirement, the Grantee's chief executive officer must be the person that reviews and approves the payment of invoices related to the grant and match expenditures.
 - 2) Identified ~~Be identified~~ in the Applicant's grant application for the applicable Fiscal Year~~fiscal year~~;
 - 3) Expended during the applicable grant award period.
 - 4) Supported by records of deposit and documentation of Eligible Expenditures.
 - 5) Necessary and irrevocably obligated and used towards completion of the Project.
- b) Each Grantee must provide match for Grant Funds received under the Program. Match expenditures must equal or exceed Grant Funds expended, as well as any

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interest earned on Grant Funds that is also expended; except that, during Fiscal Year 2013, the Department shall require that any Grantee provide matching funds equal to no less than 50% of the Grant Amount. If Grantee fails to match any portion of the grant award in a given Fiscal Year, that portion of the grant shall be refunded to the Department in accordance with the terms of the Grant Agreement. In-kind contributions shall not exceed 25% of Matching Funds.

3) ~~Be expended during the applicable grant award period;~~

4) ~~Be supported by documentation of eligible Applicant's expenditures.~~

c)b) Allowable Matching Funds include~~Sources of Eligible Match: The following monies shall be considered Matching Funds and may be used as a match for State grant funds:~~

1) Local hotel/motel taxes;

2) Membership dues;

3) Interest earned on local monies and Grant Funds;

4) Cash contributions;

5) Federal dollars deposited directly to the Grantee for tourism promotion purposes that do not require a match; and

6) In-kind ~~Contributionse~~contributions necessary to complete the ~~Projectproject for which the cash value is easily documented and that shall include costs funded through this program.~~ In-kind ~~Contributionse~~contributions shall not exceed 25% of the match ~~requirementrequirements.~~

d)e) Ineligible Match: The following monies shall not be considered Matching Funds and may not be used as a match for~~Grant FundsState grant funds:~~

1) Costs incurred or funds expended outside the grant term identified in the Grant Agreement unless those costs are approved by the Director as otherwise being compliant with this Part and consistent with the purposes of the Statute;

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- 2) Funds from any other Department funded grant program, regardless of whether the other grant funds were awarded and expended to further the Project;
- 3) Funds used to match any other State and/or federal grants ~~State or federal funds other than allowed in subsection (b)(5) above;~~
- 2) ~~Monies used as match for other State or federal grants; and~~
- 43) ~~Penalties, fines, late payment fees, or interest charges; and-~~
- 5) Purchase of alcohol beverages.

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

Section 555.80 Computation of Time

Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating that period of time occurs, and shall run until the end of the last day or the next business day if the last day is a Saturday, Sunday, federal or State holiday. ~~When the period of time is 5 days or less, Saturday, Sunday, federal or State holidays shall be excluded in the computation of time.~~ Timeliness shall be deemed the date of postmark or the date of hand delivery.

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

Section 555.90 Evaluation and Selection Process

- a) The Department's internal review committee shall evaluate each Application. The criteria used in determining whether an Application will be considered for a grant award includes, but is not limited to, the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international marketing materials or efforts as described in Section 555.40. Each question will be scored using a rating system of 1 through 10, with 10 being the highest possible score per question, with a maximum possible score of 100. The criteria used in determining whether an Application will be considered for funding include, but are not limited to, the following:

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- 1) To what extent does the Project support and augment the international tourism efforts of the Illinois Bureau of Tourism?
 - 2) To what extent is the Project part of a marketing plan based upon research to increase international visitors to the area?
 - 3) To what extent does the Project have potential interest, or show existing interest, for the chosen international market?
 - 4) To what extent does the Project include repeat marketing efforts and to what extent do the results from those efforts justify repeat funding?
 - 5) To what extent does the Project include adequate tracking and evaluation measures?
 - 6) To what extent are there measurable ways to evaluate the Project's effectiveness and return on investment?
 - 7) To what extent will the Project have a significant impact on the area's overall tourism efforts?
 - 8) To what extent will the Project have a significant impact on the State's overall tourism efforts?
 - 9) To what extent is the destination visitor-ready for international visitors?
 - 10) The effectiveness of the applicant's overall efforts.
- b) The Department's internal review committee's scores are averaged to obtain the Application's final score. An Application's final score must be at least 50 of 100 possible points to be considered eligible for funding. The internal review committee shall forward all eligible Applications, together with its recommendations, to the Director for final review and determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.

~~Upon completion of the Application procedure as described in Section 555.60, complete Applications will be evaluated by the Department's internal review committee. The criteria used in determining whether an Application will be considered for a grant award~~

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~~includes, but is not limited to, the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international and/or domestic products or efforts as described in Section 555.40 of this Part. The internal review committee shall forward all eligible Applications together with its recommendations to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.~~

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

Section 555.100 Allocation of Appropriations

Annual appropriations made by the General Assembly to the Department for the purpose of ~~awarding~~making grants under this Program may be used by the Department in any county in the State ~~of Illinois~~.

- a) ~~*All of the amounts deposited into the Fund in Fiscal Year 2012 and thereafter shall be used for administrative expenses and grants authorized under the Statute and development of international tourism in areas outside of Chicago, of which not less than \$1,000,000 shall be used annually to make grants to convention and tourism bureaus in cities other than Chicago that demonstrate their international tourism appeal and request to develop or expand their international tourism marketing program, and may also be used to provide grants for the development of or the enhancement of international tourism attractions. [20 ILCS 605/605-707].*~~ The allocation of funds available for the fiscal year beginning July 1 and thereafter:
- ~~1) 27.5% shall be used for grants to the Chicago Convention and Tourism Bureau.~~
 - ~~2) 27.5% shall be used for grants to the City of Chicago's Office of Tourism.~~
 - ~~3) Of the remaining 45%, not less than \$1,000,000 shall be used for grants to certified local tourism and convention bureaus outside of Chicago.~~
- b) If sufficient local funds cannot be raised to match any grant issued under this Part, the appropriation may be allocated in whole or in part to any Applicants able to qualify for a grant or may be used by the Department to promote international tourism to the State of Illinois.

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

Section 555.110 Funding Limitation

The Department shall provide Grant Funds not to exceed 50% of the Total Project Cost~~The Department shall provide no more than 50% of the entire amount of eligible expenditures, as described in Section 555.40, for the project.~~

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

Section 555.120 Grant Agreement

- a) When ~~an Application~~a grant has been ~~approved for funding~~awarded, ~~a grant award shall be made and~~ the Grantee and the Department shall execute ~~a Grant~~an Agreement. ~~If the Project is initiated and costs are incurred before the Department approves the Application, the Department bears no responsibility for those costs in the event the Application is denied or the grant is funded at less than the amount requested. The Agreement shall be executed by the Grantee and the Director of the Department or the Director's designee on behalf of the Department. The Project must not be initiated and costs shall not be incurred prior to the time the Department approves the Application in order for the costs to be eligible for funding.~~
- b) The Agreement shall contain substantive provisions including, but not limited to, the following:
- 1) A recitation of legal authority pursuant to which the agreement is made;
 - 2) An identification of the Project scope and schedule, and the work or services to be performed or conducted by the Grantee;
 - 3) An identification of the Grant Amount or grant award~~grant amount~~;
 - 4) The condition and manner by which the Department shall pay/distribute the grant award, which is at all times amount~~at all times to sufficient annual appropriations~~appropriation by the Illinois General Assembly;
 - 5) The irrevocable promise of the Grantee to pay the local match of the Total

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Project Cost~~total project cost;~~

- 6) A promise by the Grantee not to assign or transfer any of ~~the its~~ rights, duties or obligations ~~of the Grantee~~ without the Department's written ~~acknowledgment~~consent of the Department;
- 7) A promise by the Grantee not to amend the Grant Agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The Project must be completed by the completion date on the notice of grant award, unless a written request for an extension is submitted no later than 30 days prior to the award completion date and thereafter approved by the Department;
- 8) A covenant that the Grantee shall expend the grant award and any accrued interest only for the purposes of the project as stated in the Application and approved by the Department; ~~and~~
- 9) A covenant that the Grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Program; and-
- 10) A covenant that the Grantee agrees to acknowledge the Department's participation in the Project by displaying the Department's current logo and/or providing a statement that identifies the Project as being developed and/or funded in cooperation with the Illinois Office of Tourism. Grantee's failure to use or properly use the Department's current logo (e.g., size, placement, etc.) or failure to include the acknowledgment/recognition statement may result in a 10% deduction of the Total Project Cost.

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

Section 555.130 Grant Administrative Requirements**a) Grant Termination**

- 1) Termination Due to Loss of Funding. In the absence of State funding for a Fiscal Year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate

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cuts to all Grants. In the event the Department suffers such a loss of funding in full or in part, the Department will give the Grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.

2) Termination for Cause

- A) If the Department determines that the Grantee failed to comply with the terms and conditions of the Grant Agreement or this Part, the Department may terminate the grant in whole or in part at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not limited to: consistent failure to submit required reports; failure to maintain required books and records; evidence of fraud and/or abuse; and consistent failure to meet performance standards. These circumstances are further explained in the Grant Agreement.
- B) The Department shall notify the Grantee in writing, within 10 working days after the determination to terminate is made, of the reasons for termination and the effective termination date. Distribution of Grant Funds or recovery of Grant Funds shall be made in accordance with the legal rights and liabilities in the Grant Agreement and the Illinois Grant Funds Recovery Act [30 ILCS 705].

- 3) Termination by Agreement. The Department and the Grantee may terminate the grant in whole or in part if the Department and the Grantee agree that continuation of the Program objectives would not produce beneficial results commensurate with the future expenditure of Grant Funds. The Department and the Grantee shall agree upon termination conditions, including the effective date and, in case of partial termination, the portion of funding to be terminated. The Grantee shall not incur new obligations for the terminated portion of the grant after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Grantee for the Department's share of the noncancelable obligations properly incurred by the Grantee prior to termination.

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- b) Interest on Grant Funds. In accordance with Section 10 of the Illinois Grant Funds Recovery Act, all interest earned on Grant Funds held by the Grantee under the grant shall become part of the grant when earned. Any interest earned under the grant and not expended as grant principle during the term of the grant shall be returned to the Department as directed by the grant close-out process described in subsection (c).
- c) Grant Close-out. In accordance with Section 4 of the Illinois Grant Funds Recovery Act, Grant Funds not expended or legally obligated, including any interest, remaining at the end of the grant term or upon termination of the grant shall be returned to the Department within 45 days after the end of the grant term or termination.
- d) Audits. A Grantee shall be responsible for securing an audit for any grant award exceeding \$500,000. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by the authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with current generally accepted auditing standards as contained in the most current publication entitled AICPA Professional Standards, American Institute of Certified Public Accountant, 1211 Avenue of the Americas, New York NY 10036.
- e) Special Audits. The Department reserves the right to conduct special audits, including but not limited to an agency wide audit of grant funds expended under any of the Department's grant programs. A special audit shall be conducted during normal working hours (8:30 a.m. to 5:00 p.m.) with at least 24 hours notice.
- f) Monitoring and Evaluation. Grantee shall permit any agency authorized by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, the Illinois Attorney General, or any of their duly authorized representatives, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any of the Grantee's documents, papers and records involving transactions related to a grant awarded by the Department. Once the Department concludes its monitoring activities, the Department will notify the Grantee of the Department's determination and findings, if any. If a determination contains a

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finding of noncompliance, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a final determination requesting the Grantee to repay any funds that the Department determined to have been spent in violation of the Grant Agreement. In the event the noncompliance issue pertains to a grant covenant that does not have a corresponding expenditure amount, the Department has the discretion to disallow all Grant Funds for the noncompliance. If the Grantee fails to comply with the Department's final determination, the Department shall issue a final notice to the Grantee providing it the opportunity to invoke its rights under the Illinois Grant Funds Recovery Act.

- g) Complaint Process. An administrative hearing may be initiated by an Applicant or Grantee by serving a petition for hearing on the Department. The Department may initiate the administrative hearing process by serving a notice of charges on the Grantee. In any case, the Applicant, Grantee or Department shall follow the administrative hearing rules set forth in 56 Ill. Adm. Code 2605.
- h) Certifications. The Grantee shall certify that it has not been barred from contracting with a unit of local government or with any agency of the State of Illinois as a result of a violation of Sections 33E-3 and 33E-4 of the Criminal Code of 1961 [720 ILCS 5/33E-3 and 33E-4].
- i) Reports. The Grantee shall submit reports on the Project's financial status and outcome/results, as required by the Department. The Grantee's failure to comply with any reporting requirements will be considered a violation of the Grant Agreement and the Department may seek recovery of all Grant Funds as described in subsection (f).
- a) ~~Grant Close-out – In accordance with Section 4 of the Illinois Grant Fund Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditures or obligation by the Grantee, shall be returned to the Department within 45 days after the end of the relevant period. The Grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the grant Agreement.~~
- b) ~~Audits – The Grantee, at its own expense, shall be responsible for securing any compliance audit for a grant award exceeding \$300,000. Such audit shall be performed by an independent certified public accountant, licensed by authority of~~

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~~the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza 3, Jersey City NJ 07311 (June 2000, no later editions are incorporated).~~

- e) ~~Special Audits — The Department reserves the right to conduct special audits, including, but not limited to, an agency wide audit, at any time during normal working hours of the funds expended under Department grants.~~
- d) ~~Monitoring and Evaluation — Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department.~~

~~Once the Department has concluded its monitoring activities, the grantee will be notified of the Department's findings. If a determination of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a notice requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Agreement. If the Grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the Grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 56 Ill. Adm. Code 2605.~~

- e) ~~Complaint Process — An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules as set forth in 56 Ill. Adm. Code 2605.~~
- f) ~~Certification — The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of 720 ILCS 5/33E-3 and 33E-4.~~

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Child Support Services
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Number: 160.60 Proposed Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13],
Public Act 97-0878
- 5) Complete Description of the Subjects and Issues Involved: This amendment reflects
Public Act 97-878, effective 8/8/12, providing that in determining "net income" the total
of all income from all sources is not reduced by the total premiums for life insurance
ordered by the court, to reasonably secure payment of support for non-minor children and
educational expenses, terms agreed to by the parties or payment of maintenance.
- 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 affect units of local
government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed
Rulemaking: Any interested parties may submit comments, data, views or arguments
concerning this proposed rulemaking. All comments must be in writing and should be
addressed to:

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Springfield IL 62763-0002

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: 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: January 2012

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT SERVICES

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Fees for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility
Demonstration Program (Repealed)
- 160.64 Compromise of Assigned Obligations
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Section	
160.70	Enforcement of Support Orders
160.71	Credit for Payments Made Directly to the Title IV-D Client
160.75	Withholding of Income to Secure Payment of Support
160.77	Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies (Repealed)
160.80	Amnesty – 20% Charge (Repealed)
160.85	Diligent Efforts to Serve Process
160.88	State Case Registry
160.89	Interest

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section	
160.90	Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section	
160.95	State Disbursement Unit
160.100	Distribution of Child Support for TANF Recipients
160.110	Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Services
160.120	Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130	Distribution of Intercepted Federal Income Tax Refunds
160.132	Distribution of Child Support for Non-TANF Clients
160.134	Distribution of Child Support for Intergovernmental Cases
160.136	Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138	Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section	
160.140	Quarterly Notice of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

SUBPART I: INTERGOVERNMENTAL IV-D CASES

Section

- 160.200 Provision of Services in Intergovernmental IV-D Cases

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998;

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emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. 2043, effective January 21, 2011; amended at 35 Ill. Reg. 4513, effective March 1, 2011; amended at 36 Ill. Reg. 1531, effective January 23, 2012; amended at 36 Ill. Reg. 9140, effective June 11, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS**Section 160.60 Establishment of Support Obligations**

- a) Definitions
 - 1) "CSS" means any Child Support Specialist performing assigned duties, his or her supervisory staff and any other person assigned responsibility by the Director of the Department.

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- 2) "Service" or "Served" means notice given:
 - A) by personal service, certified mail (with or without return receipt requested) or restricted delivery,
 - B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 [225 ILCS 447] or by a registered employee of a private detective agency certified under that Act, or*
 - C) *in counties with a population of less than 2,000,000 [305 ILCS 5/10-4], by any method provided by law for service of summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)*
- 3) "Support Statutes" means the following:
 - A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];
 - B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
 - C) The Non-Support Punishment Act [750 ILCS 16];
 - D) The Uniform Interstate Family Support Act [750 ILCS 22];
 - E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
 - F) Any other statute in another state that provides for child support.
- 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.
- 5) "Child's needs" means:
 - A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or

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- B) the State's current minimum hourly wage multiplied by 40 hours per work week, multiplied by 4.3 weeks per month, multiplied by the applicable child support guideline percentage contained in subsection (c)(1) of this Section.
- b) Responsible Relative Contact
- 1) Timing and Purpose of Contact
 - A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
 - B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.
 - 2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
 - C) that the responsible relative has a legal obligation to support the named persons;
 - D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
 - E) that the responsible relative should bring specified information regarding his income and resources to the interview.

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- 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

- 1) In cases handled under subsection (d) of this Section, the CSS shall determine the amount of child support and enter an administrative support order on the following basis:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid

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pursuant to a court order or administrative support order;

- viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health;
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts; and
 - xi) Foster care payments paid by the Department of Children and Family Services for providing licensed foster care to a foster child.
- B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- 2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);

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- ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums and premiums for life insurance ordered by the court to reasonably secure payment of ordered child support;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the

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following relevant factors:

- i) the financial resources and needs of the child;
 - ii) the financial resources and needs of the custodial parent;
 - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
 - iv) the physical and emotional condition of the child, and his educational needs; and
 - v) the financial resources and needs of the non-custodial parent.
- D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 and medical support in accordance with Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].
 - 4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter, support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.
 - 5) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall

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order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section when the IV-D client requests that such an order for retroactive support be entered or requested.

- 6) The final order in all cases shall state the support level in dollar amounts.
- 7) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- 8) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
 - A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if so, the policy name and number and the names of persons

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covered under the policy.

- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.
- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a statement that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency.
- 11) At the request of the IV-D client, the Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support, as follows:
 - A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).
 - B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child

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was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.

- C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].
- d) Administrative Process
 - 1) Use of Administrative Process
 - A) Unless otherwise directed by the Department, the CSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;
 - ii) alleged paternity and support is sought from the mother;
 - iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;
 - iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and
 - v) an establishment of parentage under the laws of another

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state, and support is sought from the child's father, or from the mother, or both.

- B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:
- i) that the responsible relative may be required to pay retroactive support as well as current support; and
 - ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
 - iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
 - iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
 - v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and
 - vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's

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mailing or delivery, the administrative support order will become a final enforceable order of the Department; and

- vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.
- 2) The CSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. When requested by the IV-D client, the CSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section. The CSS shall reduce the total amount of retroactive support determined by the amount of cash contributions made by the responsible relative to the IV-D client for the benefit of the child during the retroactive period as specified in the IV-D client's affidavit of direct contribution. In no event shall credit be given in excess of the total amount of the retroactive support determined.
- 3) Failure to Appear
- A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the CSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by

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law with a notice of support obligation.

- B) The CSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the CSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:
- i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
 - ii) income exceeds that reported by the relative.
- C) The CSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
- D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the CSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.
- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].
- 5) An administrative support order shall include the following:

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- A) the Title IV-D case name and identification number;
- B) the names and birthdates of the persons for whom support is ordered;
- C) the beginning date, amount and frequency of support;
- D) any provision for health insurance coverage ordered under subsection (c)(4) of this Section;
- E) a provision for retroactive support ordered under subsection (c)(11), including the total retroactive support obligation and the beginning date, amount (that shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
- F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (that shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
- G) a provision requiring that support payments be made to the State Disbursement Unit;
- H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III];
- I) except where the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the

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factors listed in subsection (c)(1)(A) of this Section and that in order to have the Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

- J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.
- 6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.
 - 7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:
 - A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.
 - B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.
 - 8) In any case where the administrative support process has been initiated for

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the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.

- 9) In any case in which an administrative support order is entered to establish and enforce an arrearage only, and the responsible relative's current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.

e) Judicial Process

- 1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.
- 2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:
- A) intervene;
 - B) modify;
 - C) change payment path;
 - D) establish an order for support;
 - E) establish retroactive support when the IV-D client requests it;
 - F) establish past-due support;

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- G) establish parentage;
 - H) obtain a rule to show cause;
 - I) enforce judicial and administrative support orders; and
 - J) combinations of the above.
- 3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].
- f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I) of this Section, more than 30 days after the entry of an administrative support order under subsection (d) of this Section, a party aggrieved by entry of an administrative support order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.
 - 2) Petitions under this subsection (f) must:
 - A) cite a meritorious defense to entry of the order;
 - B) cite the exercise of due diligence in presenting that defense to the Department;
 - C) be filed no later than two years following the entry of the administrative support order, except that times listed below shall be excluded in computing the two years:

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- i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress;
 - iii) time during which the ground for relief is concealed from the person seeking relief;
- D) be supported by affidavit or other appropriate showing as to matters not supported by the record.
- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative support order.

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

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- 1) Heading of the Part: Boat and Snowmobile Registration and Safety
- 2) Code Citation: 17 Ill. Adm. Code 2010
- 3) Section Number: 2010.22 Proposed Action:
New Section
- 4) Statutory Authority: Implementing and authorized by Section 3-1, 3-1.5, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act [625 ILCS 45/3-1, 3-2, 3-3, 4-1 and 9-1] and the Snowmobile Registration and Safety Act [625 ILCS 40]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to set guidelines for issuance/sale of Water Usage Stamps by methods prescribed in 17 Ill. Adm. Code 2520. (Consignment of Licenses, Stamps, and Permits). It also prescribes what information is collected during the sale process, the expiration date of the permits and the procedures for replacement of lost or destroyed stamps.
- 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 affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Virginia I. Yang, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because the need for the amendment was not known when the most recent Regulatory Agenda was drafted.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER e: LAW ENFORCEMENTPART 2010
BOAT AND SNOWMOBILE REGISTRATION AND SAFETY

Section

2010.10	Introduction (Repealed)
2010.20	Form of Application for Boat Registration and Title
2010.21	Application Requirements on Motorized Vehicles Titled by the Illinois Secretary of State
2010.22	Water Usage Stamp Application for Non-powered Watercraft
2010.25	Form of Application for Snowmobile Registration
2010.30	Numbering Pattern to be Used for Boat Registration
2010.35	Numbering Pattern to be Used for Snowmobile Registration
2010.40	Display of Number on Boats
2010.50	Change of Address (Repealed)
2010.60	Reports in Case of Accident
2010.70	Statutory Authority (Repealed)
2010.80	Renewals for Boat and Snowmobile Registration
2010.82	Trail Use Stickers
2010.85	Mandatory Liability Insurance
2010.90	Authorized Dealers
2010.95	Penalties for Convictions

AUTHORITY: Implementing and authorized by Sections 3-1, 3-1.5, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act [625 ILCS 45/3-1, 3-1.5, 3-2, 3-3, 4-1 and 9-1] and the Snowmobile Registration and Safety Act [625 ILCS 40].

SOURCE: Filed January 13, 1960; codified at 5 Ill. Reg. 10660; amended at 8 Ill. Reg. 7801, effective May 23, 1984; amended at 10 Ill. Reg. 9769, effective May 21, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 9028, effective June 26, 1997; amended at 21 Ill. Reg. 15235, effective November 17, 1997; amended at 22 Ill. Reg. 14759, effective August 3, 1998; amended at 26 Ill. Reg. 8142, effective May 17, 2002; amended at 35 Ill. Reg. 10764, effective June 23, 2011; amended at 37 Ill. Reg. _____, effective _____.

[Section 2010.22 Water Usage Stamp Application for Non-powered Watercraft](#)

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NOTICE OF PROPOSED AMENDMENT

- a) Any person using a non-powered watercraft on the waters of this State shall apply for a valid Water Usage Stamp through an electronic application system. The electronic application shall include the following information unless listed as optional:
- 1) Name and address of purchaser.
 - 2) Date of birth of purchaser.
 - 3) Social Security Number or DNR Customer Number.
 - 4) Watercraft Hull Identification Number (optional).
 - 5) Make, model and color of watercraft.
 - 6) Previous state registration number (optional).
- b) The Department may designate vendors to sell Water Usage Stamps in accordance with 17 Ill. Adm. Code 2520.
- c) Water Usage Stamps shall bear the calendar year the stamp is in effect and shall expire December 31 of that calendar year.
- d) If a Water Usage Stamp is lost, destroyed or mutilated beyond legibility, a new Water Usage Stamp shall be required before the non-powered watercraft is used on the waters of this State.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

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

PART 2520

SELLING AND CONSIGNMENT OF LICENSES, STAMPS AND PERMITS

Section

2520.10	Agents – Sale and Consignment Requirements
2520.20	Issuing Licenses, Stamps and Permits
2520.30	Terms
2520.40	Credit to Agent Accounts
2520.50	Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits
2520.60	Vendor – Sale of Licenses by Telephone or Electronic Transmission

AUTHORITY: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120], Section 26 of the Recreational Trails Act of Illinois [20 ILCS 862/26] and Section 3-1.5 of the Boat Registration and Safety Act [625 ILCS 45/3-1.5].

SOURCE: Adopted and codified at 7 Ill. Reg. 8760, effective July 15, 1983; amended at 8 Ill. Reg. 5660, effective April 16, 1984; amended at 9 Ill. Reg. 14626, effective September 17, 1985; amended at 11 Ill. Reg. 4633, effective March 10, 1987; amended at 15 Ill. Reg. 7653, effective May 7, 1991; amended at 16 Ill. Reg. 8479, effective May 26, 1992; amended at 18 Ill. Reg. 9991, effective June 21, 1994; amended at 19 Ill. Reg. 7541, effective May 26, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 14417, effective October 25, 1996; amended at 21 Ill. Reg. 6483, effective May 19, 1997; amended at 22 Ill. Reg. 10466, effective June 1, 1998; amended at 23 Ill. Reg. 6818, effective May 20, 1999; amended at 24 Ill. Reg. 1641, effective January 13, 2000; amended at 25 Ill. Reg. 9024, effective July 3, 2001; amended at 25 Ill. Reg. 11360, effective August 14, 2001; amended at 33 Ill. Reg. 15742, effective November 2, 2009; amended at 37 Ill. Reg. _____, effective _____.

Section 2520.10 Agents – Sale and Consignment Requirements

- a) The Department of Natural Resources (DNR) has the authority to designate agents to sell licenses, stamps and permits on behalf of DNR. DNR also has the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

authority to consign licenses, stamps and permits, for sale by county, city, village, township and incorporated town clerks, upon receipt of their completed application and elected official license agent contract, and fulfillment of requirements set forth in this Part. DNR also consigns licenses, stamps and permits to other agents upon receipt of their completed application, license agent contract, evidence of financial responsibility, and fulfillment of the requirements set forth in this Part. The term agent means all persons authorized by DNR to sell licenses, stamps and permits, other than elected or appointed officials and DNR employees. License agents, including employees of DNR selling licenses, stamps and permits, shall collect an issuing fee in addition to the license, stamp and permit fee as provided in 515 ILCS 5/20-120, ~~and 520 ILCS 5/3.37~~, 20 ILCS 862/26 and 625 ILCS 45/3-1.5 as follows: 75 cents for each Sportsmen's Combination license and non-resident hunting license, and 50 cents for all other licenses, stamps and permits authorized by the above statutes. All licenses, stamps and permits consigned and fees collected from the sale of licenses, stamps and permits (except the authorized issuing fee) remain the property of the State of Illinois. Funds received from the sale of licenses, stamps and permits (except the authorized issuing fee) shall not be directed to any purpose other than remittance to DNR.

- b) County, city, village, township and incorporated town clerks may appoint sub-agents within the territorial area for which they are elected or appointed. Elected or appointed officials and DNR employees selling licenses, stamps and permits are liable to the State for all licenses, stamps and permits consigned to their account, including any licenses, stamps and permits furnished by a clerk to any sub-agent. Any clerk appointing sub-agents must notify DNR, within 10 days following the appointment, the names and mailing addresses of such sub-agents. No part of the issuing fees collected may be retained as personal compensation by the clerk. Issuing fees may be divided between the clerk and appointed sub-agents other than employees of the clerk's office, but in no case may any clerk and/or sub-agent charge an issuing fee or fees totaling more than the amounts set out in subsection (a) of this Section. DNR assumes no liability for any license, stamp or permit furnished by any elected or appointed clerk to any sub-agent.
- c) **Financial Responsibility of Agents**
All agents, including concessionaires holding contracts with DNR, shall be required to furnish DNR with evidence of financial responsibility.
- 1) **Agents Without Preferred Status**

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Except as provided in subsection (c)(2), the evidence of financial responsibility shall be in the form of a surety bond, letter of credit or certificate of deposit, in an amount equal to the value of licenses, stamps and permits consigned.

- 2) Agents with Preferred Status
 - A) Agents must meet the following qualifications to receive a preferred status:
 - i) The agent must sell licenses, stamps and permits for one complete license year.
 - ii) DNR must have received a minimum of 9 monthly current license year remittances or no sales reports between April and December (inclusive).
 - B) If the qualifications listed in subsection (c)(2)(A) are met, the agent's consignments may total 50% over the amount of his or her financial evidence. All agents with a preferred status will be reviewed annually. If qualifications have been met, the preferred status will continue for the following license year. If the qualifications have not been met, the preferred status is removed and the agent will be consigned licenses, stamps and permits equal to the amount of financial evidence.
- 3) Evidence of Financial Responsibility

Surety bonds and letters of credit shall be on a form furnished by and approved by DNR, with surety or sureties satisfactory to DNR, conditioned upon the agent paying to the State of Illinois all monies becoming due by reason of the sale of licenses, stamps and permits.
- 4) Sub-Agents

No agent may appoint sub-agents.
- d) Agents, other than DNR staff, issuing gun permits for deer and turkey hunting during special hunts on non-DNR property, as defined in 17 Ill. Adm. Code 650.22(a) and 17 Ill. Adm. Code 660.22(a), shall complete a written financial guarantee and fulfill the requirements set forth in this Part. All permits consigned

DEPARTMENT OF NATURAL RESOURCES

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and fees collected remain the property of the State of Illinois. Funds received from the sale of permits shall not be directed to any purpose other than remittance to DNR. Agents will not be consigned more than 100 permits of a specific type.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedure for Holding Mining Board Examinations
- 2) Code Citation: 62 Ill. Adm. Code 230
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
230.10	Amendment
230.20	New Section
230.30	New Section
- 4) Statutory Authority: Implementing and authorized by Article 2 and 3 of the Coal Mining Act [225 ILCS 705/Art. 2 and 3]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended pursuant to the Department's Sustainability Package legislation to provide procedures for the administration of the examinations associated with Certificates of Competency and include a fee structure for Certificates of Competency.
- 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 affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Julia Lawrence, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 230

PROCEDURE FOR ~~CONDUCTING HOLDING MINING BOARD~~ EXAMINATIONS OF PERSONS SEEKING CERTIFICATES OF COMPETENCY

Section

230.10	Procedure for Holding <u>Semi-Annual</u> Mining Board Examinations
<u>230.20</u>	<u>Procedure for Conducting Examinations Other Than the Semi-Annual Mining Board Examinations</u>
<u>230.30</u>	<u>Fees for Certificates of Competency</u>

AUTHORITY: Implementing and authorized by Article 2 and 3 of the Coal Mining Act [225 ILCS 705/Art. 2 and 3].

SOURCE: Filed and effective June 17, 1958; codified at 7 Ill. Reg. 9305; amended at 37 Ill. Reg. _____, effective _____.

Section 230.10 Procedure for Holding Semi-Annual Mining Board Examinations

- a) ~~Candidates~~ It is the order of the Board that candidates seeking Certificates of Competency as State Mine Inspectors, Mine Managers, Hoisting Engineers, and Mine Examiners shall complete and submit a notarized ~~their~~ application to the Department of Natural Resources, Office of Mines and Minerals at least 30 days prior ~~blanks previous~~ to the date of the examination. ~~A, and a~~ card or letter will be sent to each candidate ~~that~~ which will be his or her admittance to the examination room. All candidates ~~shall~~ will be at the place set for the examination to present their cards or letters and receive their examination papers ~~prior~~ previous to ~~8:309:00~~ 8:30:00 a.m. on the day of the examination. The doors of the examination room ~~will~~ shall be opened at ~~8:308:00~~ 8:30:00 a.m.
- b) Pre-numbered examination booklets, answer sheets and blank mine maps for answering the questions shall be distributed at the time of the examination. The candidates will be instructed to place on their entrance card or letter the same number that is shown on their examination ~~answer~~ booklet. ~~Candidates~~ They will be identified by this number throughout the examination.
- c) Following ~~The question sheets will also be distributed at this time and any further~~

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~~preliminary~~ instructions ~~provided will be given~~ by a representative of the Department, ~~applicants will be allowed to begin the written examination.~~

- d) ~~Representatives~~ ~~There shall be representatives~~ of the Department ~~will supervisesupervising~~ the class during the examination and ~~will be~~ available for assistance in interpretation of questions.
- e) ~~AfterAs~~ the candidates ~~have completedcomplete~~ the written ~~and map portionspart~~ of the examination, ~~these portions~~ ~~their paper~~ will be given to qualified representatives of the Department for grading. When these ~~portionspapers~~ are graded, the candidates will be called for the oral section of the examination by the number on the examination booklet.
- f) The ~~number of questions, number of parts, and the value per question on the written portionpart~~ of the examination ~~shall consist of two parts: true/false and multiple choice for each group shall be approximately as follows:~~

1) Coal Mines	No. of Questions	Parts	Value per Question
State Mine Inspector	20	2	2
Mine Manager, 1 st Class	20	2	5
Mine Manager, 2 nd Class	10	1	10
Mine Examiner	15	1	6 ^{-2/3}
Elec. Hoisting Engineer	15	1	6 ^{-2/3}
Steam Hoisting Engineer	15	1	6 ^{-2/3}

2) Metal Mines	No. of Questions	Parts	Value per Question
Inspector	12	1	8 ^{-1/3}
Foreman	10	1	10
Elec. Hoisting Engineer	10	1	10
Steam Hoisting Engineer	10	1	10

- g) ~~A numeric increase in a candidate's total score could result from the oral examination. A numerical grade shall be given for the oral section of the examination for State Inspector of Coal Mines in as much as this is a competitive examination. It will not be necessary to give a numerical grade for the oral section of the other groups, merely a grade of "passed" or "failed," taking into consideration the grade made on the written section.~~

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- h) Applicants for State Mine Inspector and Mine Manager must score a minimum of 80% on the written examination for a passing grade. Applicants for all other Certificates of Competency must score a minimum of 75% on the written examination for a passing grade. Normally a grade of 70 per cent or better on the written section shall be considered passing, except in the case of State Inspector of Coal Mines, but may vary either way at the discretion of the Mining Board after taking into consideration the quality of the oral section.
- i) A pass/fail shall be given for the mine map portion of the examination. A minimum total grade of 70 per cent shall be required for a passing grade on the examination for State Inspector of Coal Mines.
- j) Grades will not be divulged to the candidates at the time of the examination. A letter will be sent to those who did not attain a passing grade~~pass notifying them~~. Certificates of Competency will be either provided at the examination or mailed to those who pass. These letters and certificates will be mailed out at the earliest possible practicable~~possible~~ date.
- k) A candidate will not be permitted to take examinations for separate Certificates of Competency during one class if those examinations are given on the same date, except that the Electrical Hoisting Engineer examination may be taken on the same date as another Certificate of Competency examination.
- l) The examination for the Shot Firer Certificate of Competency is semi-annual, but is conducted following the completion of a mandatory class. Candidates for Shot Firer Certificate of Competency are not held to the 30 day application submittal requirements. An applicant cannot take the examination unless his or her application is signed by the class instructor stating the applicant has taken the mandatory class.

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

Section 230.20 Procedure for Conducting Examinations Other than the Semi-Annual Mining Board Examinations

- a) Candidates seeking Certificates of Competency as Surface Mine Supervisor, General Surface Supervisor, Independent Contractor Supervisor, Shaft-Slope Examiner and Shaft-Slope Supervisor can take an examination administered by

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

the Department at times other than at the semi-annual Mining Board Examinations.

- b) Candidates shall obtain from the Department an application and must meet the eligibility requirements for the Certificate of Competency.
- c) Candidates shall schedule to attend a class conducted by Department personnel prior to taking the examination. The class and examination can be conducted on the same day. Classes are optional and a candidate may take the examination without class attendance.
- d) A Certificate of Competency is considered temporary for 30 days following an examination to allow for the posting period.

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

Section 230.30 Fees for Certificates of Competency

The following fees shall be paid to the Department for administration of certificate examinations and are non-refundable.

- a) Applicants shall submit, along with the application, the following fee for each examination.

<u>Certificate of Competency</u>	<u>Fee</u>
<u>State Mine Inspector</u>	<u>\$50</u>
<u>Mine Manager</u>	<u>\$50</u>
<u>Mine Examiner</u>	<u>\$50</u>
<u>Electrical Hoisting Engineer</u>	<u>\$50</u>
<u>General Surface Supervisor</u>	<u>\$50</u>
<u>Independent Contractor Supervisor</u>	<u>\$50</u>
<u>Shaft-Slope Supervisor</u>	<u>\$50</u>
<u>Shaft-Slope Examiner</u>	<u>\$50</u>
<u>Surface Mine Supervisor</u>	<u>\$50</u>
<u>Shot Firer</u>	<u>\$50</u>
<u>First Class</u>	<u>\$50</u>
<u>Shaft-Slope Worker</u>	<u>\$50</u>
<u>Crane Hoist Operator</u>	<u>\$50</u>

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NOTICE OF PROPOSED AMENDMENTS

b) The fee for a temporary Certificate of Competency is \$50.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Surface Mined Land Conservation and Reclamation Act
- 2) Code Citation: 62 Ill. Adm. Code 300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
300.30	Amendment
300.238	Amendment
- 4) Statutory Authority: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended pursuant to the Department's Sustainability Package legislation to increase the permit fee, blaster's license application fee, blaster's license reexamination fee, blaster's license renewal fee, and temporary blaster's license fee.
- 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 affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Julia Lawrence, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The aggregate mining industry will be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 300

SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section	
300.10	Introduction
300.20	Permits
300.30	Fees
300.40	Bonds
300.50	Permit Application Requirements
300.60	Role of County Government in Reclamation
300.70	Departmental Consideration of Reclamation Plans
300.80	Public Filing of Approved Plans
300.90	Amendments to Permits
300.95	Transfer of Permits
300.100	Reclamation Planning
300.110	General Reclamation Requirements
300.120	Criteria For Types of Land Reclamation
300.130	Reclamation of Gob Disposal Areas and Outside Slopes of All Overburden Deposition Areas
300.140	Reclamation of Slurry Pond Disposal Areas
300.150	Water Impoundment Structures
300.160	Affected Acreage Map
300.170	Violations and Forfeiture
300.180	Bond Release Procedure

SUBPART B: USE OF EXPLOSIVES IN NON-COAL
MINERAL EXTRACTION OPERATIONS

Section	
300.200	Scope of this Subpart
300.205	Purpose
300.210	Definitions Applicable to Subpart B
300.215	General Requirements
300.220	Monitoring

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 300.225 Use of Explosives; Control of Adverse Effects
 300.230 Use of Explosives; Blasting Signs, Warnings and Access Control
 300.235 Training
 300.236 Examination
 300.237 Application and Licensure
 300.238 Fees
 300.239 Denial, Issuance of Notice of Infraction, Suspension, Revocation and Other Administrative Actions
 300.245 Notices of Violation
 300.246 Cessation Orders
 300.247 Office of Mines and Minerals Decision
 300.248 Hearings
 300.249 Temporary Relief
 300.250 Subpoenas
- 300.ILLUSTRATION A Tree Sampling Procedure
 300.ILLUSTRATION B Typical Sections

AUTHORITY: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].

SOURCE: Adopted January 6, 1976; codified at 8 Ill. Reg. 4507; amended at 14 Ill. Reg. 3548, effective February 22, 1990; amended at 20 Ill. Reg. 9546, effective July 1, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 22 Ill. Reg. 8407, effective April 28, 1998; amended at 23 Ill. Reg. 11231, effective August 26, 1999; amended at 26 Ill. Reg. 4372, effective March 11, 2002; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section 300.30 Fees

- a) Fees Generally
 Each application for a permit shall require a separate fee payment. Permit fees are not to accompany the application. After receipt of the application, the Department will request the permit fee before issuance of the permit. The fee shall be in the form of a check made payable to the [Illinois](#) Department of Natural Resources, Office of Mines and Minerals, ~~State of Illinois~~.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

b) Permit Fee Calculation

1) Surface Mining Permit

The fee for a surface mining permit shall be ~~\$150~~~~\$100~~ for every acre and fraction of an acre of land to be permitted. The permit fee shall only be paid once on an acre of land regardless of the number of permit periods it is mined, but, with respect to areas where the overburden is to be removed again and upon which the surety bonds have been released, a new permit, fees, and bond will be required.

2) Refuse Disposal Permits

The fee for a gob refuse disposal permit and for a slurry pond refuse disposal permit shall be calculated in the same manner as the fee to engage in surface mining. The permit fee shall only be paid once on an acre of land regardless of the active life of a disposal area.

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

SUBPART B: USE OF EXPLOSIVES IN NON-COAL
MINERAL EXTRACTION OPERATIONS**Section 300.238 Fees**

The following fees shall be paid to the Department for administration of the Act and are non-refundable. The fees submitted shall be in the form of a cashier's check or money order ~~and~~ made payable to the Illinois Department of Natural Resources, Office of Mines and Minerals.

- a) The fee for an application is ~~\$150~~~~\$75.00~~.
- b) The fee for reexamination of an applicant is ~~\$50~~~~\$25.00~~.
- c) The renewal fee for a license is ~~\$150~~~~\$75.00~~.
- d) The fee for a temporary license is ~~\$150~~~~\$75.00~~.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Records Commission
- 2) Code Citation: 44 Ill. Adm. Code 4400
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
4400.20	Amendment
4400.22	Amendment
4400.70	Amendment
4400.80	New Section
- 4) Statutory Authority: Implementing and authorized by the State Records Act [5 ILCS 160]
- 5) Complete Description of the Subjects and Issues Involved: Implements statutory changes governing the management and retention of records, deletes outdated references and methods and implements new guidelines and regulations regarding management of technologies which were not previously considered in the Part.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, www.sos.state.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:

Dave Joens

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Director, Illinois State Archives
Norton Building, 2nd Floor W
Springfield, Illinois 62756

djoens@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE C: GOVERNMENTAL RECORDS
CHAPTER IV: STATE RECORDS COMMISSIONPART 4400
STATE RECORDS COMMISSION

Section

4400.10	General
4400.20	Definitions
4400.22	Incorporations by Reference
4400.25	Record Management
4400.30	Procedures for Compiling and Submitting Lists and Schedules of Records for Disposal
4400.40	Procedures for the Physical Destruction or Other Disposition of Records Proposed for Disposal
4400.50	Standards for the Reproduction of Records by Microphotographic and Electronic Microimaging Processes with a View to the Disposal of the Original Records
4400.60	Minimum Standards of Quality for Permanent Record Photographic Original Microfilm Intended for Retention Periods in Excess of 10 Years
4400.70	Digital Reproduction
4400.80	Management of Electronic Records
4400.APPENDIX A	Inventory Work Sheet
4400.APPENDIX B	Records Retention Schedule (Application for Authority to Dispose of State Records)
4400.APPENDIX C	Records Disposal Certificate
4400.APPENDIX D	Archives Records Transfer Sheet

AUTHORITY: Implementing and authorized by the State Records Act [5 ILCS 160].

SOURCE: Amended May 28, 1976; codified at 8 Ill. Reg. 8927; recodified from 44 Ill. Adm. Code 4100 (Secretary of State) to 44 Ill. Adm. Code 4400 (State Records Commission) at 9 Ill. Reg. 15547; amended at 10 Ill. Reg. 1965, effective January 8, 1986; amended at 13 Ill. Reg. 7444, effective May 1, 1989; amended at 31 Ill. Reg. 8572, effective June 4, 2007; amended at 32 Ill. Reg. 17976, effective November 6, 2008; amended at 37 Ill. Reg. _____, effective _____.

Section 4400.20 Definitions

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Act – The State Records Act [5 ILCS 160].

Active Records – Records that continue to be used for their original purpose and are referenced frequently by the creating agency. These records are typically kept within an agency to allow timely access by users. With electronic records, this means that they can be accessed without the need to reload storage media or access remote storage sites.

Administrative Value – Those aspects of records containing facts concerning an agency's administrative decisions that an agency needs for its immediate day-to-day function. This value almost always diminishes and is lost over time.

Authentic Copy – A reproduction of a record that duplicates the content of the original record and that has been certified as authentic by the creating agency so that it may be submitted as legal evidence.

Born-Digital Records – Records created in a digital format, as opposed to those created in other media and then converted to digital surrogates. Examples include word processing documents, electronic spreadsheets and digital photographs.

Commission or SRC – The State Records Commission created by Section 16 of the State Records Act to determine what State agency records no longer have any administrative, fiscal, legal, research or historical value and should no longer be retained.

Database – A collection of information organized in such a way that a computer program can select desired pieces of data. A database is typically used as an electronic filing system through which users can quickly sort and retrieve data as necessary.

Digital Surrogate – A reproduction of the original record when the record has been scanned, photographed, encoded, or otherwise converted to a digital ~~copy~~~~photocopy~~ that, when printed, viewed or played, ~~replicates~~~~retains the look,~~ ~~sound or feel of~~ the original record.

Digitization Process – The methods, tools and procedures by which a digital surrogate is created for an original record. Examples include scanning and encoding of audio/video signals into digital data.

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Electronic Microimaging – Any process in which source documents are scanned into a digital format and then converted to permanent record microfilm.

Electronic Record – A record generated, communicated, received or stored by electronic means. Both born-digital records and digital surrogates are considered electronic records. Databases or components of databases may or may not be considered records, depending upon their function and contents. Electronic records ~~can be~~ contained in various storage media.

~~Electronic Storage Media – Storage devices in computers (hard drives) and any removable/transportable digital storage medium, such as magnetic tape or disk, optical disk, or digital storage device.~~

Field Representative – A representative in the State Records Unit of the Office of the Secretary of State.

Fiscal Value – Those aspects of records containing monetary information that accounts for the receipt or expenditure of funds.

Geographic Redundancy – The practice of replicating business data at two or more geographically distinct sites in order to protect against catastrophic data loss. Geographic redundancy can be provided through duplicate storage systems in different locations, or through contracting with vendors for remote or "cloud" storage.

Illinois State Archives – Department of the Archives and Records, Office of the Secretary of State, established pursuant to the State Records Act [5 ILCS 160].

Legal Value – Records that contain evidence of legally enforceable rights or obligations of the State, such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of actions in particular cases, such as claim papers and legal dockets.

Non-record Material –

Material not filed as evidence of administrative activity or for its informational content.

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Extra copies of documents preserved only for convenience of reference.

Stocks of printed or reproduced documents kept for supply purposes, where file copies have been retained for record purposes.

Books, periodicals, newspapers, posters, and other library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

Private materials neither made nor received by a State agency pursuant to State law or in connection with the transaction of public business.

Perforated, magnetized and photographically coded cards and tapes, provided that documents containing the same information have been filed in the same office and such cards and tapes were not prepared as evidence of administrative decisions or transactions subject to audit.

Transitory messages, consisting of material that is created primarily to communicate information of short-term value. These can include messages sent via email, instant messaging (IM), text messaging (SMS) or paper correspondence. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages (whether in paper, voicemail or other electronic form); announcements of office events such as holiday parties or group lunches; and recipient copies of announcements of agency-sponsored events such as exhibits, lectures, workshops, etc. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction or become a receipt.

Whenever doubt arises whether certain ~~documents~~papers are non-record materials, it should be presumed that they are records. Non-record materials may be destroyed at any time by the agency in possession of the materials without the prior approval of the State Records Commission.

~~Open Format—A published specification for storing digital data, usually maintained by a non-proprietary standards organization and free of legal restrictions on use. A non-exclusive list of open formats includes txt, rtf, tiff, jpeg and PDF-A.~~

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Permanent – To be retained forever.

Permanent Record Film – A photographic camera original, or an exact copy of an original film, so composed and treated that the image and support will have maximum keeping quality under archival room storage conditions of 65-70° F and 30-40% humidity.

Raw Stock – Sensitized photographic material that has not undergone the process of development.

Records – All books, papers, digitized electronic material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by any agency in the State in pursuance of State law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. [5 ILCS 160/2]

Records Retention Schedule – [Formally known as the Application for the Authority to Dispose of Records, the](#) document stating the official retention, maintenance and disposition requirements for a record series, or type of record, based on administrative, fiscal, legal or archival values for the scheduled records. The schedule is of no force unless approved by the State Records Commission (see Section 17 of the State Records Act).

Records Series – A group of identical or related documents (either as to form or content) that is arranged under a single filing system or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common physical characteristics (i.e., maps, blueprints, etc.). A series may contain both forms and correspondence.

Research, Historical or Archival Value – Records that document a specific State program, a unique program, a departure from previous State policy, formation of public policy, the activities of an important government official, or a trend or movement by the citizenry.

Secretary – The Illinois Secretary of State.

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System Decommissioning – The removal of a system from service, such as when a system used to manage business records is shut down when it is no longer being utilized or is being replaced by a new system.

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

Section 4400.22 Incorporations by Reference

- a) No incorporation by reference in this Part includes any amendment or edition later than the date specified.
- b) The following materials are incorporated in this Part:
The American National Standards Institute/Association for Information and Image Management

1819 L Street, NW
Suite 600
Washington, DC 20036

- 1) ANSI/AIIM MS23 (1998) – Standard Recommended Practice – Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents
- 2) ~~ANSI/AIIM MS44 (1993) – Recommended Practice for Quality Control of Image Scanners~~
- 3) ~~ANSI/AIIM MS49 (1993) – Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners~~
- 2)4) ANSI/AIIM MS62 (1999) – Recommended Practice for COM Recording System Having an Internal Electronic Forms Generating System – Operational Practices for Inspection & Quality Control
- 5) ~~ANSI/AIIM TR34 (1996) – Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management (EIM) & Micrographics Systems~~

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

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Section 4400.70 Digital Reproduction

- a) Records originally created on a physical medium (paper, film, analog audio tape, etc.) ~~Original records~~ may not be destroyed in favor of digital surrogates unless the digital surrogates are produced in compliance with this Section and unless done pursuant to a ~~list or~~ retention schedule approved by the Commission.
- b) In submitting ~~lists or~~ schedules of ~~original~~ records originally created on a physical medium for which digital surrogates are to be substituted, the head of each agency shall certify that the copies will be made in accordance with the standards of the Commission and will be authentic copies of ~~adequate substitutes for~~ the original records.
- c) Records scheduled for permanent retention may not be destroyed in favor of digital surrogates unless those surrogates are maintained in compliance with Section 4400.80 of this Part. If the requirements of Section 4400.80 are not met, records must be additionally maintained either in original format or in a microfilm format that complies with Sections 4400.50 and 4400.60.
- ~~d)~~e) File Integrity – The integrity and authenticity of the original records shall be preserved through the digitization process so that the images or surrogates will be authentic copies of ~~adequate substitutes for~~ the original records. They must serve the purposes for which the original records were created or maintained and the copies must contain all significant record detail needed for probable future reference.
- ~~e)~~d) Digital surrogates must be created and stored in file formats approved by the Commission.
- File formats
- 1) ~~Digital surrogates must be created in an open file format.~~
- 2) ~~Meta-data or indexing information for digital surrogates must be stored in SQL (structured query language) compliant databases or in XML (extensible markup language) format.~~

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- f)e) Access – The digital surrogates shall be prepared, arranged, classified and indexed to readily permit ~~their~~ subsequent location, examination, and reproduction of individual records. Hardware, software and documentation must be maintained to allow ready access to each file.
- g)f) Technical ~~Standards~~standards for Creation of Digital Surrogates~~digital surrogates~~:
- 1) Quality Control – Prior to production, an agency shall assemble a sample set of source documents or records equivalent in characteristics to the source documents for the purposes of evaluating scanner results. Scanner quality must be evaluated in accordance with current industry best practices and in consultation with the Commission.~~Scanner quality must be evaluated based on the standard procedures in ANSI/AIIM MS44 and MS49.~~
 - 2) Quality Assurance – Before production, an agency shall develop written quality assurance procedures based upon the results of the pre-production quality sample. Before the original documents are destroyed, quality assurance must be conducted in accordance with current industry best practices and in consultation with the Commission~~ANSI/AIIM TR34.~~
 - 3) Scanning Resolution – Scanning resolution must be adequate to ensure that no information is lost. A scanning resolution with a minimum of 200 dots per inch is required for recording documents that contain no type font smaller than six point. A scanning density with a minimum of 300 dots per inch is required for engineering drawings, maps and other documents with a type font smaller than six point or with background detail. The selected scanning density must be validated with tests on actual source documents.
- g) ~~External Vendors—Contracts for the storage of digital surrogates by external vendors must allow for the return of all electronic data files and indexing information to the agency at the expiration of the contract, in a format complying with the requirements of subsections (h) through (n).~~
- h) ~~Media—Digital surrogates may be stored on a hard disk, networked server, magnetic tapes, or optical disks. Floppy disks may not be used. Data maintained on magnetic tape must be recopied onto a new tape a minimum of once every five years.~~

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- i) ~~Backup copies — All digital surrogates of original records must be stored in duplicate copy on a second hard disk, magnetic tape, optical disk, or storage network. If possible, the second copy must be stored in a different building than the first copy.~~
- j) ~~Access — Each digital surrogate must be individually accessible. System tapes used for data backup or disaster recovery, unless indexed for individual accessibility, do not satisfy records retention requirements.~~
- k) ~~Additions, Deletions, Erasure — Systems used to store and access digital surrogates must not permit additions, deletions, or changes to the digital images or surrogates substituting for the original record.~~
- l) ~~Labeling — External labels for magnetic tapes or optical disks used to store digital images or surrogates shall provide unique identification of each reel/cartridge or disk, including the name of the office responsible for the data, system title, and security classification, if applicable.~~
- m) ~~Maintenance~~
 - 1) ~~Each agency shall ensure that hardware, software, and documentation (including maintenance documentation) required to retrieve and read the digital surrogate are retained for the entire period mandated under the approved retention period for the digital surrogates.~~
 - 2) ~~If hardware, software, and/or documentation are replaced, or if the digital surrogates are migrated to a new information system, the agency must ensure that the replacement hardware, software and/or documentation meets all requirements mandated in the approved records schedule and in this Section.~~
- n) ~~Long-Term Retention — Whenever a record series proposed for conversion to a digital surrogate has been scheduled for a retention period in excess of 10 years, it must be maintained additionally either in its original format or in a microfilm format that complies with Sections 4400.50 and 4400.60 of this Part.~~

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

Section 4400.80 Management of Electronic Records

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- a) Born-digital Records – Born-digital records shall be subject to the same records schedules as those records originally created in other media.
- b) Databases – Databases or components of databases may or may not be considered records, depending upon their function and contents. An agency's Records Retention Schedule, as approved by the Commission, will be used to make such a determination.
- c) Active Records – Active records must be stored in ways that ensure the future accessibility of those records for as long as they are needed.
- d) Permanent Records – Records scheduled for permanent retention must be stored in file formats approved by the State Records Commission at the time the records are permanently removed from the active system, at the time of decommissioning of the active system or at the request of the Commission.
- e) Storage Media – Electronic records may be stored on a hard disk, networked server, magnetic tape or other media approved by the Commission. Stored records must be regularly migrated to new media in accordance with current industry best practices and in consultation with the Commission.
- f) Access – Electronic records must be maintained in such a way that each record is individually accessible.
- g) Backup Copies – A minimum of two copies of all electronic records must be preserved for the length of scheduled retention. Copies must be stored according to industry best practices for geographic redundancy and in consultation with the Commission.
- h) External Vendors – Contracts for the storage of electronic records by external vendors must allow for the return of all electronic data files and indexing information to the agency at the expiration of the contract or, in the case of vendor failure, in a format complying with the requirements of subsections (c) and (e).
- i) Identification – Media used to store electronic records must provide unique identification of each physical unit. Each electronic record must have a unique identifier to allow for ongoing management of that record.

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- j) System Requirements for the Management of Permanent Records
- 1) Electronic Records Scheduled for Permanent Retention – These records must be stored and managed in accordance with subsections (d) through (j). If those requirements are not or cannot be met, then an additional microfilm or print copy must be created for permanent preservation. Microfilm copies must be created in accordance with Sections 4400.50 and 4400.60. Certain record types that are unsuitable for print or microfilm reproduction, such as audio or video files, are exempt from this requirement.
 - 2) Classification – Systems used to store and access electronic records must allow records to maintain their relationships to one another.
 - 3) Security – Systems used to store and access electronic records must not permit unauthorized additions, deletions or changes to the records. Access to the system must be limited and strictly controlled.
 - 4) Access – Systems used to store and access electronic records must allow for the retrieval of individual records and their associated metadata in a timely manner.
 - 5) Metadata – Systems used to store and access electronic records must capture relevant structural, descriptive and administrative metadata at the time a record enters the system. The system must generate additional metadata whenever a record is moved within the system or migrated to another format or storage medium.
 - 6) Format Migration – Systems used to store and access electronic records must allow for the migration of stored records, and their associated metadata, notes and attachments, from one file format to another.
 - 7) System Maintenance – Each agency shall ensure that hardware, software and documentation (including maintenance documentation) used to store and access electronic records are retained for the entire life of that system.
 - 8) System Changes – If hardware, software and/or documentation used to store and access electronic records is replaced, or if the electronic records are migrated to a new system, the agency must ensure that the replacement

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[hardware, software and/or documentation meets all requirements mandated in the approved records schedule and in this Section.](#)

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

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- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1001.441	Amendment
1001.442	Amendment
1001.443	Amendment
1004.444	Amendment
- 4) Statutory Authority: Illinois Vehicle Code [625 ILCS 5/6-206.1(g)]
- 5) Complete Description of the Subjects and Issues Involved: Updates the rule to set out violations and penalties for use of a device to prevent the BAIID from working properly, or failing to allow the BAIID to take a clear and accurate photograph of the permittee blowing into the mouthpiece. Updates BAIID requirements for providers of device to include photograph capabilities, standards, storage and accessibility of images taken by the BAIID.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No.
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Written comments may be submitted within 45 days to:

Brenda Glahn
Assistant General Counsel
Office of the General Counsel

SECRETARY OF STATE

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298 Howlett Building
Springfield, IL 62756

217-785-3094
bglahn@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis: None
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Breath Alcohol Ignition Interlock providers
- C) Reporting, bookkeeping or other procedures required for compliance: BAIID devices must be made capable of producing a clear and accurate photograph of the permittee blowing into the mouthpiece in order to obtain certification from the Secretary of State.
- C) Types of professional skills necessary for compliance: None
- 15) Regulatory Agenda on Which this Rulemaking Was Summarized: This rulemaking was not included on either of the most recent regulatory agendas because the Department did not anticipate the need for this rulemaking at the time the agendas were filed.

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section	
1001.10	Applicability
1001.20	Definitions
1001.30	Right to Counsel
1001.40	Appearance of Attorney
1001.50	Special Appearance
1001.60	Substitution of Parties
1001.70	Commencement of Actions; Notice of Hearing
1001.80	Motions
1001.90	Form of Papers – Original Documents Required
1001.100	Conduct of Formal Hearings
1001.110	Orders; Notification; Time Limits on Obtaining Relief
1001.120	Record of Hearings
1001.130	Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section	
1001.200	Applicability
1001.210	Definitions
1001.220	Hearings: Notice; Location; Procedures; Record
1001.230	Rules of Evidence
1001.240	Scope of Hearings
1001.250	Decisions and Orders
1001.260	Rehearings
1001.270	Judicial Review
1001.280	Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

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Section

1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Record and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions; Time Limits on Obtaining Relief
1001.370	Invalidity

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section

1001.400	Applicability; Statement of Principle and Purpose
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
1001.441	Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs
1001.442	BAIID Providers Qualification Procedures and Responsibilities; Certification of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider
1001.443	Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program
1001.444	Monitoring Device Driving Permit (MDDP) Provisions
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.470	Renewal, Correction and Cancellation of RDPs
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

Section

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1001.500	Applicability
1001.510	Definitions
1001.520	Procedure
1001.530	Conduct of Medical Formal Hearings
1001.540	Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

Section

1001.600	Applicability
1001.610	Definitions
1001.620	Burden of Proof
1001.630	Implied Consent Hearings; Religious Exception
1001.640	Implied Consent Hearings; Medical Exception
1001.650	Rebuttable Presumption
1001.660	Alcohol and Drug Education and Awareness Program
1001.670	Petitions for Restricted Driving Permits
1001.680	Form and Location of Hearings
1001.690	Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section

1001.700	Applicability
1001.710	Definitions
1001.720	Organization of Motor Vehicle Review Board
1001.730	Motor Vehicle Review Board Meetings
1001.740	Board Fees
1001.750	Notice of Protest
1001.760	Hearing Procedures
1001.770	Conduct Of Protest Hearing
1001.780	Mandatory Settlement Conference
1001.785	Technical Issues
1001.790	Hearing Expenses; Attorney's Fees
1001.795	Invalidity

1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location

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Guidelines (Repealed)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002; emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150

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days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 14706, effective September 20, 2002, for a maximum of 150 days; emergency expired on February 16, 2003; amended at 27 Ill. Reg. 5969, effective March 31, 2003; amended at 27 Ill. Reg. 13577, effective August 1, 2003; amended at 28 Ill. Reg. 12123, effective September 1, 2004; amended at 28 Ill. Reg. 15804, effective November 19, 2004; amended at 31 Ill. Reg. 6185, effective May 1, 2007; amended at 31 Ill. Reg. 14837, effective November 1, 2007; amended at 33 Ill. Reg. 282, effective January 1, 2009; emergency amendment at 35 Ill. Reg. 3848, effective February 15, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 10934, effective June 21, 2011; amended at 36 Ill. Reg. 7300, effective April 30, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.441 Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs

- a) BAIID Required for RDP; Fee Required
 - 1) The issuance of RDPs to a BAIID petitioner shall be conditioned upon the use of a Breath Alcohol Ignition Interlock Device (BAIID), as required by Sections 6-205, 6-206 and/or 11-501 of the IVC. As provided in these Sections, a BAIID petitioner must pay a non-refundable fee of \$30 per month on an annual basis, for a total annual payment of \$360. This total annual payment must be paid in advance and prior to the issuance of any permit. Payment must be submitted in the form of a money order, check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.
 - 2) A BAIID petitioner who is renewing restricted driving permits and who also is eligible for the full reinstatement of driving privileges less than 12 months from the date of the expiration of the current restricted driving permits at the time he/she renews the permits, shall not be required to make an annual payment. If the petitioner has been scheduled for a formal hearing on a petition for reinstatement at the time of renewal, then petitioner shall pay the above-referenced fee in an amount equal to the number of months between the date of renewal and date of the hearing,

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plus an additional 3 months (not to exceed 12 months), times \$30. If the petitioner does not have a formal hearing on a petition for reinstatement scheduled at the time of renewal, then the fee shall be paid for 9 months. If, however, the petitioner is denied full reinstatement, then the petitioner must resume payment on an annual basis.

- b) Notification of BAIID Requirements. The Secretary shall notify any BAIID petitioner who requests a hearing of the procedures for obtaining a BAIID and the BAIID requirements. Notification may be accomplished in one of the following ways, though not limited thereto: informal hearing officer; phone contact; written notification, or by electronic mail.
- c) Type of Hearing Required. All hearings involving a BAIID petitioner seeking driving relief shall be formal hearings. Any extension or modification of an RDP issued under this Section may be done at an informal hearing. Any hearing involving a BAIID petitioner shall be conducted as any other hearing under this Part and all other applicable standards shall apply.
- d) Petitioner Must Meet Requirements of Subpart D. The Secretary shall issue an RDP to a BAIID petitioner if, through the hearing process, the petitioner is determined to meet all of the requirements of this Subpart D and installs and utilizes a device in all motor vehicles operated by the BAIID petitioner and, where applicable, all motor vehicles owned by the BAIID petitioner as required by the RDP issued under this Subpart D. BAIIDs shall not be installed on and BAIID permittees shall not operate motorcycles, motor driven cycles or commercial motor vehicles requiring a commercial driver's license.
- e) Hearing Officer's Responsibilities; Petitioner's Responsibilities. Prior to the taking of evidence at the hearing:
 - 1) The hearing officer shall make sure that the BAIID petitioner understands: all of the provisions and requirements of receiving a BAIID permit; that to obtain an RDP the BAIID petitioner must minimally meet all of the requirements of Section 1001.440 of this Subpart D and install and utilize the device; that a BAIID petitioner's agreement to install a BAIID or willingness to comply with the BAIID requirements does not guarantee issuance of an RDP; and that all costs associated with the device are the responsibility of the BAIID petitioner; and

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- 2) The BAIID petitioner shall advise the hearing officer that he/she understands all of the provisions and conditions of the BAIID requirements and whether he/she agrees to comply with the BAIID requirements. If the BAIID petitioner is unwilling to use the device, or comply with this Section, he/she shall be advised that restricted driving permits cannot be granted.
- f) Decision. After the hearing, the hearing officer shall consider the evidence and the relief requested and make a recommendation as in any other hearing under this Part.
- 1) If the hearing officer does not determine that the relief requested should be granted, an order denying relief shall be prepared.
 - 2) If the hearing officer determines that an RDP should be granted, an order granting a RDP shall be prepared with the additional requirement that the RDP is conditioned upon the installation and continued use of the device. All RDPs issued under this Section shall require continued use of the device until the driving privileges of the petitioner are reinstated.
- g) Installation of BAIID. Upon the issuance of an RDP under this Section, the Secretary shall make available a list of certified BAIID providers to the BAIID permittee. In addition to the other requirements under this Part, the BAIID Permittee may operate the vehicle for 14 days from the issuance of the RDP without the device installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the device. The installer or BAIID provider must notify the Secretary that a device has been installed in the vehicles designated by the BAIID permittee within 7 days from the date of the installation of the device. Proof of installation shall be by such means as determined by the Secretary from the installer or BAIID provider. Failure to comply with these requirements will result in the denial of driving relief and the cancellation of any RDP issued.
- h) Petitioner's Responsibilities – Driving with BAIID. Any BAIID petitioner receiving an RDP under this Section must comply with the following requirements:
- 1) Operate only vehicles with an installed, operating device authorized by the Secretary whether the vehicle is owned, rented, leased, loaned, or

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otherwise in the possession of the BAIID permittee as required by the RDP issued under this Section.

- 2) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer within the first 30 days for an initial monitor report to help the BAIID permittee learn how to correctly use the device, and thereafter not longer than every 60 days for the purposes of calibration and having a monitor report of the device's activity prepared and sent to the Secretary by the BAIID provider or installer.
 - 3) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device. If BAIIDs have been installed on multiple vehicles pursuant to Section 1001.443, a separate journal must be kept for each vehicle, recording unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device, and recording the name of the driver operating the vehicle at the time of the event.
 - 5) May not have an interlock device removed or deinstalled from his or her vehicle without first notifying the Secretary and surrendering to the Secretary or his designee the permittee's restricted driving permit.
- i) Review of Monitor Reports; Sanctions for Failure to Comply. Upon receipt or nonreceipt of the monitor reports, the Secretary shall review them and take the following action. The failure of the BAIID permittee to comply with the requirements of this Subpart D will be made part of his/her record of performance to be considered at future formal hearings.
- 1) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle, or a failure to successfully complete a running retest, during the initial monitor period, send a warning letter to the BAIID permittee indicating that future unsuccessful

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attempts to start the vehicle or failure to successfully complete a running retest will result in the Secretary sending a letter to the BAIID permittee asking for an explanation of the unsuccessful attempts to start the vehicle or the failure to successfully complete a running retest;

- 2) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the unsuccessful attempts to start the vehicle. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 3) For any BAIID permittee whose monitor reports show a failure to successfully complete a running retest, after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonable assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 4) For any BAIID permittee whose monitor reports show a BrAC reading of 0.05 or more or a pattern of BrAC readings consistent with the use of alcoholic beverages, regardless of any other provision contained in this Section, there shall arise a rebuttable presumption that the BAIID permittee consumed alcoholic beverages. The presumption may result in the cancellation of the RDP if the BAIID permittee is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent). In every case, the Secretary shall send a letter asking for an explanation of the BrAC reading or the pattern of BrAC readings consistent with the use of alcoholic beverages. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that the BAIID permittee did not consume alcoholic beverages, no further action will be taken. If a response from a BAIID permittee whose alcohol/drug use was classified at High Risk-Dependent

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is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance and the Secretary shall cancel the RDP and authorize the immediate removal/deinstallation of any BAIID. If a response from a BAIID permittee whose alcohol/drug use was classified at something other than High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;

- 5) For any BAIID permittee who was arrested/stopped by the police for an alcohol/drug related offense, failed a running retest, or failed to take a running retest, if the police officer's report indicates the use of alcoholic beverages and/or drugs, the Secretary shall send the BAIID permittee a letter asking for an explanation of the incident. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 6) For any BAIID permittee whose initial monitor or monitor reports show any tampering with or unauthorized circumvention of the device or physical inspection by an installer shows any tampering with or unauthorized circumvention of the device, the Secretary shall send the BAIID permittee a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, then the Secretary shall immediately cancel the RDP and authorize the immediate removal/deinstallation of the device.
- 7) For any BAIID permittee required to submit a letter of explanation, when a review of the images taken at the time of the violation indicates the BAIID camera was prevented from taking clear and accurate photos of the permittee blowing into the mouthpiece, the explanation shall automatically be rejected and the appropriate sanction, as set forth in this subsection (i), shall be imposed.

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- j) Immediate Cancellation of BAIID Permit. Any one of the following shall also be grounds for immediate cancellation of an RDP issued under this Section:
- 1) Any law enforcement report showing operation of a vehicle by a BAIID permittee without a device as required by the RDP issued under this Section. The law enforcement officer shall, at the time of the stop, confiscate the RDP and send it, or a copy of it, along with the report, to the Secretary;
 - 2) Notification from a BAIID provider or installer on a removal/deinstallation report form stating that the device installed in a BAIID permittee's vehicle has been removed and/or is no longer being utilized by the permittee, as required by subsection (d), including a removal or deinstallation caused by the BAIID permittee's failure to pay lease or rental fees due to the BAIID provider, unless the permittee has notified the Secretary that he or she is no longer utilizing the device and surrendered the BAIID permit to the Secretary as required in subsection (h). This notification shall be sent to the Secretary no more than 7 days after the removal/deinstallation;
 - 3) Failure to submit a BAIID for monitoring in a timely manner. Unless notified by a BAIID provider pursuant to subsection (j)(2), all monitor reports shall be submitted to the Secretary within 67 days after the previous monitor report. If the Secretary fails to receive a BAIID permittee's monitor reports in the 67 days, then the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and permittee by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the BAIID permittee failed to take in a vehicle with the device for timely monitor reports or failed to send the appropriate portion of the device, utilizing a traceable package delivery service, to the BAIID provider or installer for timely monitor reports, then the Secretary will send a letter to the BAIID permittee stating that if the device is not taken in for a monitor report within 10 days after the date of the letter, then any permits issued to the BAIID permittee will be cancelled;
 - 4) Any law enforcement report involving a DUI arrest or other law enforcement report indicating use of alcohol in violation of Subpart D;

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- 5) The Secretary reserves the discretion to cancel a BAIID permittee's driving privileges if monitor reports, which are processed after a hearing is conducted or after the reinstatement of driving privileges, show a violation of the terms and conditions of the BAIID permit.
- k) Hearing to Contest Cancellation of BAIID Permit. Any BAIID permittee whose RDP is cancelled as provided for in this Section may request a hearing to contest the cancellation within 60 days from the effective date of the cancellation. Such a hearing will be scheduled and held on an expedited basis. The hearing will be conducted as any other formal hearing under this Part. Any BAIID permittee whose RDP is cancelled under the provisions of this Section and who is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent) and who admits to consuming alcoholic beverages may not request a hearing to contest the cancellation.
- l) No Hearing for 12 Months After Cancellation. Any BAIID permittee whose RDP is cancelled for any reason as provided for in this Section shall not be granted another hearing for any type of driving relief for one year from the date of the cancellation, except to contest the cancellation as provided in subsection (k). This provision does not apply to BAIID permittees who: voluntarily have surrendered their RDPs; have not committed any offense or act that would be grounds for the cancellation of their RDPs; or are able to demonstrate that he/she was not the perpetrator of the offense or conduct that otherwise would be grounds for the cancellation of his/her RDPs.
- m) Formal Order – Content. Any formal order entered that grants the issuance of an RDP as provided for in this Section shall, in addition to all other requirements, clearly indicate the following:
- 1) That the RDP is issued conditioned upon BAIID installation and proper usage of the BAIID by the permittee; and
 - 2) That the BAIID permittee is aware of all conditions and terms of BAIID installation and proper usage of the BAIID, and he or she accepts those conditions and terms as conditions precedent to the issuance of the RDP.
- n) RDPs – Content. Any RDPs issued as provided for in this Section shall, in addition to all other requirements, clearly indicate:

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- 1) That the RDP is issued pursuant to the BAIID requirements of this Section, and that a vehicle operated by a BAIID permittee must be equipped with an installed, properly operating device;
 - 2) That the provisions of the RDP also allow the BAIID permittee to drive to and from the BAIID provider or installer for the purposes of installing the device within 14 days after the issuance of the RDP, or obtaining monitor reports, and any necessary servicing.
- o) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the permittee's performance and compliance with the BAIID requirements under this Subpart D. Such reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.
- p) Modification or Waiver of BAIID. The Secretary may make a medical or physical BAIID modification or waiver for RDPs issued under this Section.
- q) Employment Exemption from BAIID Requirements. In determining whether a BAIID permittee is exempt from the BAIID requirements pursuant to the waiver provided for in Sections 6-205 and 6-206 of the IVC, the following shall apply:
- 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the permittee or any member of the permittee's immediate family, unless the entity is a corporation and the permittee and the permittee's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;
 - 2) The exemption shall not apply where the employer's vehicle is assigned exclusively to the BAIID permittee and used solely for commuting to and from employment.
- r) Disqualification/Decertification of BAIID Providers and BAIID Device. The Secretary must notify the BAIID permittee of the disqualification of a BAIID provider or the decertification of a particular type of BAIID. The BAIID permittee must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The BAIID permittee must inform the Secretary of that selection within 7 days after the receipt of

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notification from the Secretary. The BAIID permittee must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the BAIID permittee's RDP. All costs related to any change in BAIID provider or BAIID shall be paid by the BAIID permittee.

- s) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

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

Section 1001.442 BAIID Providers Qualification Procedures and Responsibilities; Certification of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider

- a) Qualification Required to Provide BAIID Services. No person or entity may provide BAIID services pursuant to this Subpart D unless qualified as a BAIID provider by the Secretary. All qualified BAIID providers must apply for requalification on an annual, calendar year basis, with applications for requalification due in the Secretary's office no later than December 1 of each year.
- b) Who May Provide BAIID Services. BAIID providers may be a manufacturer of BAIIDs, an authorized representative of a manufacturer of BAIIDs, an installer of BAIIDs or other business entity. Without regard to the specific business operations of the BAIID provider, all certified BAIID providers under this Section shall be responsible for insuring that all of the duties and responsibilities of a BAIID provider are carried out in accordance with this Subpart D, including, but not limited to, providing, distributing, installing and servicing approved BAIIDs. BAIID providers may provide these services through their own resources, through a subsidiary, or through contractual relationships with third parties.
- c) Information Required in Application for Qualification. Persons or entities desiring to be qualified as BAIID providers may submit an application for qualification at any time. An application for qualification or requalification as a BAIID provider shall include all of the following information:

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- 1) The name, business address and telephone number of the applicant. If the applicant is a business entity other than a corporation, the application must include the names and addresses of the owners of the entity. If the applicant is a corporation, the application must include the names and addresses of any person or entity owning 10% or more of the outstanding shares of the corporation;
- 2) The names, business addresses and telephone numbers, and titles of any officers, managers or supervisors of the applicant who will be involved in the provision of BAIID services;
- 3) A description of each BAIID the applicant proposes to install, including the name and address of the manufacturer and the model of the unit. Unless the BAIID has been certified by the Secretary pursuant to this Section, the application must include the information necessary to obtain certification of the BAIID pursuant to this Section;
- 4) If the applicant is not a BAIID manufacturer, the application must include proof of the applicant's right to distribute and install the particular types of BAIIDs the applicant is proposing to utilize. Such proof may include a letter (composed on letterhead stationary), or a copy of a purchase, lease, rental or distribution agreement with the manufacturer;
- 5) A detailed description of the applicant's plan for distribution, installation and service of BAIIDs in Illinois, including the names and addresses of all installers the applicant intends to use. This plan must demonstrate the applicant's ability to distribute and install BAIIDs and submit reports to the Secretary within the time frames established by this Subpart D;
- 6) Proof the applicant possesses the minimum liability insurance coverage required by this Section, and a statement agreeing to the indemnification and hold harmless provisions of this Section;
- 7) In the event an original or amended application to be qualified or requalified as a BAIID provider is denied, the Secretary shall limit additional applications from that applicant to one every 12 months;

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- 8) In deciding whether to grant or deny an application to be a BAIID provider, the Secretary may take into consideration the applicant's past performance in manufacturing, distributing, installing or servicing BAIIDs if the applicant has previously engaged in this type of business;
 - 9) A BAIID provider who has been qualified pursuant to this Section may at any time submit an amended application seeking certification to distribute and install a type of BAIID in addition to or other than the types previously certified for that BAIID provider;
 - 10) The Secretary shall notify the applicant in writing of his decision regarding the application for qualification or requalification as a BAIID provider.
- d) Services that Must be Provided. After qualification or requalification by the Secretary, BAIID providers shall provide the following services and meet the following requirements:
- 1) The BAIID provider shall submit proof of liability insurance with its application to the Secretary. General commercial liability and/or product liability insurance, which shall include coverage for installation services, shall be maintained with minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. If the BAIID provider is not both the manufacturer and installer of the device, proof of liability insurance must be provided showing coverage of both the manufacturer and the installers. If proof of separate policies for the manufacturer and installers is provided, each policy must have minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. Other commercially acceptable insurance arrangements, in the same minimum amounts, may be accepted at the discretion of the Secretary;
 - 2) As a condition of being certified as a BAIID provider, the BAIID provider shall agree to indemnify and hold the State of Illinois and the Secretary, their officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the

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negligence or misconduct of the BAIID provider, its employees, agents, or contractors in the manufacture, installation, service, repair, use or removal of a BAIID or performance of any other duties required by this Section;

- 3) All installations of BAIIDs shall be done in a workmanlike manner and shall be in accordance with the standards set forth in this Section and with the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this Section. All BAIIDs must be installed and all reports to the Secretary must be made within the time frames established by this Subpart D;
- 4) The BAIID provider shall only install models of BAIIDs that the provider has been authorized to install pursuant to this Section and the BAIIDs shall only be installed at installation sites reported to the Secretary pursuant to this Section;
- 5) Any BAIID provider that sells, rents, and/or leases ignition interlock devices in Illinois pursuant to this Subpart D shall report to the Secretary within 7 days all such sales, rentals, and/or leases listing the name of the individual, his or her driver's license number, the installer, the installer's location, the make and serial number of the device, the make and model of the vehicle it is installed in, and VIN number of the vehicle;
- 6) The BAIID provider shall provide a toll free customer service/question/complaint hotline that is answered, at a minimum, during normal business hours, Monday through Friday;
- 7) The BAIID provider shall provide a course of training and written instructions for the BAIID permittee or MDDP offender on operation, maintenance, and safeguards against improper operations, and instruct the BAIID permittee or MDDP offender to maintain a journal of events surrounding failed readings or problems with the device. The BAIID provider will warn the BAIID permittee or MDDP offender that a violation of the BAIID or MDDP program or a finding of guilt for any of the offenses listed in Section 6-206.1(c-1) or Section 6-206.2 of the IVC will result in an extension of the summary suspension or a re-suspension for 3 months or immediate cancellation of the MDDP. Copies of all materials used in this course of training shall be provided to the Secretary;

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- 8) The BAIID provider shall provide service for malfunctioning or defective BAIIDs within a maximum of 48 hours after notification of a request for service. This support shall be in effect during the period the device is required to be installed in a motor vehicle;
- 9) The BAIID provider shall provide, at the request of the Secretary, expert or other required testimony in any civil or criminal proceedings or administrative hearings as to issues involving BAIIDs, including the method of manufacture of the device and how the device functions;
- 10) If a BAIID provider requires a security deposit by a BAIID permittee or MDDP offender and the amount of the deposit required is more than an amount equal to one month's rental or lease fee, the security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the State of Illinois. The BAIID provider will provide the Secretary with a certified statement of the escrow account upon his request;
- 11) BAIID providers must submit monitor reports or reports of any other service to the Secretary whenever a BAIID is brought in for monitoring or whenever a BAIID is brought in pursuant to a service or notification report. Except as provided in subsection (d)(12), the reports must be submitted to the Secretary no later than 7 days from the date the BAIID is brought in or an appropriate portion of the BAIID is sent to the BAIID provider. All BAIIDs shall be recalibrated whenever they are brought in for any type of service or monitoring using a wet bath simulator or other approved equivalent procedure; i.e., dry gas standard. The Secretary reserves the discretion to require a physical inspection, to be conducted by the BAIID provider or the BAIID Division, if monitor reports reflect repeated violations, or a reading or readings indicate tampering or circumvention of the device;
- 12) The BAIID provider shall report to the Secretary within two business days the discovery of any evidence of tampering with or attempts to circumvent a BAIID. The BAIID provider shall preserve any available physical evidence of tampering circumvention and shall make that evidence available to the Secretary;

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- 13) BAIID providers shall provide to the Secretary, upon request, additional reports, to include but not be limited to, records of installation, reinstallations, deinstallations, calibrations, maintenance checks and usage records on devices placed in service in the State;
- 14) The BAIID provider shall provide service to all BAIID permittees or MDDP offenders who request services from the BAIID provider and who have met the requirements of this Subpart D, including the payment of fees due to the provider, unless the fees are otherwise waived by rule or statute;
- 15) The BAIID provider must immediately notify the Secretary in writing if it or its manufacturer or installer becomes unable to produce, supply, service, repair, maintain, or monitor BAIIDs in a manner that enables it to service BAIID permittees and MDDP offenders as required and within the deadlines specified in this Subpart D;
- 16) The BAIID provider shall provide the Secretary a list of all locations in Illinois where the device may be purchased, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored. The BAIID provider shall notify the Secretary within 48 hours of any new installation locations or any installation locations that are closed;
- 17) The BAIID provider shall install, monitor and deinstall authorized BAIIDs without fee to any MDDP offender found to be indigent by the court of venue who requests services from the BAIID provider and who presents written documentation of indigency from the court in a form prescribed by the Secretary;
- 18) The Secretary may designate the form, format and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary pursuant to this Subpart D, including, but not limited to, installation verification forms, monitoring report forms, noncompliance report forms, notices of calibration, verification, tampering or circumvention, removal or deinstallation report forms, and information necessary to implement and monitor the indigent surcharge payments to the Indigent BAIID Fund and payment provisions

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from the Indigent BAIID Fund set forth in Section 6-206.1 of the IVC and Section 1001.444;

- 19) The Secretary shall review and approve leases or rental agreements the BAIID provider intends to utilize between the BAIID provider and the BAIID permittee or MDDP offender. The BAIID provider shall submit to the Secretary a copy of the schedule of all fees that will be charged to BAIID permittees or MDDP offenders, and shall submit an amended schedule of fees whenever there is a change to the BAIID provider's fees;
 - 20) The BAIID providers shall agree to take assignments to unserved areas of Illinois pursuant to this Section, as those areas are defined in subsection (i)(2);
 - 21) The Secretary shall have the right to conduct independent inspections of BAIID providers, manufacturers and installers, including inspection of any devices present at the time of the inspection, to determine if they are in compliance with the requirements of this Subpart D. The Secretary shall notify in writing and require the BAIID provider to correct any noncompliance revealed during any inspections. Within 30 days after receiving a notice of noncompliance, the BAIID provider shall notify the Secretary in writing of any corrective action taken;
 - 22) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, provide the Secretary with not more than two BAIIDs for each model that is certified under this Section. These models will be used for demonstration and training purposes.
- e) Criteria for Certification of Interlock Devices. Only BAIIDs that have been certified for use in Illinois pursuant to this Section may be installed in the vehicles of BAIID permittees and MDDP offenders by BAIID providers. Certification of a BAIID may be granted by the Secretary based on the following criteria:
- 1) Certification of a device may be granted by the Secretary, based on a review and evaluation of test results from any nationally recognized and certified laboratory test facility that is accredited by one of the following: International Standards Organization (ISO-25), National Voluntary Lab Accreditation Program – National Institutes of Standards & Technology (NVLAP), or Clinical Laboratory Improvement Amendments – U.S.

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Department of Health and Human Services (CLIA). The evaluation and test results must affirm the device's ability to meet the Model Safety and Utility Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) promulgated by the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, 400 S. 7th St. SW, Washington, D.C. 20590, (202)366-5593, 57 Fed. Reg. 1172, April 7, 1992 (no subsequent dates or editions), except for:

- A) 1.4.S, Power, if the device is not designed to be operated from the battery;
 - B) 1.5.2.S, Extreme Operating Range, if the device is not designed to be operated below -20° C and above $+70^{\circ}$ C;
 - C) 2.3.S, Warm Up, if the device is not designed to be operated below -20° C;
 - D) 2.5.S, Temperature Package, if the device is not designed to be operated below -20° C and above $+70^{\circ}$ C;
- 2) The BAIID provider must certify that the BAIID:
- A) Does not impede the safe operation of a vehicle;
 - B) Minimizes opportunities to bypass the device;
 - C) Performs accurately and reliably under normal conditions;
 - D) Prevents a BAIID permittee or MDDP offender from starting a vehicle when the BAIID permittee or MDDP offender has a prohibited BrAC; i.e., $P \geq 0.025$;
 - E) Satisfies the requirements for certification set forth in this Section;
 - F) Takes clear and accurate photographs of the individual utilizing the device. Vendors shall make accessible to the Secretary examples of such photos at the time of certification. If, in the opinion of the Secretary, the photographs are not clear and accurate, the Secretary has the right to withhold certification.

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- 3) No device shall be certified if it demonstrates an accuracy rate ≥ 0.01 in unstressed conditions or ≥ 0.02 in stressed conditions. The terms "stressed" and "unstressed" shall be defined according to the NHTSA standards referred to in subsection (e)(1);
- 4) Any device to be certified shall be designed and constructed with an alcohol setpoint of 0.025;
- 5) Any device to be certified shall require the operator of the vehicle to submit to a running retest at a random time within 5 to 15 minutes after starting the vehicle. Running retests shall continue at a rate of two per hour in random intervals not to exceed 45 minutes after the first running retest;
- 6) Any device to be certified shall be designed and constructed to immediately begin blowing the horn if:
 - A) The running retest is not performed;
 - B) The BrAC readings of the running retest is 0.05 or more; or
 - C) Tampering or circumvention attempts are detected;
- 7) The BAIID shall be required to have permanent lockout 5 days after it gives service or inspection notification to the BAIID permittee or MDDP offender if it is not serviced or calibrated within that five day period.
 - A) The BAIID shall give service or inspection notification to the BAIID permittee or MDDP offender upon the occurrence of any of the following events:
 - i) Every instance in which the device registers 3 BrAC readings of .05 or more within a 30 minute period;
 - ii) Any attempted tampering or circumvention;
 - iii) The time for the BAIID permittee or MDDP offender to take the vehicle for the initial monitor report;

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- iv) Every 60 days after the initial monitor report;
 - v) For MDDP offenders, 5 violations within the 60 days monitoring period;
- B) In addition, the BAIID shall record and communicate to the BAIID permittee or MDDP offender and to the Secretary's office via monitor reports all of the preceding events and all starts of the vehicle, both successful and unsuccessful;
- 8) The device shall be required to have 24 hour lockout anytime the BAIID permittee or MDDP offender registers 3 BrAC readings of 0.05 or more within a 30 minute period;
 - 9) Certification of a device may be withdrawn by the Secretary, based on a field testing protocol developed by the Secretary to determine the device's ability to operate in a consistently reliable manner and based upon review of field performance results; a review of BAIID usage by BAIID permittees and MDDP offenders; and BAIID monitor reports;
 - 10) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, install not more than three of each model of BAIID for which certification is sought in the vehicles provided by the Secretary for field testing. The Secretary may independently evaluate each device to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering;
 - 11) Upon the request of the Secretary, for each model of BAIID certified under this Section, the BAIID provider shall provide a total of at least 10 hours of training to the Secretary's employees at no cost to the State of Illinois. This training shall be held at the times and locations within the State designated by the Secretary. The training shall be designed to familiarize the Secretary's employees with the installation, operation, service, repair and removal of the BAIIDs and with the training and instructions that the BAIID provider will give to BAIID permittees and MDDP offenders. The BAIID provider shall also provide the Secretary, upon request, the following materials:

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- A) A detailed description of the device, including complete instructions for installation, operation, service, repair and removal of the BAIID;
 - B) Complete technical specifications describing the BAIID's accuracy, reliability, security, data collection and recording, tamper and circumvention detection, and environmental features;
- 12) Any device that is not certified shall be re-tested at the request of the BAIID provider but not more often than once in a calendar year;
 - 13) The Secretary shall not accept for certification any BAIID that uses Taguchi cell technology to determine BrAC;
 - 14) BAIIDs must use, as their anti-circumvention method, one of the following technologies: either a positive>negative>positive air pressure test requirement, or a mid-test hum tone requirement. BAIID providers may submit for approval to the Secretary new anti-circumvention technologies. Upon approval by the Secretary, pursuant to the procedures in this subsection (e), these technologies shall be included with the previously mentioned anti-circumvention technologies as acceptable for use by BAIID providers. No later than July 1, 2013, in addition to these anti-circumvention methods, all BAIIDS installed shall include a camera that captures a clear and accurate image of the individual blowing into the BAIID, including a sufficiently wide angle that it will be possible to determine whether a circumvention device has been inserted into the mouthpiece of the BAIID. The captured images shall be stored by the vendor and made accessible to the Secretary, in a manner prescribed by the Secretary.
- f) BAIID Installers
- 1) All installations of BAIIDs must be performed by installers identified to the Secretary as employees of or contractors of a qualified BAIID provider. The provider must inform the Secretary whether installation is being done by its own employees, contractors, or both. All installations shall be performed in a workmanlike manner. BAIID providers shall be responsible for their installer's compliance with this Subpart D. A BAIID

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provider may be disqualified by the Secretary for the noncompliance of its installer with the requirements of this Subpart D;

- 2) All BAIID installers shall have all tools, test equipment and manuals needed to install devices and screen motor vehicles for acceptable mechanical and electrical condition prior to installation;
- 3) The installer shall provide adequate security measures to prevent access to the device (tamper seals or installation instructions);
- 4) The installer shall appropriately install devices on motor vehicles taking into account each motor vehicle's mechanical and electrical condition, following accepted trade standards and the device manufacturer's instructions. All connections shall be soldered and covered with tamper seals. It is the BAIID permittee's or MDDP offender's responsibility to repair the vehicle if any prior condition exists that would prevent the proper functioning of the device. The installer shall inform the BAIID permittee or MDDP offender that a problem exists, but shall not be responsible for repairing the vehicle;
- 5) The installer shall not install devices in a manner that could adversely affect the performance of the device or impede the safe operation of the motor vehicle;
- 6) The installer shall verify that a device is functioning properly after it has been installed in the motor vehicle;
- 7) The installer shall restore a motor vehicle to its original condition when a device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent;
- 8) Where the installer is also providing monitoring and other services for the BAIID after installation, the installer shall perform all of the duties that are associated with service after the installation and that are required by this Section of a BAIID provider. These duties shall include, but are not limited to, completing all monitoring reports and/or mailing in the appropriate part of the device to the BAIID provider, making notification of any evidence of tampering or circumvention, and recalibrating BAIIDs whenever they are brought in for service or monitoring.

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- g) Disqualification of BAIID Providers. The Secretary shall disqualify a BAIID provider from providing BAIID services in Illinois, upon written notification and a 30 day opportunity to come into compliance, in any of the following cases:
- 1) Failure to submit monitor reports in a timely manner as provided in subsections (d)(11) and (d)(12). If the Secretary finds, through investigation, that the BAIID permittee or MDDP offender did take the vehicle with the installed device to the BAIID provider, or sent the appropriate portion of the device to the BAIID provider for a monitor report in a timely manner, a warning notification shall be sent to the BAIID provider indicating that a third such occurrence within a 12 month period will result in disqualification;
 - 2) Failure to maintain liability insurance as required;
 - 3) Failure to install certified devices within the time requirements of this Subpart D;
 - 4) Failure to comply with all of the duties and obligations contained in this Subpart D;
 - 5) Failure to provide BAIID permittees or MDDP offenders with correct information regarding the requirements of this Subpart D;
 - 6) Failure to submit a required surcharge to the Secretary for deposit in the Indigent BAIID Fund as required in Section 6-206.1 of the IVC and Section 1001.444. If the amount in dispute is not resolved within the above 30 day period, the BAIID provider shall be disqualified unless the BAIID provider submits, within the 30 day period, a written request to review the amount in dispute to the BAIID Division. The dispute will then be resolved according to the terms of the contract entered into between the BAIID provider and the Secretary.
- h) Notification of Decertification/Disqualification. Upon decertification of a BAIID or the disqualification of or the cessation of the operation of a BAIID provider, the Secretary shall notify in writing all affected BAIID permittees or MDDP offenders of the decertification of the BAIID or the disqualification of or the cessation of the operation of a BAIID provider.

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

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

Section 1001.443 Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program

- a) Ownership Defined. For the purposes of this Section, a person "owns" a vehicle when it is registered in his or her name, regardless of whether it is registered solely in his or her name or jointly with another person or persons.
- b) Installation Required
 - 1) Anyone who is required to install an interlock device on all vehicles which he or she owns, pursuant to Sections 6-205(h) and 11-501(i) of the IVC, and who is granted any driving relief pursuant to Subpart D of this Part, shall have an interlock device installed on all vehicles he or she owns within 14 days after the issuance of driving relief. The offender must maintain an interlock device on each vehicle for a period of 365 consecutive days.
 - 2) For purposes of subsection (b)(1), the period of 365 consecutive days begins on the date that an interlock device is installed on all vehicles he or

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she owns and ends 365 days later. This shall be known as the "base period". The base period remains the same regardless of whether the petitioner adds or replaces vehicles during the 365 consecutive days.

- c) Verification of Compliance. The Secretary shall verify compliance by conducting periodic checks of the vehicle registration records of BAIID multiple offenders, and by monitoring compliance with the terms and conditions of the interlock requirements as provided in Section 1001.441.
- 1) If the Secretary finds evidence of non-compliance with the installation requirements by a BAIID multiple offender, then the Secretary will send the offender a letter asking for an explanation for the alleged violation. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will result in the immediate cancellation of the driving relief issued. The cancellation will not be terminated until the offender comes into compliance. BAIID multiple offenders whose driving privileges are cancelled due to violation of the installation requirements will be required to come into compliance and maintain compliance for another 365 consecutive days.
 - 2) If the Secretary finds evidence of non-compliance with the installation requirements by a BAIID multiple offender who is also a BAIID permittee as defined in Section 1001.410 and who, therefore, is issued a restricted driving permit, then the Secretary will send the offender a letter asking for an explanation for the alleged violation. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred or the violation has been rectified, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will result in the immediate cancellation of the driving relief issued. Pursuant to Section 1001.441(g) and (l), the BAIID permittee will not be granted another hearing for one year from the date of the cancellation, except to contest the cancellation.
 - 3) If the Secretary finds evidence of non-compliance with the terms and conditions of the interlock requirements by a BAIID multiple offender whose driving privileges have been reinstated, then the offender's driving

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privileges will be cancelled for a term of 3 months on the first violation, 6 months on the second violation, and 12 months on the third and subsequent violations. At the end of the period of cancellation, the offender will be required to come into and maintain compliance for another 365 consecutive days.

- 4) The Secretary reserves the discretion to cancel a BAIID multiple offender's driving privileges if monitor reports, processed after a hearing is conducted or after the reinstatement of the BAIID multiple offender's driving privileges, show a violation of the terms and conditions of the interlock requirements, including the use of any product intended to prevent accurate readings by the BAIID.
- d) The offender may contest a cancellation entered pursuant to this Section by filing a petition for a formal hearing pursuant to Section 2-118 of the Code.

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

Section 1001.444 Monitoring Device Driving Permit (MDDP) Provisions

- a) Breath Alcohol Ignition Interlock Device (BAIID) Required for Issuance; Fee Required
 - 1) The Secretary shall notify a first offender (MDDP offender), as defined in Section 11-500 of the IVC, that he or she will be issued an MDDP unless the Secretary receives, from the court of venue, an opt-out form, prescribed by the Secretary, that has been signed by the offender and filed with the court. The issuance of the MDDP shall be conditioned on the installation and use of a BAIID in any vehicle operated, as required by Section 6-206.1 of the IVC. Only BAIIDs certified by the Secretary under Section 1001.442 of this Part may be utilized. As provided in Section 6-206.1 of the IVC, an MDDP offender must pay a non-refundable fee in an amount equal to \$30 per month times the number of months or any portion of a month remaining on the statutory summary suspension at the time the Secretary issues the MDDP. No fee will be charged for any month in which the Secretary issues the MDDP on or after the 20th day of that month. This total, one time payment for each MDDP issued must be paid in advance and prior to the issuance of the MDDP. Payment must be

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submitted in the form of a money order, check or credit card charge (with a pre-approved card), made payable to the Secretary of State.

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

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- 6) The MDDP holder may voluntarily terminate participation in the MDDP program by written notification and surrender of the permit to the Secretary's BAIID Division. This voluntary termination does not in any way affect any sanction imposed under this Section. An offender may also resume participation by notifying the BAIID Division in writing, but may do so only once during the term of the suspension, extension or re-suspension due to a violation of the program.
- b) Compliance – Installation of BAIID/Notification to the Secretary
- 1) The MDDP Holder. Upon the issuance of an MDDP under this Section, the Secretary shall make available a list of certified BAIID providers to the MDDP holder. The MDDP holder may operate the vehicle for 14 days from the issuance date stated on the MDDP without the BAIID installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the BAIID. Failure to comply with this requirement will result in the cancellation of the MDDP issued.
 - 2) The Installer/BAIID Provider. A BAIID provider or installer must:
 - A) Be qualified and comply with all of the procedures and responsibilities set forth in Section 1001.442 of this Part;
 - B) Upon installation, notify the Secretary, in a manner and form specified by the Secretary, that a BAIID has been installed in the vehicles designated by the MDDP offender within 7 days from the date of the installation of the BAIID:
 - C) Upon notification from the MDDP holder, as evidenced by the written form from the Secretary that the MDDP holder has been found to be indigent, not charge the MDDP holder for any installation, monthly monitoring, deinstallation fees, or security deposit that exceeds one month's BAIID rental fee. This waiver of charges and fees is limited to one vehicle per MDDP holder.
 - D) Upon request, make records available to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.

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- c) Compliance – Driving with BAIID. Any MDDP offender receiving a MDDP under this Section must comply with the following requirements:
- 1) Operate only vehicles with an installed, operating BAIID certified by the Secretary whether the vehicle is owned, rented, leased, loaned, or otherwise in the possession of the MDDP holder, as required by the MDDP issued under this Section.
 - 2) Either take any and all vehicles operated by the MDDP holder and with a BAIID installed or send the device to the BAIID provider or installer at least every 60 days, which shall be referred to as the monitoring period, commencing with the date of installation, for the purposes of calibration and having a monitor report of the BAIID's activity prepared and sent to the Secretary by the BAIID provider or installer. The monitoring period will be 30 days for any MDDP holder whose summary suspension is extended or who is re-suspended for a violation of the MDDP program.
 - 3) Either take the vehicle with the BAIID installed or send the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the BAIID and the name of the driver operating the vehicle at the time of the event. If BAIIDs have been installed on multiple vehicles, a separate journal must be kept for each vehicle.
 - 5) Shall not have a BAIID removed or deinstalled from vehicles without authorization from the Secretary and when, applicable, surrendering to the Secretary or his designee the MDDP.
 - 6) Shall not commit any of the violations listed in subparagraph (d) of this Section.
- d) Violations. Any of the following, when committed by an MDDP holder, constitutes a violation of the MDDP program:
- 1) A conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC;

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- 2) Tampering or attempting to tamper with, or unauthorized circumvention of, the BAIID, including the use of any product intended to prevent accurate readings by the BAIID;
 - 3) A violation of Section 6-206.2 of the IVC;
 - 4) 10 or more unsuccessful attempts to start the vehicle with a BAIID installed within a 30 day period, excluding a BrAC reading of 0.05 or more;
 - 5) 5 or more unsuccessful attempts to start the vehicle within a 24 hour period, excluding a BrAC reading of 0.05 or more;
 - 6) A BrAC reading of 0.05 or more;
 - 7) Failing a running retest, or failing to take a running retest;
 - 8) Removing the BAIID without authorization from the Secretary;
 - 9) Failing to utilize the BAIID as required;
 - 10) Failing to submit a BAIID for a monitor report in a timely manner;
 - 11) Preventing the camera from taking clear and accurate photos of the permittee blowing into the mouthpiece.
- e) Sanctions Upon Commission of a Violation. Upon notification of any of the violations in subsection (d), the Secretary shall take the following action:
- 1) For a conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC, or a notification from a BAIID provider or installer that a physical inspection of any BAIID permittee's vehicle showed any tampering with or unauthorized circumvention of the device, immediately cancel the MDDP, extend the suspension as provided for in Section 6-206.1(1) of the IVC, and authorize the immediate removal/deinstallation of the BAIID. If the MDDP had expired prior to the Secretary receiving notification of the conviction, supervision or violation, the Secretary shall re-suspend the MDDP offender as provided

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for in Section 6-206.1(1) of the IVC. The MDDP offender may then file a petition for the issuance of an RDP. The MDDP offender must have a formal hearing pursuant to IVC Section 2-118 and satisfy all the requirements of this Subpart D in order to obtain the permit.

- 2) For any MDDP holder whose monitor report or other sufficient evidence shows any tampering or unauthorized circumvention of the BAIID, send the MDDP holder a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall immediately cancel the MDDP, extend the suspension as provided for in Section 6-206.1(1) of the IVC, and authorize the immediate removal/deinstallation of the BAIID. If the summary suspension is already terminated prior to the Secretary receiving the monitor report/physical inspection showing the violation, the Secretary shall re-suspend the MDDP offender as provided for in Section 6-206.1(1) of the IVC. The MDDP offender may then file a petition for the issuance of an RDP. The MDDP offender must have a formal hearing pursuant to IVC Section 2-118 and satisfy all the requirements of this Subpart D in order to obtain the permit.
- 3) For any MDDP holder whose monitor report shows: 10 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 30 day period; or 5 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 24 hour period; or any single BrAC reading of 0.05 or more, send the MDDP holder a letter asking for an explanation of the unsuccessful attempts to start the vehicle or the BrAC reading. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months. Should any monitor report show multiple violations, each violation provided for in this subsection shall be a separate violation requiring a separate 3 month extension or re-suspension.

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- 4) For any MDDP holder whose monitor reports show a failure to successfully complete a running retest, send the MDDP holder a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.
- 5) For a removal/deinstallation of a BAIID without authorization, including a removal or deinstallation caused by the MDDP holder's failure to pay lease or rental fees due to the BAIID provider, the Secretary shall immediately cancel the MDDP.
- 6) For a failure to utilize the BAIID by the MDDP holder as required, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.
- 7) For a failure to submit a BAIID for a monitor report in a timely manner, the following procedure will be followed: unless notified by a BAIID provider that the BAIID has been removed, all monitor reports shall be submitted to the Secretary within 37 days after installation and within every 37 days thereafter. If the Secretary fails to receive an MDDP holder's monitor reports within the 37 days, the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and MDDP holder by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the MDDP holder failed to take in a vehicle with the BAIID or send the device in for timely monitor reports, then the Secretary will send a letter to the MDDP holder stating that, if the BAIID is not taken in for a monitor report within 10 days after the date of the letter, the Secretary will extend the summary suspension for 3 months, or, if the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the

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violation, the Secretary will re-suspend for 3 months. If the MDDP holder cannot be located or does not respond to the Secretary's request for information, the MDDP shall be cancelled or, if the MDDP has expired, the Secretary shall re-suspend the MDDP as provided for in IVC Section 6-206.1(1).

- 8) Violations detected in any one monitoring period shall not, however, result in extensions or re-suspensions totaling more than six months, except as provided in subsection (e)(10).
 - 9) If the MDDP holder is re-suspended for a violation that was not reported to the Secretary until after the termination of the MDDP holder's summary suspension, the MDDP holder may obtain another MDDP by notifying the Secretary in writing and submitting all required fees.
 - 10) When an image shows that the MDDP permittee has utilized any product that allows the permittee to avoid blowing directly into the mouthpiece of the BAIID, or when the permittee has taken any step to prevent a clear and accurate picture of the driver, the Secretary shall extend the summary suspension for 3 months.
- f) Hearing to Contest Cancellation of MDDP or Extension of the Summary Suspension. Any MDDP holder whose summary suspension is extended or re-suspended, or whose MDDP is cancelled as provided for in this Section, may request a hearing to contest that action. A written request, along with the \$50 filing fee, must be received or postmarked within 30 days from the effective date of the extension, re-suspension or cancellation. The hearing will be conducted as any other formal hearing under this Part.
- g) MDDPs – Content. Any MDDPs issued as provided for in this Section shall, in addition to all other requirements, state at a minimum that:
- 1) The MDDP is issued pursuant to the BAIID requirements of this Section and that a vehicle operated by an MDDP holder must be equipped with a certified, installed, properly operating BAIID;
 - 2) The provisions of the MDDP also allow the MDDP holder to drive to and from the BAIID provider or installer for the purpose of installing the BAIID within 14 days after the issuance date on the MDDP;

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- 3) Once the BAIID is installed, the MDDP holder may drive the vehicle with the BAIID properly installed for any purpose and at any time;
 - 4) If applicable, the MDDP holder qualifies for any modification or waiver of BAIID, as provided in subsection (i), or employment exemption from BAIID, as provided in subsection (j).
- h) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the MDDP holder's performance and compliance with the BAIID requirements under this Subpart D. The reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.
- i) Modification or Waiver of BAIID. Upon request of the MDDP holder, the Secretary may consider a medical or physical BAIID modification or waiver for an MDDP issued under this Section. The MDDP holder must:
- 1) Submit a medical report establishing the inability to utilize the BAIID.
 - 2) Have a hearing, pursuant to Subpart A, at which the MDDP holder must prove compliance with the alcohol/drug requirements under this Subpart D.
- j) Employment Exemption from BAIID Requirements. In determining whether an MDDP holder is exempt from the BAIID requirements pursuant to the waiver provided for in Section 6-206.1 of the IVC, the following shall apply:
- 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the MDDP holder or any member of the MDDP holder's immediate family, unless the entity is a corporation and the MDDP holder and the MDDP holder's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;
 - 2) The exemption shall not apply when the employer's vehicle is assigned exclusively to the MDDP holder, or the MDDP holder uses the vehicle for commuting to and from employment or for other personal use and *no*

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person may drive the exempted vehicle more than 12 hours per day, 6 days per week [625 ILCS 5/6-206.1(a-2)];

- 3) This exemption is subject to termination if the Secretary obtains or receives credible evidence that it is being abused or violated by the MDDP holder, such as, but not limited to, driving outside the scope of his or her employment, or driving the employer's vehicle from his or her residence to the place of employment. Upon obtaining or receiving credible evidence of the abuse or violation of an exemption, the Secretary shall send the MDDP holder a letter that requests a response to the evidence. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that an abuse or a violation did not occur, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall immediately terminate the exemption;
 - 4) The Secretary will also inform the MDDP holder whose employment exemption is terminated that he or she remains eligible to have an interlock device installed in his or her personal vehicle and the employer's vehicle without a hearing. Failure to have the device installed by the date designated by the Secretary will result in the termination of the MDDP offender's monitoring device driving permit;
 - 5) The denial of an exemption and the termination of an exemption may be contested pursuant to Section 1001.441(k);
 - 6) An exemption also will be granted to an MDDP holder who can prove that his or her duties include test driving vehicles not owned by the permittee. The exemption will be limited to this purpose, and to no more than a 5 mile radius from the permittee's place of employment.
- k) Disqualification/Decertification of BAIID Provider and BAIID Device. The Secretary must notify the MDDP holder of the disqualification of a BAIID provider or the decertification of a particular type of BAIID. The MDDP holder must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The MDDP holder must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The MDDP holder must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the

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receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the MDDP holder's MDDP. All costs related to any change in a BAIID provider or a BAIID shall be paid by the MDDP holder, unless the court has deemed the MDDP holder indigent.

- 1) Indigent BAIID Fund
 - 1) Any BAIID provider who installs a BAIID under the MDDP program must pay 5% of the total gross revenue received by each contract entered into with an MDDP holder who is not found to be indigent by the Secretary, referred to in this subsection as the surcharge.
 - A) The surcharge shall include only those fees normally charged an MDDP holder for installation, monthly rental and monitoring, and deinstallation of the BAIID during the term of the MDDP holder's statutory summary suspension.
 - B) The surcharge shall be submitted to the Secretary by the 15th of each month and shall include all surcharges incurred during the previous month. The surcharge must be submitted in the form of a check, made payable to the Secretary of State, or by electronic transfer as agreed to by the Secretary and the BAIID Provider.
 - C) Should the summary suspension of an MDDP holder be extended or a re-suspension issued under the MDDP program and the holder continue to participate in the program, the surcharge is due for the period of extension or re-suspension.
 - 2) Any BAIID provider who installs a BAIID under the MDDP program for an MDDP holder who has been found to be indigent by the Secretary may apply for reimbursement for any fees incurred as set out in subsection (b)(2)(C). The request must be in a form and in the manner prescribed by the Secretary. The Secretary will authorize payments in accordance with Section 6-206.1(o) of the IVC.
 - 3) The Secretary may audit the records of BAIID providers or installers to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.

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- 4) An MDDP offender may be declared indigent by the Secretary if the MDDP offender's total monthly income is 150% or less of the federal poverty guidelines, as evidenced by a copy of the United States or State of Illinois tax return for the most recently completed calendar year.
 - A) For an MDDP offender who has not filed a United States or State of Illinois tax return for the most recently completed calendar year, indigency may be declared if:
 - i) The MDDP offender is currently receiving Temporary Assistance to Needy Families (TANF) benefits, as evidenced by documentation from the Illinois Department of Human Services;
 - ii) The MDDP offender is currently receiving Supplemental Nutrition Assistance Program (SNAP) benefits, as evidenced by documentation from the Illinois Department of Human Services.
 - B) For the MDDP offender who has not filed a United States or State of Illinois tax return for the most recently completed calendar year and is not currently receiving TANF or SNAP benefits, indigency may be declared if the MDDP offender is receiving Supplemental Security Income (SSI) from the Social Security Administration and the MDDP offender completes an affidavit under penalty of perjury swearing the total amount of income received from all sources, including SSI, is 150% or less of the federal poverty guidelines.
- 5) An MDDP holder's indigency status shall be valid for a period of 12 months. Any MDDP holder whose summary suspension is extended beyond 12 months, who wishes to continue participation in the MDDP program and wishes to be declared indigent must submit current documentation as set forth in subsection (1)(4).
- m) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

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

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- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) Section Number: 1600.500 Proposed Action: Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: Revise the current Rules of Practice (Nature and Requirements of Formal Hearings) to clarify procedures.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1600.140	Amendment	36 Ill. Reg. 13568; July 13, 2012
1600.120	Amendment	36 Ill. Reg. 15335; October 26, 2012
1600.320	Amendment	36 Ill. Reg. 15335; October 26, 2012
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Michael B. Weinstein, General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign, IL 61820

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217-378-8825

- 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 2012

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

Section

- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section

- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Compensation Subject to Withholding
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.241 Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries

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- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

SUBPART E: ADMINISTRATIVE REVIEW

Section

- 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1600.640 Alternate Payee's Address
- 1600.645 Electing Form of Payment
- 1600.650 Automatic Annual Increases
- 1600.655 Expiration of a QILDRO
- 1600.660 Reciprocal Systems QILDRO Policy Statement
- 1600.665 Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

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Section

1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Marking of Ballots
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended

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at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART E: ADMINISTRATIVE REVIEW

Section 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

- a) **Administrative Determination**
The SURS administrative staff shall be responsible for the daily claims-processing function of SURS, including processing of all claims for benefits or service credit or any other claims against or relating to SURS.
- b) **Review by Director of Member Services**
Any participant, annuitant or beneficiary adversely affected by the disposition of a claim by the administrative staff may file a written request for review by the SURS Director of Member Services or such other person as may be designated by the Executive Director. The designee shall have all the powers and duties of the Director of Member Services, as set forth in this subsection (b). A request for review by the Director of Member Services must be received~~submitted~~ within 3530 days after the decision from which review is sought. The Director of Member Services' review will be based upon all materials contained in the file, as well as any additional materials the claimant attaches to the written request for review filed with the Director of Member Services pertaining to the claim. All filings or submissions, whether optional or required under this Section, shall be considered timely if date stamped by SURS within the time prescribed. The Director of Member Services' decision shall be served on the participant, annuitant or beneficiary by delivery to a third-party commercial carrier or by registered or certified mail, return receipt requested.
- c) Review by the Claims Panel~~Hearing~~
 - 1) A Claims Panel shall hear all administrative contested matters. The Panel shall meet periodically as determined by the Executive Director. The Panel shall select one of its members as the Hearing Officer and that person shall also serve as the Head of the Panel.
 - 2) Request for Review~~Petition~~. Any participant, annuitant or beneficiary (hereinafter "claimant") adversely affected by the disposition of a claim by the Director of Member Services may request, in writing, a review by

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~~hearing before~~ the Claims Panel, as well as a copy of all relevant documents from the claimant's file. A request for ~~review~~~~a hearing~~ must be ~~received by~~~~submitted to~~ the General Counsel of SURS, or his or her designee, within ~~35~~~~30~~ days ~~from the date of~~~~after~~ the decision from which review is sought.

- 32) Notice of Hearing Statement of Claim. Upon receipt of a claimant's Request for Review, the Director of Member Services, or his or her designee, shall assign the claim a docket number; schedule the claim for the first available meeting of the Claims Panel; and notify the claimant. ~~Upon filing a request for a hearing, the claimant shall be informed, by a Notice of Hearing,~~ that he or she is required to file a Statement of Claim, ~~no later than 30 days in advance of hearing.~~ The Notice of Hearing shall be accompanied by any relevant documentation from the claimant's file.
- 4) Statement of Claim. The Statement of Claim must be received by the SURS General Counsel, or his or her designee, no later than 35 days after the mailing of the Notice of Hearing. The Statement of Claim shall include: a formal Appearance, containing the claimant's name, SURS identification numbers~~social security number~~ and address; the name and address of the claimant's authorized representative, if any; a statement of the facts forming the basis for the appeal; any documents or other materials the claimant wishes to be considered in conjunction with the appeal, in addition to those already contained in the claimant's file; whether the claimant desires a hearing or whether the claimant desires to waive a hearing and allow the Claims Panel to reach a decision based upon the Statement of Claim and the relevant documents in the claimant's file; a list of witnesses, if any, the claimant intends to present at a hearing; and an explanation of the relief sought.
- 53) Notification. The Notice of Hearing shall also provide~~Upon scheduling of a hearing before the Claims Panel,~~ a claimant ~~shall be provided~~ *with written notice of: the date, time and place of the hearing; the subject matter of the hearing; and relevant procedural and substantive statutory and regulatory provisions [5 ILCS 100/10-25].* ~~The Notice of the hearing~~ shall ~~also~~ inform the claimant that he or she will be afforded the opportunity to provide a statement of his or her position, present oral evidence, and conduct examination and cross-examination of witnesses as

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necessary for full and true disclosure of the facts. Notice shall also be given to the claimant that he or she is required to provide written confirmation, at least ~~14~~^{three} days prior to the scheduled date of the hearing, of his or her intent to appear at the hearing, whether in person or by telephone conference call. The claimant is not required to physically appear at the hearing. The claimant may appear at the hearing by telephone conference call. The claimant may also choose to affirmatively waive his or her appearance at the hearing. In the absence of the claimant, the Claims Panel will consider the claimant's Statement of Claim and such other matters as may be properly brought before it at the hearing.

~~64~~) Pre-hearing Conference. Upon request of the General Counsel or upon the decision of the Hearing Officer, a pre-hearing conference shall be held for the purpose of simplification or definition of issues or procedures at the hearing.

~~75~~) Representation. The claimant and SURS may be represented by counsel or a designated spokesperson at the hearing.

~~86~~) Burden of Proof. It shall be the burden of the claimant to establish a right to the benefit claimed, or the right to the continuation of the benefit claimed in cases of revocation of the benefit by SURS, by establishing that right by a preponderance of the evidence.

d) Discovery. All discovery is at the discretion of the Hearing Officer. Requests to take discovery must be made in writing to the Hearing Officer with notice to the other party. Discovery may be taken with the prior permission of the Hearing Officer only upon good cause shown, that is, if the evidence sought is material and cannot be obtained in any other way. Failure to comply with orders of the Hearing Officer may be sanctioned by the Hearing Officer, by means including, but not limited to, dismissal of a claim.

e) Depositions

1) The Hearing Officer may order the taking of evidence depositions of a person, specifying the subject matter to be covered, under oral examination or written questions, for use as evidence at the hearing, provided:

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- A) The Hearing Officer has determined upon request that there is a need to preserve a person's testimony. The need to preserve a person's testimony shall be determined using criteria similar to that set forth under Illinois Supreme Court Rule 212(b);
- B) The request is made on motion by a party who gives notice of the motion to the other party; and
- C) The Hearing Officer has determined that an evidence deposition containing oral testimony will be necessary to the Claims Panel in determining the merits of the claim.
- 2) The taking of depositions shall be in accordance with the provisions for taking depositions in civil cases, and the order for the taking of a deposition may provide that any designated books, papers, documents or tangible objects that are not privileged shall be produced at the same time and place.
- 3) Any party to the hearing shall, during any deposition process, have the right to confront and cross-examine any witness whose deposition testimony is to be presented to the Claims Panel.
- 4) Depositions shall be taken in the county of residence or employment of the witness, unless the witness waives that right in writing.
- 5) Depositions shall be taken at the cost of the party requesting the deposition.
- f) Subpoenas
- 1) The Hearing Officer may request the Secretary of the Board to issue a subpoena to compel the attendance of a witness at an evidence deposition or the production of documents when the witness has, or such documents contain, relevant evidence. A party may also request the Hearing Officer to request the Secretary of the Board to issue a subpoena to compel the attendance of a witness at an evidence deposition or the production of documents. The request shall either be in writing or on the record and shall:

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- A) Identify the witness or document sought; and
 - B) State the facts that will be proven by each witness or document sought.
- 2) The Hearing Officer shall grant or deny the request, either in writing or on the record. If the request for subpoena is granted, the Hearing Officer shall, if necessary, reschedule the hearing to a specific date. The request for subpoena shall be denied if the Hearing Officer finds that the evidence sought is immaterial, irrelevant or cumulative. If the request for subpoena is denied, the specific reasons for denial of the request shall be made part of the record on appeal.
 - 3) If a witness fails to obey a subpoena, the party seeking enforcement of the subpoena shall prepare an application to the circuit court of the county in which the subpoenaed witness resides requesting enforcement of the subpoena, and shall present the application to the Hearing Officer, at the same time serving a copy of the application upon the other party. If satisfied that the subpoena was properly served and that the application is in proper form, the Hearing Officer shall sign a subpoena to be submitted with the application and the party seeking the subpoena may then file and prosecute the application in the circuit court, in the name of the Board. The petitioner in the application shall be styled as "Name of Petitioner ex rel. Board of Trustees of the State Universities Retirement System of Illinois" unless the petitioner is SURS, in which case the petition shall be brought in the name of the Board. In the event of an application being filed with the circuit court, the matter shall be continued pending the outcome of the application to enforce the subpoena.
 - 4) The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the circuit courts of this State and shall be paid by the party seeking the subpoena.
- g) Conduct of the Hearing
- 1) Hearing Officer. The hearing shall be conducted by the Hearing Officer. Other members of the Claims Panel may, but are not required to, attend the hearing. Members may attend hearings either in-person or by video or teleconference.

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- A) The Hearing Officer shall have full power to conduct the hearing and the presence of any other members of the Claims Panel is not required. The Hearing Officer shall be one of the members of the Claims Panel chosen by the Panel to be the Hearing Officer.
- B) The Claims Panel shall consist of:
- i) the Executive Director of SURS;
 - ii) an attorney licensed to practice law in the State of Illinois approved by the Board; and
 - iii) one other person, selected by the Chairperson of the Board of Trustees of SURS, who shall be a member of the Board, a participant in SURS or an attorney licensed to practice law in the State of Illinois.
- C) Each member of the Panel shall be reimbursed for travel or other related expenses incurred in connection with his or her duties as a member of the Panel. If he or she is not a member of the Board or currently employed by one of the employers covered by SURS, the member shall receive reasonable compensation, as recommended by the Executive Director and approved by the Board, for time spent in reviewing claims and attending Panel hearings. At a minimum, the members of the Claims Panel shall have a general familiarity with the provisions of the Illinois Pension Code, this Part and policies of SURS.
- 2) Procedures
- A) The Hearing Officer shall conduct a full and fair hearing, receive testimony of the claimant and admit exhibits into evidence, avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues.
- B) To accomplish these ends, the Hearing Officer shall make all procedural and evidentiary rulings necessary for the conduct of the hearing.

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- C) All testimony shall be taken under oath before an officer authorized to administer oaths by the laws of this State or of the United States or of the place where the testimony is to be given.
- D) As a general matter, *the rules of evidence as applied in civil cases in the circuit courts of the State of Illinois shall be followed; however, evidence ~~inadmissible~~inadmissable under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Any part of the evidence may be received in written form, provided that the interests of the parties will not be prejudiced. Notice may be taken of generally recognized technical facts within SURS' specialized knowledge and SURS' experience, technical competence and specialized knowledge may be used in evaluation of the evidence.* [5 ILCS 100/10-40]
- E) The Hearing Officer, and any member of the Claims Panel attending the hearing, may ask questions necessary for better understanding of the facts or law.
- F) The Hearing Officer shall have the authority to impose reasonable time limits for each party to present its case and shall, in general, have the power to manage and control the hearing process.
- G) The hearing shall be open to the public unless the Hearing Officer, for good cause shown, determines otherwise.
- 3) Record of Proceedings. Two records of proceedings shall be kept that shall be in the form of:
- A) a non-verbatim "bystander's report"; and
- B) either a stenographic transcription or a tape recording. The claimant may obtain a stenographic transcription or a copy of a tape recording of the hearing by making a timely request within 21 days after the close of the hearing and paying the actual cost entailed.

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- 4) Disqualification; Ex Parte Communications
- A) Disqualification
- i) *A Hearing Officer or other member of the Claims Panel may be disqualified on grounds of bias or conflict of interest. A motion to disqualify a Hearing Officer or other member of the Claims Panel for bias or conflict of interest shall*~~should~~ *be made to the Hearing Officer by any party to the hearing at least ~~14 days~~~~one week~~ prior to the commencement of the hearing, with a copy of the motion to be simultaneously submitted to the General Counsel. The motion shall be heard, considered and ruled upon by the Hearing Officer at or prior to the commencement of the hearing. The movant shall have the burden of proof with respect to the motion to disqualify. Either an *adverse ruling* or the fact that a Hearing Officer or other member of the Claims Panel is an employee of SURS or has a contract with SURS, standing alone, shall not constitute bias or conflict of interest. [5 ILCS 100/10-30]*
- ii) The Executive Director may not be called as a witness unless it is demonstrated that the Executive Director has relevant noncumulative personal knowledge of facts bearing upon the claim. The Executive Director may not be disqualified as a member of the Claims Panel on the basis that the Executive Director is responsible for the overall administration of SURS.
- iii) In the event that a Hearing Officer or other member of the Claims Panel is disqualified or is otherwise unable to serve, the Board ~~Chairperson~~~~President~~ may appoint another person to the Claims Panel and shall appoint another person if the Claims Panel is reduced to fewer than two members, or the Claims Panel shall appoint another Hearing Officer from among its members, as the case may be.
- B) Ex Parte Communications Prohibited. *Except in the disposition of matters that SURS is authorized by law to entertain or dispose of*

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on an ex parte basis, the members of the Claims Panel shall not, after receiving notice of a hearing in a contested matter, communicate, directly or indirectly, in connection with any issue of fact, with any party, or in connection with any other issue with any party, or the representative of any party, except upon notice and opportunity for all parties to participate. However, an employee of SURS may communicate with other employees of SURS and an employee of SURS or member of the Claims Panel may have the aid and advice of one or more assistants. An ex parte communication received by any member of the Claims Panel shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. [5 ILCS 100/10-60]

5) Decisions of the Claims Panel and Executive Committee

A) Claims Panel Decisions

- i) The record of proceedings shall be completed upon conclusion of the hearing by the Hearing Officer, unless the Hearing Officer determines to re-open the proceedings. Upon conclusion of all evidence and arguments, the Claims Panel shall privately deliberate and make a Decision as to the disposition of the claim based on the evidence of record. The Claims Panel Decision shall be served on all parties and their agents, if any, by delivery to a third-party commercial carrier or by registered or certified mail, return receipt requested. If a Statement of Exceptions to the Decision is not filed pursuant to this subsection (g)(5)(A), the Decision is final for all purposes and not subject to administrative or judicial review. However, if a Statement of Exceptions to the Decision is filed or, if ~~the two~~ members of the Panel are unable to agree on a

STATE UNIVERSITIES RETIREMENT SYSTEM

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Decision, then the claim shall be presented to the Executive Committee for a final administrative decision.

- ii) If a Statement of Exceptions is filed, it must be received by SURS, along shall be filed, with a brief in support, with SURS within 2120 days after the date of mailing of the Claims Panel Decision. Any responsive brief shall be received filed within 2145 days after the filing of the Statement of Exceptions. Any reply brief shall be received filed within 1410 days after the filing of the responsive brief. The filing of any responsive or reply brief is optional. The Executive Director, or his or her designee, shall provide the Executive Committee with a summary of the decision of the Claims Panel. The Executive Committee will make a final administrative decision based on the Claims Panel Decision, any dissenting opinion, any Statement of Exceptions and briefs properly filed.
- iii) If the claim is presented to the Executive Committee because thetwo members of the Claims Panel are unable to agree on a Decision, the Executive Committee shall make a final administrative decision based on any opinions of the Claims Panel members, the record and any briefs properly filed by the claimant or SURS. The filing of any opening, responsive or reply brief in response to the Claims Panel decision is optional. Any opening brief shall be received by filed with SURS within 2120 days after receiving notification from the Hearing Officer that the Claims Panel was unable to agree on a Decision. Any responsive brief shall be received filed within 2145 days after the filing of any opening brief. Any reply brief shall be received filed within 1410 days after the filing of any responsive brief.
- iv) All filings shall be served upon the opposing party and shall contain a certificate of service. Filing deadlines in this subsection (g)(5)(A) may be continued to a date certain by the Hearing Officer for good cause shown on written application filed with SURS prior to the expiration of the deadline sought to be continued.

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- B) Executive Committee Decision
- i) When necessary pursuant to subsection (g)(5)(A), the Executive Committee of the Board shall make a decision on the claim. No oral argument shall be permitted before the Executive Committee unless otherwise determined by the Executive Committee.
 - ii) The Executive Committee shall render one of the following decisions with respect to the claim: affirmance of the administrative action, reversal of the administrative action, or remand of the case to the administrative staff for further consideration. Remand of the case to the administrative staff shall not be considered a final decision of the Executive Committee. A decision by the Executive Committee either reversing or affirming the decision of the administrative staff shall constitute a final decision for the purpose of review under the Administrative Review Law [735 ILCS 5/Art. III]. *A final decision of the Executive Committee shall be in writing or stated in the record.* ~~*A final decision of the Executive Committee shall include findings of fact and conclusions of law, separately stated.*~~
 - iii) The Executive Committee may adopt, as its own, the findings of fact and conclusions of law of the Claims Panel. *Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.*
 - iv) *All decisions of the Executive Committee shall specify whether they are final and subject to the Administrative Review Law. [5 ILCS 100/10-50]*
 - v) Parties ~~and~~ or their agents, if any, shall be notified, ~~either~~ personally, ~~or~~ by delivery to a third-party commercial carrier, or by registered or certified mail, return receipt requested, of any decision of the Executive Committee. The date of mailing of the decision shall constitute the date

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of service for purposes of the Administrative Review Law or any other applicable law. ~~Upon request, a copy of the decision shall be delivered or mailed to each party and to his or her attorney of record.~~

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of Part: General Operations of the State Fairs and Fairgrounds
- 2) Code Citation: 8 Ill. Adm. Code 270
- 3) Section Number: 270.370 Adopted Action:
Amendment
- 4) Statutory Authority: State Fair Act [20 ILCS 210]
- 5) Effective Date of Amendment: February 1, 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 amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: August 17, 2012; 36 Ill. Reg. 12940
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 270.370 is amended to add language regarding the Department's discretion to sell, barter or exchange grandstand, entry and any other type of fair ticket.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Linda Rhodes

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

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

217/785-5713
Fax 217/785-4505

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

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

PART 270

GENERAL OPERATIONS OF THE STATE FAIRS AND FAIRGROUNDS

SUBPART A: DEFINITIONS: POLICY: VIOLATION

Section

270.10	Definitions
270.15	Policy
270.20	Violation of Rules; Administrative Hearings

SUBPART B: CONCESSIONS AND EXHIBITS AT THE STATE FAIR

Section

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

DEPARTMENT OF AGRICULTURE

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

SUBPART C: HORSE RACING AT THE STATE FAIR

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

SUBPART D: PREMIUMS AND RULES GOVERNING EXHIBITS OR EVENTS

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

SUBPART E: JUDGES: STATE FAIR

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

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

SUBPART F: CERTIFICATES OF AWARD: STATE FAIR

- Section
- 270.280 Certificates, Ribbons and Trophies

SUBPART G: FEES FOR ADMISSION TO THE STATE FAIR

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

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

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

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

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

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270.370 ~~Tickets/Refunds~~ ~~Grandstand Ticket Refunds~~
 270.371 Leasing Facilities During the State Fair

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

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

SUBPART K: NON-FAIR CONCESSIONS

DEPARTMENT OF AGRICULTURE

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Section	
270.520	Renter Rights (Repealed)
270.525	Contract
270.530	Interests of the Public
270.535	Liability
270.540	Health Laws
270.545	Rates
270.550	Inspection
270.555	Payment Due

SUBPART L: CAMPING: NON-FAIR

Section	
270.560	Who May Camp
270.565	Location
270.570	Fee
270.575	Camping Facilities
270.580	Permit
270.585	Penalty
270.590	Extension Cords

SUBPART M: BACKSTRETCH CAMPING: NON-FAIR

Section	
270.595	Eligibility
270.600	Misconduct
270.605	Liability
270.610	Rent and Rates for Other Services
270.615	Payment Method

SUBPART N: BACKSTRETCH STALL AND
TACK ROOM RENTAL: NON-FAIR

Section	
270.620	<u>Horse Stabling Space Rental and Rates</u>
270.625	Rent Payable
270.630	General Stabling Rules (Non-Contractual Events)
270.635	Reporting
270.640	Lessee Collection of Fees (Repealed)

DEPARTMENT OF AGRICULTURE

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270.645	Stall Use
270.650	Restriction to Assigned Space
270.655	Trailer Storage
270.660	Inspection
270.665	Restrictions
270.670	Quarantine Provisions
270.675	Dogs
270.680	General Misconduct
270.685	Track Usage
270.690	Restrictions on Barn Use

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

SOURCE: Adopted at 4 Ill. Reg. 25, p. 34, effective June 11, 1980; amended at 5 Ill. Reg. 1332, effective January 29, 1981; codified at 5 Ill. Reg. 10532; amended at 6 Ill. Reg. 8958, effective July 9, 1982; amended at 8 Ill. Reg. 6103, effective April 25, 1984; emergency amendments at 10 Ill. Reg. 13370, effective July 28, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14282, effective August 20, 1986; amended at 10 Ill. Reg. 20468, effective November 26, 1986; amended at 11 Ill. Reg. 2228, effective January 20, 1987; amended at 15 Ill. Reg. 455, effective January 2, 1991; amended at 18 Ill. Reg. 9400, effective June 12, 1994; amended at 19 Ill. Reg. 9400, effective June 29, 1995; amended at 21 Ill. Reg. 5530, effective April 22, 1997; amended at 22 Ill. Reg. 11374, effective June 22, 1998; amended at 34 Ill. Reg. 8996, effective July 1, 2010; amended at 35 Ill. Reg. 19143, effective December 1, 2011; amended at 37 Ill. Reg. 780, effective February 1, 2013.

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

Section 270.370 Tickets/Refunds~~Grandstand Ticket Refunds~~

- a) All tickets sold by the Department shall be at the prices published to the public. The Department may barter or exchange tickets for services, advertising, marketing, promotions, donations or any other contribution for the benefit of the fairs. A record of the distribution of tickets that are bartered or exchanged and the benefit to the fairs of that barter or exchange shall be maintained by the Department.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

- b) Grandstand event tickets will be sold with refund provisions. This policy applies to all paid events in the Grandstand, such as ~~tractor pulls~~ Tractor Pulls and nightly entertainment. The Department will not refund on events that are rescheduled or where a raindate is provided. The Department shall make the determination of when Grandstand ~~events~~ Events shall be cancelled. Events may be cancelled because of weather, the facility and performers' failure to perform. Refunds will be made when the tickets are presented at the designated place for filing for refund.

(Source: Amended at 37 Ill. Reg. 780, effective February 1, 2013)

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Energy Conservation Code
- 2) Code Citation: 71 Ill. Adm. Code 600
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
600.100	Amendment
600.110	Amendment
600.200	Amendment
600.220	Amendment
600.300	Amendment
600.400	Amendment
600.APPENDIX A	New
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Commercial Building Act [20 ILCS 3125]
- 5) Effective Date of Amendments: January 11, 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 amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 36 Ill. Reg. 6784; May 4, 2012
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:
In Section 600.110(a), added the following sentence:
The 2012 Illinois Energy Conservation Code will become effective on January 1, 2013.

In Section 600.Appendix A, revised **C101.1.2 Adoption** as follows:

The Board shall adopt the code within 9 12 months after its publication. The code shall take effect within 3 6 months after it is adopted by the Board and shall apply to any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by the EEB Act.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

In Section 600.Appendix A, revised **R101.1.2 Adoption** as follows:

The Board shall adopt the code within 9 12 months after its publication. The code shall take effect within 3 6 months after it is adopted by the Board and shall apply to any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by the EEB Act.

In Section 600.Appendix A, added **R402.2.8 Basement walls** as follows:

Walls associated with conditioned basements shall be insulated from the top of the *basement wall* down to 4 feet (1219 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections R402.1.1 and R402.2.7.

- 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 proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Energy Efficient Building Act requires the adoption of latest published edition of the International Code Council's International Energy Conservation Code (IECC) as the energy code for Illinois. This rulemaking updates the version of the Code from the 2009 IECC to the 2012 IECC.

The Act also allows CDB to appropriately adapt the IECC for economic, geographical, climate, etc. considerations. The Board through the addition of Appendix A in these administrative rules is recommending adaptations to various sections of the 2012 IECC. This Appendix supplants and adds sections on administration, definitions and ventilation requirements for residential buildings.

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

Lisa Mattingly
Administrator, Professional Services
Capital Development Board
401 South Spring Street
3rd Floor Stratton Building
Springfield, Illinois 62706

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

217/524-6408 (office)

217/524-4208 (fax)

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER d: ENERGY CODES

PART 600
ILLINOIS ENERGY CONSERVATION CODE

SUBPART A: GENERAL

Section	
600.100	Definitions
600.110	Adoption and Modification of the Code
600.120	Illinois Energy Conservation Advisory Council
600.130	Revisions to the Code

SUBPART B: STATE FUNDED FACILITIES

Section	
600.200	Standards for State Funded Facilities
600.210	Request for Variance
600.220	Compliance

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section	
600.300	Standards for Privately Funded Commercial Facilities
600.310	Exemptions
600.320	Local Jurisdiction
600.330	Compliance
600.340	Application to Home Rule Units

SUBPART D: RESIDENTIAL BUILDINGS

Section	
600.400	Standards for Residential Buildings
600.410	Exemptions
600.420	Local Jurisdiction
600.430	Compliance
600.440	Application to Home Rule Units

CAPITAL DEVELOPMENT BOARD

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600.APPENDIX A [Supplanted and Additional 2012 International Energy Conservation Code Sections](#)

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 11355, effective July 26, 2004, for a maximum of 150 days; emergency rules expired December 22, 2004; adopted at 29 Ill. Reg. 777, effective January 1, 2005; new Part adopted by emergency rulemaking at 29 Ill. Reg. 5736, effective April 8, 2005, for a maximum of 150 days; emergency expired September 4, 2005; emergency rulemaking repealed at 29 Ill. Reg. 6093, effective April 18, 2005, for a maximum of 150 days; emergency expired September 14, 2005; old Part repealed at 29 Ill. Reg. 16414 and new Part adopted at 29 Ill. Reg. 14790, effective April 8, 2006; amended at 31 Ill. Reg. 14422, effective October 9, 2007; emergency amendment at 33 Ill. Reg. 12407, effective August 18, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16702, effective November 23, 2009; emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days; emergency expired June 27, 2010; amended at 34 Ill. Reg. 11398, effective July 26, 2010; amended at 37 Ill. Reg. 789, effective January 11, 2013.

SUBPART A: GENERAL

Section 600.100 Definitions

Definitions of terms in the International Energy Conservation Code, incorporated by reference in Subpart C of this Part, apply, as do the following definitions:

"Act" means the Capital Development Board Act [20 ILCS 3105].

"Authority Having Jurisdiction" or "AHJ" means the organization, office or individual responsible for approving equipment, materials, an installation or procedure.

"CDB" or "Board" means the Illinois Capital Development Board.

"Commercial Facility" means any building except a building that is classified as a residential building. [20 ILCS 3125/10]

CAPITAL DEVELOPMENT BOARD

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"Council" means the Illinois Energy Conservation Advisory Council appointed under Subpart B of this Part and whose purpose it is to recommend modifications to the *Illinois Energy Conservation Code*.

"EEB Act" means the Energy Efficient Building Act [20 ILCS 3125].

"IECC" means the International Energy Conservation Code.

"Illinois Energy Conservation Code" or "Code" means:

With respect to the State facilities covered by Subpart B:

This Part, all additional requirements incorporated within Subpart B (including ASHRAE 90.1 Standards), and any statutorily authorized adaptations to the incorporated standards adopted by CDB;

With respect to the privately funded commercial facilities covered by Subpart C:

This Part, all additional requirements incorporated within Subpart C (including the ~~20122009~~ International Energy Conservation Code, including all published errata but excluding published supplements, which encompasses ASHRAE 90.1), and any statutorily authorized adaptations to the incorporated standards adopted by CDB; and

With respect to the residential buildings covered by Subpart D:

This Part, all additional requirements incorporated within Subpart D (including the ~~20122009~~ International Energy Conservation Code, including all published errata but excluding published supplements) and any statutorily authorized adaptations to the incorporated standards adopted by CDB.

"Municipality" means any city, village or incorporated town. [20 ILCS 3125/10]

"Professional Services Agreement" means the contract for services entered into by CDB and design professionals.

CAPITAL DEVELOPMENT BOARD

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"Residential Building" means a detached one-family or 2-family dwelling or any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory, and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent. [20 ILCS 3125/10]

"State Funded Building" means and includes buildings under the jurisdiction of each officer, department, board, commission, institution and body politic and corporate of the State, including the Illinois Building Authority, school districts, and any other person expending or encumbering State or federal funds by virtue of an appropriation or other authorization by the General Assembly or federal authorization or grant. This includes State funded *housing, hospitals, penitentiaries, laboratories, educational facilities, administrative facilities, recreational facilities, environmental equipment and parking facilities* [20 ILCS 3105/4.01].

"Using Agency" means the State agency using facilities described in Section 4.01 of the Act.

(Source: Amended at 37 Ill. Reg. 789, effective January 11, 2013)

Section 600.110 Adoption and Modification of the Code

- a) The purpose of the Illinois Energy Conservation Code is to implement Section 10.09-5 of the Capital Development Board Act [20 ILCS 3105/10.09-5], which requires CDB to adopt rules implementing a statewide Energy Code. Additionally, Section 15 of the Energy Efficient ~~Commercial~~-Building Act [20 ILCS 3125/15] requires CDB to officially adopt, as a minimum requirement, the ~~20122009~~ International Energy Conservation Code, including all published errata but excluding any published supplements, to apply that Code to all commercial structures in Illinois, and to assist local code officials with enforcing the requirements of the Code. The 2012 Illinois Energy Conservation Code will become effective on January 1, 2013.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) This Code as described in Subpart B (State facilities) is effective July 26, 2004. This Code as described in Subpart C (privately-funded commercial facilities) is effective April 8, 2007. The Code as described in Subpart D (residential buildings) is effective January 29, 2010.
- c) Application of the Code
- 1) State Facilities. The Code as described in Subpart B of this Part applies to all State facilities for which money has been appropriated or authorized by the General Assembly.
 - 2) Privately Funded Commercial Facilities and Residential Buildings. The Code as described in Subparts C and D of this Part applies *to any new building or structure in this State for which a building permit application is received by a municipality or county.* [20 ILCS 3125/20]
 - A) *Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of the Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with the Code.* [20 ILCS 3125/20(c)]
 - B) All exceptions listed in the Code related to additions, alterations, renovations or repairs to an existing building are acceptable provided the energy use of the building is not increased.
- d) This Code, together with the standards incorporated by reference in this Part, has the force of a building code and is administrative law applicable in the State of Illinois.

(Source: Amended at 37 Ill. Reg. 789, effective January 11, 2013)

SUBPART B: STATE FUNDED FACILITIES

Section 600.200 Standards for State Funded Facilities

- a) ANSI/ASHRAE/IESNA Standard 90.1, Energy Standard for Buildings Except Low-Rise Residential Buildings (~~2010~~2007), available from ASHRAE at 1791

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NOTICE OF ADOPTED AMENDMENTS

Tullie Circle, N.E., Atlanta GA 30329, is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to State funded facilities, with the modifications outlined in subsection (c).

- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) Modifications to ASHRAE 90.1
ASHRAE 90.1 is incorporated by this Section, but with the following modifications:

- 1) ASHRAE 90.1 Section 3.2

The terms "adopting authority" and "authority having jurisdiction" shall both be read to mean the Capital Development Board.

- 2) Replace Exception to 9.4.1.2c with the following:

Exceptions to 9.4.1.2c:

- A) Remote location shall be permitted for reasons of safety or security when the remote control device has an indicator pilot light as part of or next to the control device and ~~the light isit shall be~~ clearly labeled to identify the controlled lighting.
- B) Spaces not subject to partial occupancy, such as gymnasiums, cafeterias, lecture halls, etc., shall not be required to have more than one control device.

(Source: Amended at 37 Ill. Reg. 789, effective January 11, 2013)

Section 600.220 Compliance

- a) Compliance with the Illinois Energy Conservation Code for State facilities as described by this Subpart B shall mean meeting the requirements of ASHRAE 90.1. Compliance shall be demonstrated by submission of:
- 1) the compliance forms published in the ASHRAE 90.1 User's Manual; or

CAPITAL DEVELOPMENT BOARD

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- 2) Compliance Certificates generated by the U.S. Department of Energy's COMCheck code compliance tool ~~(version 3.4.2)~~; or
 - 3) the seal of the Architect/Engineer as required by Section 14 of the Illinois Architecture Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].
- b) For CDB projects, final compliance forms shall be submitted to CDB with the 100% design review package required by the Professional Services Agreement. An in-progress set of compliance forms shall be submitted at the 50% submittal required by the Professional Services Agreement.

(Source: Amended at 37 Ill. Reg. 789, effective January 11, 2013)

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section 600.300 Standards for Privately Funded Commercial Facilities

- a) The ~~2012~~2009 International Energy Conservation Code (IECC), including published errata but excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to privately funded commercial facilities, with the modifications outlined in subsection (c).
- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) **Modifications to IECC**
Under Section 15 of the EEB Act, when applying the Code to privately funded commercial facilities, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority. Modifications, additions or omissions to IECC are specified in Appendix A and are rules of the CDB and are not requirements of the IECC.

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(Source: Amended at 37 Ill. Reg. 789, effective January 11, 2013)

SUBPART D: RESIDENTIAL BUILDINGS

Section 600.400 Standards for Residential Buildings

- a) The ~~2012~~2009 International Energy Conservation Code (IECC), including published errata but excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to residential buildings, with the modifications outlined in subsection (c).
- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) Modifications to IECC
Under Section 15 of the EEB Act, when applying the Code to residential buildings, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority.
Modifications, additions or omissions to IECC are specified in Appendix A and are rules of the CDB and are not requirements of the IECC.

(Source: Amended at 37 Ill. Reg. 789, effective January 11, 2013)

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Section 1060. APPENDIX A Supplanted and Additional 2012 International Energy Conservation Code Sections

The following Code sections shall be referenced in place of the corresponding 2012 IECC sections.

**CHAPTER 1 [CE]
SCOPE AND ADMINISTRATION****SECTION C101
SCOPE AND GENERAL REQUIREMENTS**

C101.1 Title. This Code shall be known as the Illinois Energy Conservation Code or this Code and shall mean:

With respect to the State facilities covered by 71 Ill. Adm. Code 600. Subpart B:

This Part, all additional requirements incorporated within Subpart B (including ASHRAE 90.1 Standards, including all published errata and excluding published supplements that encompass ASHRAE 90.1), and any statutorily authorized adaptations to the incorporated standards adopted by CDB are effective January 29, 2010.

With respect to the privately funded commercial facilities covered by 71 Ill. Adm. Code 600. Subpart C:

This Part, all additional requirements incorporated within Subpart C (including the 2012 International Energy Conservation Code, including all published errata and excluding published supplements that encompass ASHRAE 90.1), and any statutorily authorized adaptations to the incorporated standards adopted by CDB are effective January 29, 2010.

C101.1.2 Adoption. The Board shall adopt this Code within 12 months after its publication. This Code shall take effect within 6 months after it is adopted by the Board and shall apply to any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by the EEB Act.

C101.1.3 Adaptation. The Board may appropriately adapt the International Energy Conservation Code to apply to the particular economy, population distribution, geography and

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NOTICE OF ADOPTED AMENDMENTS

climate of the State and construction within the State, consistent with the public policy objectives of the EEB Act.

C101.5 Compliance. Commercial buildings shall meet the provisions of the Illinois Energy Conservation Code covered by 71 Ill. Adm. Code 600.Subpart C. The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. Minimum compliance shall be demonstrated by submission of:

1. The compliance forms published in the ASHRAE 90.1 User's Manual; or
2. Compliance Certificates generated by the U.S. Department of Energy's COMCheck Code compliance tool; or
3. Other comparable compliance materials that meet or exceed, as determined by the AHJ, the compliance forms published in the ASHRAE 90.1 User's Manual or the U.S. Department of Energy's COMcheck code compliance tool; or
4. The seal of the architect/engineer as required by Section 14 of the Illinois Architectural Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].

C102.1.1 Above Code Program. No unit of local government, including any home rule unit, may apply energy efficient building standards to privately funded commercial facilities in a manner that is less stringent than this Code as described in Subpart C. However, nothing in the EEB Act or that Subpart prevents a unit of local government from adopting an energy efficiency code or standards that are more stringent than the Illinois Energy Conservation Code. The requirements identified as "mandatory" in Chapter 4 shall be met.

SECTION C109
BOARD OF APPEALS

C109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this Code, there may be created a board of appeals. The code official shall be an ex-officio member of the board of appeals but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.

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C109.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training.

CHAPTER 2 [CE]
DEFINITIONS

SECTION C202
GENERAL DEFINITIONS

"Authority Having Jurisdiction" or "AHJ" – means the organization, officer or individual responsible for approving equipment, materials, an installation or procedure.

"Board" – means the Illinois Capital Development Board.

"Council" – means the Illinois Energy Conservation Advisory Council whose purpose is to recommend modifications to the *Illinois Energy Conservation Code*.

"EEB Act" – means the Energy Efficient Building Act [20 ILCS 3125].

CHAPTER 1 [RE]
SCOPE AND ADMINISTRATION

SECTION R101
SCOPE AND GENERAL REQUIREMENTS

R101.1 Title. This Code shall be known as the Illinois Energy Conservation Code or this Code, and shall mean:

With respect to the residential buildings covered by 71 Ill. Adm. Code 600.Subpart D:

This Part, all additional requirements incorporated within Subpart D (including the 2012 International Energy Conservation Code, including all published errata but excluding published supplements) and any statutorily authorized adaptations to the incorporated standards adopted by CDB are effective January 29, 2010.

R101.1.2 Adoption. The Board shall adopt this Code within 12 months after its publication. This Code shall take effect within 6 months after it is adopted by the Board and shall apply to

CAPITAL DEVELOPMENT BOARD

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any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by the EEB Act.

R101.1.3 Adaptation. The Board may appropriately adapt the International Energy Conservation Code to apply to the particular economy, population distribution, geography, and climate of the State and construction within the State, consistent with the public policy objectives of the EEB Act.

R101.4.3 Additions, Alterations, Renovations or Repairs. Additions, alterations, renovations or repairs to an existing building, building system or portion of a building shall conform to the provisions of this Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with this Code. In the case of any addition, alteration, renovation or repair to an existing residential structure, this Code applies only to the portions of the structure that are being added, altered, renovated or repaired. (See 20 ILCS 3125/20(a).) Additions, alterations, renovations or repairs shall not create unsafe or hazardous conditions or overload existing building systems. An addition shall be deemed to comply with this Code if the addition alone complies or if the existing building and addition comply with this Code as a single building.

Exception: The following need not comply provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Glass only replacements in an existing sash and frame.
3. Existing ceiling, wall or floor cavities exposed during construction, provided that these cavities are filled with insulation.
4. Construction with the existing roof, wall or floor cavity not exposed.
5. Reroofing for roofs where neither the sheathing nor the insulation is exposed. Roofs without insulation in the cavity and with the sheathing or insulation exposed during reroofing shall be insulated either above or below the sheathing.
6. Replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door; provided, however, that an existing vestibule that separates a conditioned space from the exterior shall not be removed.

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7. Alterations that replace less than 50 percent of the luminaires in a space, provided that the alterations do not increase the installed interior lighting power.
8. Alterations that replace only the bulb and ballast within the existing luminaires in a space, provided that the alteration does not increase the installed interior lighting power.

R101.5 Compliance. Residential buildings shall meet the provisions of the Illinois Energy Conservation Code covered by 71 Ill. Adm. Code 600.Subpart D. The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. Minimum compliance shall be demonstrated by submission of:

1. Compliance Certificates generated by the U.S. Department of Energy's RESCheck Code compliance tool; or
2. Other comparable compliance materials that meet or exceed, as determined by the AHJ, U.S. Department of Energy's RESCheck code compliance tool; or
3. The seal of the architect/engineer as required by Section 14 of the Illinois Architectural Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].

SECTION R102
ALTERNATIVE MATERIALS – METHOD
OF CONSTRUCTION, DESIGN
OR INSULATING SYSTEMS

R102.1.1 Above Code Programs. No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is either less or more stringent than the standards established pursuant to this Code. The requirements identified as "mandatory" in Chapter 4 shall be met.

However, the following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Code:

1. A unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for

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residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code;

2. A unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act, an identification of an energy efficient building code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code; and
3. A municipality with a population of 1,000,000 or more.

SECTION R109
BOARD OF APPEALS

R109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this Code, there may be created a board of appeals. The code official shall be an ex-officio member of the board of appeals but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.

R109.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training.

CHAPTER 2 [RE]
DEFINITIONS

SECTION R202
GENERAL DEFINITIONS

"Authority Having Jurisdiction" or "AHJ" – means the organization, officer or individual responsible for approving equipment, materials, an installation or procedure.

"Board" – means the Illinois Capital Development Board.

"Council" – means the Illinois Energy Conservation Advisory Council whose purpose is to recommend modifications to the Illinois Energy Conservation Code.

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"EEB Act" – means the Energy Efficient Building Act [20 ILCS 3125].

"Local Exhaust" – means an exhaust system that uses one or more fans to exhaust air from a specific room or rooms within a dwelling.

"Residential Building" – means a detached one-family or 2-family dwelling or any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent.

"Whole House Mechanical Ventilation System" – means an exhaust system, supply system or combination thereof that is designed in accordance with Section R403.5 to mechanically exchange indoor air for outdoor air when operating continuously or through a programmed intermittent schedule to satisfy the whole house ventilation rate. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

CHAPTER 4 [RE]
RESIDENTIAL ENERGY EFFICIENCY

SECTION R402
BUILDING THERMAL ENVELOPE

R402.2.8 Basement Walls. Walls associated with conditioned basements shall be insulated from the top of the basement wall down to 4 feet (1219 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections R402.1.1 and R402.2.7.

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour (ACH) in Climate Zones 4 and 5. The building or dwelling unit shall be provided with a whole-house mechanical ventilation system as designed in accordance with Section R403.5. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). When required by the code official, a testing shall be conducted by an approved third party. A written report of the results of the test, indicating the ACH, shall be signed by the party conducting the test and provided to the code official. Testing

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shall be performed at any time after all penetrations of the building thermal envelope have been sealed. During testing:

1. Exterior windows and doors and fireplace and stove doors shall be closed, but not sealed, beyond the intended weatherstripping or other infiltration control measures;
2. Dampers, including exhaust, intake, makeup air, backdraft and flue dampers, shall be closed but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open.

R402.4.1.3 Visual Inspection Option for Additions, Alterations, Renovations or Repairs.

Building envelope tightness and insulation installation shall be considered acceptable when the items in Table R402.4.1.1, applicable to the method of construction, are field verified. When required by the code official, an approved third party, independent from the installer, shall inspect air barrier and insulation installation.

R403.5 Mechanical Ventilation (Mandatory). The building shall be provided with ventilation that meets the requirements of this Section or the International Mechanical Code, as applicable. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

R403.5.2 Recirculation of Air. Exhaust air from bathrooms and toilet rooms shall not be recirculated within a residence or to another dwelling unit and shall be exhausted directly to the outdoors. Exhaust air from bathrooms and toilet rooms shall not discharge into an attic, crawl space or other areas inside the building.

R403.5.3 Whole-house Mechanical Ventilation System. Whole-house mechanical ventilation systems shall be designed in accordance with Sections R403.5.4 through R403.5.6.

R403.5.4 System Design. The whole-house ventilation system shall consist of one or more supply or exhaust fans, or a combination, and associated ducts and controls. Local exhaust or

CAPITAL DEVELOPMENT BOARD

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supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

R403.5.5 System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override.

R403.5.6 Mechanical Ventilation Rate. The whole house mechanical ventilation system shall provide outdoor air at a continuous rate of not less than that determined in accordance with Table R403.5.6(1).

Exception: The whole-house mechanical ventilation system is permitted to operate intermittently when the system has controls that enable operation for not less than 25 percent of each 4-hour segment and the ventilation rate prescribed in Table R403.5.6(1) is multiplied by the factor determined in accordance with Table R403.5.6(2).

R403.5.7 Local exhaust rates. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate determined in accordance with Table R403.5.7.

TABLE R403.5.7
MINIMUM REQUIRED LOCAL EXHAUST RATES FOR
ONE- AND TWO-FAMILY DWELLINGS

<u>AREA TO BE EXHAUSTED</u>	<u>EXHAUST RATES</u>
<u>Kitchens</u>	<u>100 cfm intermittent or 25 cfm continuous</u>
<u>Bathrooms-Toilet Rooms</u>	<u>Mechanical exhaust capacity of 50 cfm intermittent or 20 cfm continuous</u>

For SI: 1 cubic foot per minute = 0.0004719 m³/s.

TABLE R403.5.6(1)
CONTINUOUS WHOLE-HOUSE MECHANICAL VENTILATION
SYSTEM AIRFLOW RATE REQUIREMENTS

<u>DWELLING UNIT</u> <u>FLOOR AREA</u> <u>(square feet)</u>	<u>NUMBER OF BEDROOMS</u>				
	<u>0 - 1</u>	<u>2 - 3</u>	<u>4 - 5</u>	<u>6 - 7</u>	<u>> 7</u>
	<u>Airflow in CFM</u>				
<u>< 1,500</u>	<u>30</u>	<u>45</u>	<u>60</u>	<u>75</u>	<u>90</u>
<u>1,501 - 3,000</u>	<u>45</u>	<u>60</u>	<u>75</u>	<u>90</u>	<u>105</u>
<u>3,001 - 4,500</u>	<u>60</u>	<u>75</u>	<u>90</u>	<u>105</u>	<u>120</u>

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<u>4,501 - 6,000</u>	<u>75</u>	<u>90</u>	<u>105</u>	<u>120</u>	<u>135</u>
<u>6,001 - 7,500</u>	<u>90</u>	<u>105</u>	<u>120</u>	<u>135</u>	<u>150</u>
<u>> 7,500</u>	<u>105</u>	<u>120</u>	<u>135</u>	<u>150</u>	<u>165</u>

For SI: 1 square foot = 0.0929 m², 1 cubic foot per minute = 0.0004719 m³/s.

TABLE R403.5.6(2)
INTERMITTENT WHOLE-HOUSE MECHANICAL
VENTILATION RATE FACTORS^{a, b}

<u>RUN-TIME PERCENTAGE IN</u> <u>EACH 4-HOUR SEGMENT</u>	<u>25%</u>	<u>33%</u>	<u>50%</u>	<u>66%</u>	<u>75%</u>	<u>100%</u>
<u>Factor^a</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1.5</u>	<u>1.3</u>	<u>1.0</u>

^a For ventilation system run time values between those given, the factors are permitted to be determined by interpolation.

^b Extrapolation beyond the table is prohibited.

SECTION R405
SIMULATED PERFORMANCE ALTERNATIVE
(PERFORMANCE)

REVISE Table R405.5.2(1), entry for "air exchange rate" as follows:

STANDARD REFERENCE DESIGN. Air leakage rate of 5 air changes per hour in Climate Zones 4 and 5 at a pressure of 0.2 inches w.g. (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times CFA + 7.5 \times (Nbr + 1)$ where:

CFA \equiv conditioned floor area

Nbr \equiv number of bedrooms

Energy recovery shall not be assumed for mechanical ventilation.

(Source: Added at 37 Ill. Reg. 789, effective January 11, 2013)

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1800.110	Amendment
1800.270	Amendment
1800.930	Amendment
- 4) Statutory Authority: Implementing and authorized by the Video Gaming Act [230 ILCS 40]
- 5) Effective date of Rulemaking: January 11, 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 amendments, 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 the *Illinois Register*: 36 Ill. Reg. 14032; September 14, 2012
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: The final version changes "expiration period" to "redemption period" in Section 1800.110, Definitions, and Section 1800.270, Duties of Licensed Video Gaming Locations.
- 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 proposed rulemakings pending on this Part? Yes.

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1800.1510	New Section	36 Ill. Reg. 18081; December 28, 2012

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: The rulemaking does the following:

One-year redemption period for tickets dispensed by video gaming terminals: Under the proposed rulemaking, the holder of a winning video game ticket shall have one year from the date of issuance to redeem the ticket. Specifically, Section 1800.110, Definitions, is amended to add a new definition of "redemption period" as "the one-year period, starting on the date of issuance, during which a ticket dispensed by a video gaming terminal may be redeemed for cash." Additionally, Section 1800.270, Duties of Licensed Video Gaming Locations, is amended to make it a duty for these locations to "redeem for cash a ticket dispensed by a video gaming terminal which is within its redemption period."

Board registration is not required for lenders who are licensees: The proposed rulemaking amends Section 1800.930, Prior Registration, by providing that a lender who is also a licensee has no duty to register with the Board. Currently, Section 1800.930 requires Board registration of all lenders, licensed or not, who provide financing for video gaming terminals ("VGTs") secured by VGTs as collateral.

- 16) Information and questions regarding this adopted rulemaking may be addressed to:

Emily Mattison
Acting General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

Phone No. 312/814-4653
Fax No. 312/814-7253

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

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section	
1800.110	Definitions
1800.115	Gender
1800.120	Inspection

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Violations
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Licensed Video Terminal Operators
1800.260	Duties of Licensed Technicians
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section	
1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control

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SUBPART E: LICENSING PROCEDURES

Section

1800.510	Coverage of Subpart
1800.520	Applications
1800.530	Submission of Application
1800.540	Application Fees
1800.550	Consideration of Applications by the Board
1800.555	Withdrawal of Applications
1800.560	Issuance of License
1800.570	Renewal of License
1800.580	Renewal Fees and Dates

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610	Coverage of Subpart
1800.615	Requests for Hearing
1800.620	Appearances
1800.625	Appointment of Administrative Law Judge
1800.630	Discovery
1800.635	Subpoenas
1800.640	Motions for Summary Judgment
1800.650	Proceedings
1800.660	Evidence
1800.670	Prohibition on Ex Parte Communication
1800.680	Sanctions and Penalties
1800.690	Transmittal of Record and Recommendation to the Board
1800.695	Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710	Coverage of Subpart
1800.715	Notice of Proposed Disciplinary Action Against Licensees
1800.720	Hearings in Disciplinary Actions
1800.725	Appearances
1800.730	Appointment of Administrative Law Judge
1800.735	Discovery

ILLINOIS GAMING BOARD

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1800.740	Subpoenas
1800.745	Motions for Summary Judgment
1800.750	Proceedings
1800.760	Evidence
1800.770	Prohibition on Ex Parte Communication
1800.780	Sanctions and Penalties
1800.790	Transmittal of Record and Recommendation to the Board

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

Section	
1800.810	Location and Placement of Video Gaming Terminals
1800.820	Measurement of Distances from Locations

SUBPART I: SECURITY INTERESTS

Section	
1800.910	Approvals Required, Applicability, Scope of Approval
1800.920	Notice of Enforcement of a Security Interest
1800.930	Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION,
AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section	
1800.1010	Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020	Transportation of Video Gaming Terminals into the State
1800.1030	Receipt of Video Gaming Terminals in the State
1800.1040	Transportation of Video Gaming Terminals Between Locations in the State
1800.1050	Approval to Transport Video Gaming Terminals Outside of the State
1800.1060	Placement of Video Gaming Terminals
1800.1065	Registration of Video Gaming Terminals
1800.1070	Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section

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1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section

- 1800.1210 Definitions
- 1800.1220 Entities Authorized to Perform Fingerprinting
- 1800.1230 Qualification as a Livescan Vendor
- 1800.1240 Fingerprinting Requirements
- 1800.1250 Fees for Fingerprinting
- 1800.1260 Grounds for Revocation, Suspension and Denial of Contract

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013.

SUBPART A: GENERAL PROVISIONS

Section 1800.110 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Video Gaming Act [230 ILCS 40].

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"Administrator": The chief executive officer responsible for day-to-day operations of the Illinois Gaming Board.

"Affiliate": An "affiliate of", or person "affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Affiliated entity": An "affiliated entity" of a person is any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person.

"Applicant": A person applying for any license under the Video Gaming Act.

"Application": All material submitted, including the instructions, definitions, forms and other documents issued by the Illinois Gaming Board, comprising the video gaming license application submitted to the Illinois Gaming Board.

"Associated video gaming equipment": Ticket payout systems and validation procedures; wireless, promotional and bonusing systems; kiosks; gaming-related peripherals; hardware, software and systems; and other gaming devices and equipment for compliance with:

Illinois laws, regulations, and requirements as codified or otherwise set forth; and

Board-approved video gaming industry standards.

"Attributed interest": A direct or indirect interest in an enterprise deemed to be held by an individual not through the individual's actual holdings but either through the holdings of the individual's relatives or through a third party or parties on behalf of the individual pursuant to a plan, arrangement, agreement or contract.

"Board": The Illinois Gaming Board.

"Business entity" or "Business": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

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"Chi-square test": A statistical test used to determine if a relationship between variables exists by comparing expected and observed cell frequencies. Specifically, a chi-square test examines the observed frequencies in a category and compares them to what would be expected by chance or would be expected if there was no relationship between variables.

"Control": The possession, direct or indirect, of power to direct or cause the direction of the management and policies of an applicant or licensee through the ownership of voting securities, by contract or otherwise.

"Convenience store": A retail store that is open long hours and sells motor fuel and a limited selection of snacks and general goods.

"Credit": One, five, 10 or 25 cents.

"Distributor": An individual, partnership, corporation or limited liability company licensed under the Act to buy, sell, lease or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

"Enforce a security interest": To transfer possession of ownership or title pursuant to a security interest.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a game on a video gaming terminal.

"Facility-pay" or "facility payment" means a manual payment of currency by an authorized employee of a licensed video gaming location or an authorized employee of a terminal operator for amounts owed to a patron by a video gaming terminal when a video gaming terminal or ticket payout device has malfunctioned and is unable to produce or redeem a ticket.

"Fraternal organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(8) or (c)(10) of the Internal Revenue Code.

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"Game": A gambling activity that is played for money, property or anything of value, including without limitation those played with cards, chips, tokens, vouchers, dice, implements, or electronic, electrical or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any game.

"Gaming operation": The conducting of gaming or the providing or servicing of gaming equipment.

"Gaming property collateral": Video gaming equipment subject to a security interest.

"Illinois resident":

With respect to an individual, an individual who is either:

domiciled in Illinois or maintains a bona fide place of abode in Illinois; or

is required to file an Illinois tax return during the taxable year.

With respect to a corporation, any corporation organized under the laws of this State and any foreign corporation with a certificate of authority to transact business in Illinois. A foreign corporation not authorized to transact business in this State is a nonresident of this State.

With respect to a partnership, a partnership in which any partner is an Illinois resident, or where the partnership has an office and is doing business in Illinois.

With respect to an irrevocable trust, a trust where the grantor was an Illinois resident individual at the time the trust became irrevocable.

"Institutional investor":

A retirement fund administered by a public agency for the exclusive benefit of federal, state or local public employees;

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An investment company registered under section 8 of the Investment Company Act of 1940 (15 USC 80a-8);

A collective investment trust organized by a bank under Part 9 of the Rules of the Comptroller of the Currency (12 CFR 9.18);

A closed end investment trust registered with the United States Securities and Exchange Commission;

A chartered or licensed life insurance company or property and casualty insurance company;

A federal or state bank;

An investment advisor registered under the Investment Advisors Act of 1940 (15 USC 80b-1 through 80b-21); or

Such other person as the Illinois Gaming Board may determine for reasons consistent with the Act and this Part.

"License": Authorization granted by the Board permitting a licensee to engage in the defined activities of video gaming.

"Licensed establishment": Any retail establishment licensed under the Act where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises. Licensed establishment does not include a facility operated by an organization licensee, an intertrack wagering licensee, or an intertrack wagering location licensee licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act.

"Licensed fraternal establishment": The location licensed under the Act where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed technician": An individual who is licensed under the Act to repair, service and maintain video gaming terminals.

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"Licensed terminal handler": A person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician or terminal operator, who is licensed under the Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal. A licensed terminal handler does not include an individual, partnership, corporation or limited liability company defined as a manufacturer, distributor, supplier, technician or terminal operator under Section 5 of the Video Gaming Act.

"Licensed truck stop establishment": A facility licensed under the Act that is at least a 3-acre facility with a convenience store, that has separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and that has parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code [625 ILCS 5/18b-101]. The 10,000 gallon requirement may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

"Licensed veterans establishment": The location licensed under the Act where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed video gaming location": A licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment, all as defined in Section 5 of the Video Gaming Act and this Part.

"Liquor license": A license issued by a governmental body authorizing the holder to sell and offer for sale at retail alcoholic liquor for use or consumption.

"Major components or parts": Components or parts that comprise the inner workings and peripherals of a video gaming terminal, including but not limited to the device's hardware, software, human interface devices, interface ports, power supply, ticket payout system, bill validator, printer and any component that affects or could affect the result of a game played on the device.

"Manufacturer": An individual, partnership, corporation or limited liability company that is licensed under the Act and that manufactures or assembles video gaming terminals.

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"Net terminal income": Money put into a video gaming terminal minus credits paid out to players.

"Nominee": Any individual or business entity that holds as owner of record the legal title to tangible or intangible personal or real property, including without limitation any stock, bond, debenture, note, investment contract or real estate on behalf of another individual or business entity, and as such is designated and authorized to act on his, her or its behalf with respect to the property.

"Ownership interest": Includes, but is not limited to, direct, indirect, beneficial or attributed interest, or holder of stock options, convertible debt, warrants or stock appreciation rights, or holder of any beneficial ownership or leasehold interest in a business entity.

"Payout device": A device, approved by the Board and provided by a supplier or distributor, that redeems for cash tickets dispensed by a video gaming terminal in exchange for credits accumulated on a video gaming terminal.

"Person": Includes both individuals and business entities.

"Person with significant interest or control": Any of the following:

Each person in whose name the liquor license is maintained for each licensed video gaming location;

Each person who, in the opinion of the Administrator, has the ability to influence or control the activities of the applicant or licensee, or elect a majority of its board of directors, other than a bank or licensed lending institution that holds a mortgage or other lien, or any other source of funds, acquired in the ordinary course of business;

Persons having the power to exercise significant influence or control over decisions concerning any part of the applicant's or licensee's video gaming operation.

"Redemption period": The one-year period, starting on the date of issuance, during which a ticket dispensed by a video gaming terminal may be redeemed for cash.

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"Secured party": A person who is a lender, seller or other person who holds a valid security interest.

"Security": An ownership right or creditor relationship.

"Security agreement": An agreement that creates or provides a security interest, including but not limited to a use agreement.

"Security interest": An interest in property that secures the payment or performance of an obligation or judgment.

"Sole proprietor": An individual who in his or her own name owns 100% of the assets and who is solely liable for the debts of a business.

"Substantial interest": With respect to a partnership, a corporation, an organization, an association, a business or a limited liability company means:

When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association or business, or any part thereof; or

When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

When, with respect to a corporation, an individual or his or her spouse is an officer or director or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or

When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company; or

When, with respect to any other organization not covered in the preceding four paragraphs, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of, or otherwise controls, 10% or more of the assets of the organization; or

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When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods or services, for the operation of any business, association or organization during any calendar year.

For purposes of this definition, "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this definition and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

"Supplier": An individual, partnership, corporation or limited liability company that is licensed under the Act to supply major components or parts to video gaming terminals to licensed terminal operators.

"Terminal operator": An individual, partnership, corporation or limited liability company that is licensed under the Act that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments or licensed veterans establishments.

"Use agreement": A contractual agreement between a licensed terminal operator and a licensed video gaming location establishing terms and conditions for placement and operation of video gaming terminals by the licensed terminal operator within the premises of the licensed video gaming location.

"Veterans organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(19) of the Internal Revenue Code (26 USC 501(c)(19)).

"Video gaming equipment": Video gaming terminals, associated video gaming equipment and major components or parts.

"Video gaming operation": As the context requires, the conducting of video gaming and all related activities.

"Video gaming terminal": Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game,

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including but not limited to video poker, line up and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

(Source: Amended at 37 Ill. Reg. 810, effective January 11, 2013)

SUBPART B: DUTIES OF LICENSEES

Section 1800.270 Duties of Licensed Video Gaming Locations

In addition to all other duties and obligations required by the Act and this Part, each licensed video gaming location has an ongoing duty to comply with the following:

- a) Provide a secure premise for the placement, operation and play of video gaming terminals;
- b) Permit no one to tamper with or interfere with the approved operation of any video gaming terminal;
- c) Ensure that all connections with the central communications system and associated video gaming equipment are at all times maintained and prevent any person from tampering or interfering with the approved, continuing operation of the central communications system;
- d) Accept nothing of value from any video terminal operator or any agent or representative of any video terminal operator as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;
- e) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- f) Immediately remove all video gaming terminals from the restricted area of play:
 - 1) upon order of the Board or an agent of the Board; or

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- 2) that have been out of service or otherwise inoperable for more than 72 hours;
- g) Enter written use agreements with licensed video terminal operators that comply with this Part;
- h) Ensure that video gaming terminals are placed and remain in a designated, approved location;
- i) Prevent access to or play of video gaming terminals by persons who are under the age of 21 years or who are visibly intoxicated;
- j) Commit no violations of the laws of this State concerning the sale, dispensing or consumption on premises of alcoholic beverages that results in suspension or revocation of any liquor license held by or associated with a licensed video gaming location;
- k) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;
- l) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;
- m) Promptly report all malfunctions of video gaming terminals and all out-of-service terminals to the video terminal operator and promptly notify the Board of a terminal operator's failure to provide service and repair of terminals and associated equipment within 24 hours after notice to the terminal operator;
- n) Install, post and display signs as required by the Board;
- o) Promptly notify the Board of any unauthorized or illegal video gaming terminals or any video gaming device that is in violation of Section 35 of the Video Gaming Act;
- p) Exercise control over the licensed video gaming location;
- q) Promptly notify the Board of any action taken on or related to any liquor license held; ~~and~~

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- r) Allow maintenance and/or service of video gaming terminals and associated video gaming equipment only by licensed technicians and licensed terminal handlers possessing valid identification issued by the Board; ~~and-~~
- s) Redeem for cash a ticket, dispensed by a video gaming terminal, that is within its redemption period.

(Source: Amended at 37 Ill. Reg. 810, effective January 11, 2013)

SUBPART I: SECURITY INTERESTS

Section 1800.930 Prior Registration

- a) Video gaming terminals may only be secured as collateral by a person who is licensed under the Act or who has registered with the Board on forms provided by the Board.
- b) Prior registration or licensure under the Act of the secured party seeking to enforce a security interest is required. The Board will not approve the enforcement of any security interest in gaming property collateral unless all persons have been either registered or licensed, as applicable.

(Source: Amended at 37 Ill. Reg. 810, effective January 11, 2013)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Designation of Restricted Waters in the State of Illinois
- 2) Code Citation: 17 Ill. Adm. Code 2030
- 3) Section Number: 2030.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12]
- 5) Effective Date of Amendments: January 9, 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 all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 31, 2012; 36 Ill. Reg. 13514
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to add an area around Harborside Marina, Wilmington, Illinois as a slow, no wake zone.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Shelly Knuppel, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

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

PART 2030

DESIGNATION OF RESTRICTED WATERS IN THE STATE OF ILLINOIS

Section

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

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

SOURCE: Adopted at 5 Ill. Reg. 8763, effective August 25, 1981; codified at 5 Ill. Reg. 10617; amended at 9 Ill. Reg. 4789, effective April 2, 1985; amended at 11 Ill. Reg. 9519, effective May 5, 1987; emergency amendment at 12 Ill. Reg. 8745, effective May 15, 1988, for a maximum of 150 days; emergency expired September 20, 1988; emergency amendment at 12 Ill. Reg. 12111, effective July 6, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 12 Ill. Reg. 16707, effective September 30, 1988; amended at 12 Ill. Reg. 20472, effective November 28, 1988; corrected at 13 Ill. Reg. 967; emergency amendment at 13 Ill. Reg. 2878, effective February 21, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12814, effective July 21, 1989; amended at 16 Ill. Reg. 8483, effective May 26, 1992; amended at 19 Ill. Reg. 7549, effective May 26, 1995; emergency amendment at 19 Ill. Reg. 11967, effective August 3, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 750, effective December 29, 1995; amended at 20 Ill. Reg. 7864, effective June 3, 1996; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 15692, effective December 2, 1996; amended at 23 Ill. Reg. 6822, effective May 20, 1999; amended at 27 Ill. Reg. 8871, effective May 19, 2003; amended at 29 Ill. Reg. 15550, effective September 27, 2005; amended at 30 Ill. Reg. 11576, effective June 23, 2006; emergency amendment at 31 Ill. Reg. 8348, effective May 25, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14522, effective October 5, 2007; amended at 34 Ill. Reg.

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7720, effective May 20, 2010; amended at 36 Ill. Reg. 5565, effective March 22, 2012; amended at 37 Ill. Reg. 827, effective January 9, 2013.

Section 2030.30 Region II – Designated Restricted Boating Areas

- a) The following portions of the Calumet and Little Calumet Rivers are designated as Slow, No Wake areas:
 - 1) An area from the O'Brien Locks to the Michigan Central Railroad Bridge (approximately mile 326.5 to 325.3).
 - 2) An area around the Pier 11 Marina and the Lake Calumet Boat and Gun Club (approximately mile 323.2 to 323.1).
 - 3) An area around the Maryland Manor Boat Club, Skipper's Marina, and Rentner Marina (approximately mile 323.0 to 322.5).
 - 4) An Area around Triplex Marina (approximately mile 319.9 to 319.8).
- b) The following portions of the Des Plaines River are designated as Slow, No Wake areas:
 - 1) An area around the Bay Hill Marina, Wilmington, Illinois (approximately mile 273.7), extending 150 feet out into the river and 300 feet both upstream and downstream from the center of the Marina.
 - 2) An area around the Three Rivers Yacht Club, Wilmington, Illinois (approximately mile 273.7), extending 150 feet from the harbor entrance.
 - 3) An area around Harborside Marina, Wilmington, Illinois (approximately mile 273.8), extending 500 feet both upstream and downstream of the Marina.
- c) The following portion of the Fox River is designated as a Slow, No Wake area:

An area within 150 feet upstream and downstream of the I-90 bridge.
- d) The following portions of Lake Michigan are designated as No Boat areas:

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- 1) An area at North Point Marina, located off the northern breakwater, running the length of the beach parallel to the shoreline and 100 yards out into the lake.
 - 2) An area at Illinois Beach State Park, located between the park office and the #3 bathhouse, running parallel to the shoreline and 70 yards out into the lake.
- e) It shall be unlawful to operate any watercraft with a motor larger than 10 horsepower on the waters of Griswold Lake in McHenry County.
- f) The following portions of the Kankakee River shall be designated as Slow, No Wake areas:
- 1) An area 100 yards upstream and 100 yards downstream from the River Isle hairpin curve that is approximately midway between Momence, Illinois and the Indiana border.
 - 2) An area 100 yards upstream and 100 yards downstream of the hairpin curve created by the east side of Rudecki Island, which is approximately one mile west of River Isle.
- g) Fox River-Chain O'Lakes (Lake and McHenry Counties)
User Permit Sticker regulations of the Fox Waterway Agency are in full force and effect on those public waters under their jurisdiction. Failure to comply with those regulations constitutes a violation of this Section.

(Source: Amended at 37 Ill. Reg. 827, effective January 9, 2013)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Concessionaire Rules
- 2) Code Citation: 11 Ill. Adm. Code 402
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
402.10	Amend
402.20	Amend
402.30	Amend
402.40	Amend
402.50	Amend
402.60	Amend
402.80	Repeal
402.90	Amend
402.130	Repeal
402.150	Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: January 14, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 36 Ill. Reg. 13812; September 7, 2012
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and Purpose of Rulemaking: The proposed rulemaking updates Sections 402.10, 402.20, 402.40, 402.50 and 402.60 to include intertrack wagering locations, also known as off-track betting parlors. Section 402.80 is being repealed because the Board no longer approves concession prices. Section 402.130 is being repealed because the financial statements are included as an exhibit in the license application.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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

Phone No.: 312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, ~~AND LOTTERY~~, AND VIDEO GAMING

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 402

CONCESSIONAIRE RULES

Section

402.10	Definitions
402.20	Occupation License
402.30	License Application
402.40	Time of Filing
402.50	Necessity of License
402.60	Application Contents, Substantial Owners
402.70	Grounds for Denial
402.80	Concession Prices (<u>Repealed</u>)
402.90	Disclosure Statements, of Whom Required
402.100	Disclosure by Corporations
402.110	Change of Owners, Directors, etc.
402.120	Observe Rules
402.130	Financial Statements (<u>Repealed</u>)
402.140	License Deemed Personal
402.150	Penalties
402.160	Political Contributions Prohibited
402.170	Remedies

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

SOURCE: Adopted at 3 Ill. Reg. 45, p. 106, effective October 29, 1979; codified at 5 Ill. Reg. 10880; amended at 17 Ill. Reg. 21845, effective December 3, 1993; amended at 37 Ill. Reg. 832, effective January 14, 2013.

Section 402.10 Definitions

The term "concessionaire" shall include an individual, firm, partnership, corporation, trustee or legal representative licensed to operate as a concessionaire to sell or provide food, beverages, programs, tip sheets or parking to the public at any race track in Illinois or intertrack wagering

ILLINOIS RACING BOARD

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facility as defined in 11 Ill. Adm. Code 210.10.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.20 Occupation License

No concessionaire shall operate at any race track or intertrack wagering facility in Illinois without an occupational license duly issued by the Board.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.30 License Application

- a) An application for a license to operate as a concessionaire shall be made on forms furnished by the Board and shall be verified.
- b) One original and ~~oneten~~ executed copycopies of the application shall be filed with the Board.
- c) The applicant shall submit with the application all relevant contracts, including but not limited to contracts with suppliers, contracts with any and all racing associations, and instruments evidencing any indebtedness between the applicant or the owner of any beneficial interest in the applicant and any and all racing associations.
- d) If circumstances change or events occur after the application is filed so that the application no longer presents the actual facts, the applicant shall submit an amended application correcting any incorrect statements.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.40 Time of Filing

- a) Application for an occupation license as a concessionaire shall be filed on or before 60 days prior to the opening of the racing meet at the race track or the intertrack wagering facility at which the concession is to be operated, ~~however~~
- b) The Board, in its discretion, upon good cause shown, may act upon applications for an occupation~~occupational~~ license to operate as a concessionaire received

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subsequent to the dates specified in subsection (a)~~this rule~~.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.50 Necessity of License

No person shall conduct or operate a concession upon any race track grounds or intertrack wagering facility within the State of Illinois during any racing meet without first obtaining an occupation license from the Board.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.60 Application Contents, Substantial Owners

- a) Each application for an occupation license as a concessionaire shall be on forms prescribed by the Board. If the applicant is a corporation, the application shall disclose, among other things, the names and addresses of its directors, officers, and owners of substantial beneficial interest and shall state whether ~~or not any of these~~such individuals:
- 1) ~~has~~have been convicted of a crime;
 - 2) ~~has~~have been found guilty of a violation of the Illinois Horse Racing Act of 1975 or the rules and regulations of the Board; ~~or, and~~
 - 3) ~~has had a permit or license or have been suspended from operating as a concessionaire or denied a permit~~ to operate as a concessionaire at any race track or intertrack wagering facility in any other state suspended, revoked or denied.
- b) A person owning 5% or more of the equity of an applicant shall be considered a substantial owner for the purposes of this Section~~these rules~~.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.80 Concession Prices (Repealed)

~~Pursuant to Section 25(d) of the Illinois Horse Racing Act of 1975, prices to be charged by a "concessionaire" shall not exceed prices set forth in the application for an organization license by~~

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~~the organization at which the concession is to be operated without first obtaining prior approval of the Board. In considering requests for price increases, the Board shall consider all relevant factors, including, but not limited to, the following: the cost of goods or services provided, the margin of profit, and the effect of the requested price increases on the racing public.~~

(Source: Repealed at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.90 Disclosure Statements, of Whom Required

On or before the date an application for an ~~occupation~~occupational license is required to be filed, all officers, directors, creditors and substantial owners of any beneficial interest in any concessionaire desiring to operate at any race track within the State of Illinois shall make written disclosure, on forms prescribed by the Board, for approval of their participation in racing in the State of Illinois. ~~These~~Said forms shall be submitted under oath as prescribed in the form and shall be considered as part of the application for ~~occupation~~occupational license to operate as a concessionaire. A person owning 5% or more of the equity of an applicant to operate as a concessionaire shall be considered a substantial owner for the purpose of this ~~Section~~rule. A person extending credit for more than one year or extending credit in excess of \$10,000 for less than one year, but more than 30 days, shall be considered a creditor for the purposes of this ~~Section~~rule.

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.130 Financial Statements (Repealed)

- a) ~~At the end of each meet, each concessionaire shall prepare and submit to the Board a record of its operations at the track. The report shall include verified financial statements including:~~
 - 1) ~~Balance sheet; and~~
 - 2) ~~a statement of profit and loss showing the concessionaire's combined operations for that year; and the results of such operations for each specified racing meet at which the concessionaire conducted business during the year.~~
- b) ~~Income and expense items shall be shown in such detail as required in accordance with generally accepted accounting principles. Such report shall be filed with the Board within 75 days after the end of each individual meet.~~

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(Source: Repealed at 37 Ill. Reg. 832, effective January 14, 2013)

Section 402.150 Penalties

- a) *The Board may suspend or revoke any ~~occupation~~occupational license of any concessionaire:*
- 1) *for violation of any of the provisions of the Illinois Horse Racing Act of 1975; or*
 - 2) *for violation of any of the rules or regulations of the Board; or*
 - 3) *for any cause which, if known to the Board, would have justified the Board in refusing to issue such ~~occupation license~~occupational licenses; ~~or (d) for any other just cause.~~ (Ill. Rev. Stat., Ch. 8, par. 37-15(d)).*
 - 4) *for any other just cause. [230 ILCS 5/15(d)]*
- b) *The Board is vested with the power to impose civil penalties of up to \$5,000 against an individual and up to \$10,000 against a licensee~~individuals~~ for each violation of any provision of the Act, any rules adopted by the Board, any order of the Board or any other action which, in the Board's discretion, is a detriment or impediment to horse racing. [230 ILCS 5/9(1)]~~(Ill. Rev. Stat., Ch. 8, par. 37-9(1))~~.*

(Source: Amended at 37 Ill. Reg. 832, effective January 14, 2013)

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- 1) Heading of the Part: Banking and Automated Teller Machines Services
- 2) Code Citation: 74 Ill. Adm. Code 600
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
600.100	New Section
600.110	New Section
600.120	New Section
600.130	New Section
600.140	New Section
600.150	New Section
600.160	New Section
600.170	New Section
600.180	New Section
- 4) Statutory Authority: Implementing and authorized by Section 18 of the State Treasurer Act [15 ILCS 505]
- 5) Effective Date of Rules: January 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 rules, including material incorporated by reference, is on file at One West Old State Capitol Plaza, Suite 400, Springfield, Illinois and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: September 7, 2012; 36 Ill. Reg. 13819
- 10) Has JCAR issued a Statement of Objection to these Rules? No
- 11) Differences between Proposal and Final Version: The final version contains two differences from the proposed rulemaking. The first alters the definition of "State Property" to include property specified in the State Parks Designation Act. The second establishes basic criteria to be applied by the Office of the Treasurer in determining whether ATM services should be approved for any location.

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- 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 proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Authorized by Section 18 of the State Treasurer Act to procure all automated teller machine services for State agencies, the Office of the Treasurer adopts these rules to encourage compliance with Section 18 of the State Treasurer Act by all State agencies.
- 16) Information and questions regarding this rulemaking shall be directed to:

Bradley A. Rightnowar
Assistant General Counsel
Office of Illinois State Treasurer Dan Rutherford
One West Old State Capitol Plaza
Suite 400
Springfield, Illinois 62701

Phone: 217/785-6998
Fax: 217/557-9365

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

OFFICE OF THE TREASURER

NOTICE OF ADOPTED RULES

TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 600

BANKING AND AUTOMATED TELLER MACHINE SERVICES

Section

600.100	Introduction
600.110	Definitions
600.120	Contact Office of the Treasurer
600.130	Agreements with State Agencies
600.140	Competitive Procedures
600.150	Agreements with Financial Institutions and Operators
600.160	Treasurer's Rental Fee Fund
600.170	Administrative Expenses
600.180	Restrictions

AUTHORITY: Implementing and authorized by Section 18 of the State Treasurer Act [5 ILCS 505/18].

SOURCE: Adopted at 37 Ill. Reg. 839, effective February 1, 2013.

Section 600.100 Introduction

Pursuant to Section 18 of the State Treasurer Act [15 ILCS 505/18], the Office of the Treasurer promulgates this Part for the procurement and placement of banking services at the State Capitol and automatic teller machines at any State Office Building, State Tourism Center, State Property or State Fairgrounds (Program).

Section 600.110 Definitions

"Administrative Expenses" means all expenses associated with the implementation, administration, marketing and operation of the Program. These expenses may include, but are not limited to, staff salaries, benefits, costs incurred in performing outreach activities and providing technical assistance to State agencies, the use of the Office of the Treasurer's equipment for Program purposes, the cost of office space and utilities incurred in connection with the Program, and fees payable to third parties.

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"Automatic Teller Machine" or "ATM" means any electronic information processing device that accepts or dispenses cash in connection with a credit, deposit or convenience account.

"Automatic Teller Machines Services" or "ATM Services" means the act of providing an ATM pursuant to a written agreement as required by this Part.

"Banking Services" means those services provided by a financial institution relating to the management, investment, transfer and lending of money that the financial institution is authorized by law to provide to the public.

"Credit Union" means a cooperative, non-profit association, incorporated under the Illinois Credit Union Act [205 ILCS 305], under the laws of the United States of America or under the laws of another state, for the purposes of encouraging thrift among its members, creating a source of credit at a reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions.

"Currency Exchange" means either a "community currency exchange" or an "ambulatory currency exchange" as those terms are defined by the Currency Exchange Act [205 ILCS 405].

"Financial Institution", in relation to banking services, means a state or federally chartered bank, savings and loan association, savings bank or credit union.

"Jurisdiction of the Property" means the State agency that is in possession or occupancy of land by right or title.

"Operator" means any business entity or other person who operates an ATM and provides ATM services.

"State Agency" means and includes all boards, commissions, agencies, institutions and authorities, created by or in accordance with the Illinois Constitution or Illinois statute, of the executive branch of State government. "State agency" does not include colleges, universities, institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, the Board of Higher Education,

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public employee retirement systems, investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code [40 ILCS 5], the University of Illinois Foundation, units of local government, school districts, community colleges under the Public Community College Act [110 ILCS 805], and the Illinois Comprehensive Health Insurance Program.

"State Fairgrounds" has the same meaning as ascribed in the Illinois State Fair Act [20 ILCS 210].

"State Office Building" means any space or structure leased or owned by a State agency.

"State Property" means any property specified in the State Parks Designation Act [20 ILCS 840], i.e., State Park, State Memorial, State Conservation Area, State Natural Area, the Jim Edgar Panther Creek State Fish and Wildlife Area, State Recreational Area, State Boating Access Area.

"State Tourism Center" means any property or facility operated and maintained by a State agency for the purpose, at least in part, of providing information to members of the public regarding local accommodations, businesses, restaurants, transportation, events, fairs, festivals and other items of interest.

Section 600.120 Contact Office of the Treasurer

- a) No State agency may procure services authorized by this Part at any State Office Building, State Tourism Center, State Property or State Fairgrounds without the approval of the Office of the Treasurer. State agencies seeking ATM Services and ATM Services approval from the Office of the Treasurer should contact:

Office of the Illinois State Treasurer
219 Statehouse
Springfield, Illinois 62706
217/782-2211

- b) In determining whether ATM services should be approved for any location, the Office of the Treasurer may consider one or more of the following criteria:
- 1) the approximate number of persons visiting the ATM location per day;

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- 2) the likely demand for cash by persons in the immediate vicinity;
- 3) the likelihood of procuring an ATM at that location; and
- 4) any other relevant factor as determined by the Office of the Treasurer.

Section 600.130 Agreements with State Agencies

- a) The Treasurer may enter into written agreements with the State agency having jurisdiction of the property where ATM services are intended to be provided.
- b) Agreements with a State agency may include the quantity of machines to be located at the property, the exact location of the device, establishment of responsibility for payment of expenses incurred in locating the machine or service, and any other terms deemed proper and necessary by the Treasurer.

Section 600.140 Competitive Procedures

Banking services and ATM services shall be procured in accordance with the Illinois Procurement Code [30 ILCS 500] and the Office of the Treasurer's procurement rules (44 Ill. Adm. Code 1400).

Section 600.150 Agreements with Financial Institutions and Operators

- a) The Treasurer may enter into a written agreement with a financial institution for the provision of banking services at the State Capitol. At a minimum, the agreement shall include the level of banking services to be provided, the amount of compensation to be paid by the financial institution, and any other terms deemed proper and necessary by the Treasurer.
- b) The Treasurer may enter into a written agreement with a financial institution or an operator for the provision of ATM services at a State Office Building, State Tourism Center, State Property or State Fairgrounds. At a minimum the agreement shall include the amount of compensation to be paid by the financial institution or operator and any other terms deemed proper and necessary by the Treasurer.

Section 600.160 Treasurer's Rental Fee Fund

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Any payment, proceed, fee, compensation or other remuneration received by the Office of the Treasurer from a financial institution or operator as required by this Part shall be deposited in the Treasurer's Rental Fee Fund.

Section 600.170 Administrative Expenses

- a) The administrative expenses of the Program shall be paid from the Treasurer's Rental Fee Fund.
- b) In the event that the Treasurer is obligated to pay administrative expenses of the Program, but the Treasurer's Rental Fee Fund has insufficient funds to make that payment, the obligation to pay the administrative expenses may accrue, but the Treasurer shall not pay the administrative expenses until such time as the Treasurer's Rental Fee Fund has sufficient earnings to support the payment.

Section 600.180 Restrictions

- a) This Part does not apply to a State office building in which a currency exchange or a credit union providing financial services located in the building on July 1, 1995 is operating.
- b) In the event the currency exchange or credit union that was providing financial services in the State office buildings referenced in subsection (a) ceases its provision of financial services, then that State office building shall become subject to the provisions of this Part.
- c) The privileges bestowed upon a currency exchange or credit union pursuant to Section 18(d) of the State Treasurer Act are inalienable, may not be transferred to any other currency exchange or credit union, and are not subject to renewal.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.TABLE A Emergency Action: New Section
- 4) Statutory Authority: Section 12-3 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: January 9, 2013
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rules expires, as authorized by the SMART Act, on June 30, 2013.
- 7) Date Filed with the Index Department: January 9, 2013
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Public Act 97-689, Save Medicaid Access and Resources Together (SMART) Act, gives any agency in charge with implementing a provision or initiative in the Act, the ability to adopt rules through emergency rulemaking in order to provide for the expeditious and timely implementation of SMART. The adoption of this emergency rulemaking is deemed to be necessary for the public interest, safety, and welfare. Pursuant to Public Act 97-689, the 150-day limitation of the effective period of emergency rules does not apply and the effective period of rules necessary to implement the Act may continue through June 30, 2013. These emergency rules are necessary to implement the provisions and initiatives of the Act.
- 10) Complete Description of the Subjects and Issues Involved: These administrative rules implement changes, improvements, and efficiencies to enhance Medicaid program integrity to prevent client and provider fraud and imposes controls on use of Medicaid services to prevent over-use or waste.
- 11) Are there any proposed amendments to this Part pending: Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.445	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.523	Amendment	36 Ill. Reg. 7757; May 25, 2012

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.539	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.570	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.400	Amendment	36 Ill. Reg. 8594; June 15, 2012
140.438	Amendment	36 Ill. Reg. 8594; June 15, 2012
140.5	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.642	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.643	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.491	Amendment	36 Ill. Reg. 15425; November 2, 2012
140.Table A	New Section	36 Ill. Reg. 15425; November 2, 2012
140.491	Amendment	36 Ill. Reg. 18105; December 28, 2012
140.462	Amendment	37 Ill. Reg. 18; January 4, 2013

- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.
- 13) Information and questions regarding this emergency amendment shall be directed to:

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

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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

SUBPART C: PROVIDER ASSESSMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services
(Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Mental Health Services
140.453	Definitions
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Clinic Service Payment
140.464	Hospital-Based and Encounter Rate Clinic Payments
140.465	Speech and Hearing Clinics (Repealed)
140.466	Rural Health Clinics (Repealed)
140.467	Independent Clinics
140.469	Hospice
140.470	Eligible Home Health Providers
140.471	Description of Home Health Services
140.472	Types of Home Health Services
140.473	Prior Approval for Home Health Services
140.474	Payment for Home Health Services
140.475	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477	Limitations on Equipment, Prosthetic Devices and Orthotic Devices
140.478	Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.479	Limitations, Medical Supplies

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9

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Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at

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12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057,

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effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill.

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Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency

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amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill.

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Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667,

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effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013.

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Section 140. TABLE A Criteria for Non Emergency Ambulance Transportation ~~Medicaid Recommended Screening Procedures (Repealed)~~
EMERGENCY

- a) To be eligible for non emergency ambulance transportation, the service must meet the following criteria:
- 1) Any other means of transportation (e.g., taxi, wheelchair van, stretcher van, or private automobile) is contraindicated.
 - 2) The sole purpose of the transport is not for the navigation of stairs and/or the assisting or lifting of a patient at a medical facility or appointment.
- b) In addition to adherence to the criteria in subsection (a) of this Table, at least one of the following criteria shall be met. The criteria selected shall be supported by the patient's diagnosis, condition or treatment, as documented in the patient's medical record, and shall establish the need for non emergency ambulance transportation service. Non emergency ambulance transportation service will only be approved in cases where clinical observation or treatment, as set forth in the criteria, are medically necessary at the transferring facility, during transport, and are expected to be medically necessary at the destination. Please note that examples for each criteria are provided for guidance, but are not intended to be an all inclusive or an all exclusive list.
- 1) **Isolation Precautions.** A patient who has a diagnosed or suspected communicable disease or hazardous material exposure, who must be isolated from the public, or whose medical condition must be protected from public exposure, and for whom there is an order for isolation precautions.

Example – Inclusion: This criterion includes a patient who has a condition of methicillin-resistant Staphylococcus aureus (MRSA) infection, who is currently undergoing treatment for the infectious condition and who continues to have symptoms, such as cough, drainage, or fever.

Example – Inclusion: A patient with a dangerous communicable disease that has the potential to cause an epidemic or threaten serious illness or death to others if not controlled.

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Example – Inclusion: This includes a patient where "contact isolation" is ordered for Clostridium difficile diarrhea, often called C. difficile.

Example – Exclusion: This criterion does not include a patient who has a history of MRSA or C. difficile, or has been treated for MRSA or C. difficile and is no longer symptomatic.

Example – Exclusion: This criterion does not include a patient with surgical drainage complications for which wound care precautions are ordered, unless the patient's surgical complication includes a draining wound that saturates a dressing and requires that the patient must be isolated from the public.

Example – Exclusion: This criterion does not include a patient who has a surgical dressing, ostomy, G-tube, or other dressing, that is dry and intact.

Example – Exclusion: This criterion does not include a patient who has an order for wound care precautions alone without a order for isolation precautions.

Example – Exclusion: This criterion does not include a patient who is incontinent and who requires the use of adult diapers.

- 2) **Oxygen Administration.** A patient with an order requiring the administration of supplemental oxygen by a third party assistant/attendant or requiring the regulation or adjustment of oxygen prior to and continuing through transport, and who is expected to require supplemental oxygen at the destination.

Example – Inclusion: This criterion includes a patient where there is a reasonable medical expectation that flow rate will need to be adjusted, and requires pulse oxygen oximetry to guide administered flow rate with a prior order indicating the threshold level at which the oxygen saturation should be maintained at or above.

Example – Inclusion: This criterion includes a patient who has an order that specifies oxygen to be administered by mask, nasal cannula, or collar over tracheostomy, at a specific flow rate liters per minute.

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Example – Inclusion: This criterion includes a patient who has supplemental oxygen that is required and is administered prior to transport and for the duration of transport. Included in this group are patients who require third party assistance to administer, regulate or adjust oxygen during transport.

Example – Exclusion: This criterion does not include patients who are capable of self-administration of portable or home oxygen or who have an available trained caregiver to administer oxygen.

- 3) **Ventilation/Advanced Airway Management.** A patient with an order for advanced continuous airway management prior to, during, and after transport by means of an artificial airway through tracheal intubation (nasotracheal tube, orotracheal tube, or tracheostomy tube).

Example – Inclusion: A patient who is quadriplegic that requires advanced airway management including mechanical ventilation during transport.

Example- Inclusion: A patient that requires continuous airway support via nasotracheal intubation, endotracheal intubation or tracheostomy, including the need for suctioning or the potential need for suctioning during transport.

- 4) **Suctioning.** A patient with an order requiring suctioning to maintain their airway, or who requires assisted ventilation and/or apnea monitoring.

Examples – Inclusion: This criterion includes any patient requiring deep suctioning to maintain the patient's airway.

Examples – Inclusion: This criterion includes a patient who requires en route suctioning by another person as documented through an order and prior medical condition.

Examples – Inclusion: This includes a patient who is in need of a secure airway before transport is initiated. Orders should provide specific directives such as assisted ventilation settings, oxygen concentration or flow rate, and need for pulse oximetry.

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Examples – Exclusion: This criterion does not include a patient who requires en route suctioning that can be administered by a trained caregiver available to travel with the patient.

Example – Exclusion: This criterion does not include a patient who has a longstanding established tracheostomy with spontaneous respiratory effort without need for any type of assisted ventilation or that does not require medical monitoring or suctioning.

- 5) **Intravenous Fluid Administration.** A patient who has an order for the administration or monitoring of the ongoing administration of intravenous fluids prior to, during and after transport.

Example – Inclusion: This criterion includes a patient who has orders that specify the type of intravenous fluids, rate of administration, and site through which the fluids are to be administered.

Example – Inclusion: This criterion includes intravenous fluid administration that is required during transport.

Example – Exclusion: This criterion does not include a patient with a saline lock, a heparin lock, a peripherally inserted central catheter (PICC), or an infusion port for which ongoing administration of intravenous fluids or chemotherapy is not required during the transport to the destination.

- 6) **Chemical Restraints.** A patient to whom a chemical restraint is administered during transport or a patient who is under the influence of a previously-administered chemical restraint prior to transport. Requires an order for a chemical restraint that is administered for the explicit purpose of reducing a patient's functional capacity because the patient presents a danger to physical safety of him or herself and/or others during transport. The medication type must be documented.

Example – Inclusion: This criterion includes a patient where the chemical restraint administered requires close surveillance of a patient's cardio-respiratory status, due to the central nervous system or respiratory system depressant resulting from the chemical restraint administered, prior to or during transport.

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Example – Exclusion: This criterion does not include a patient receiving the administration of psychotropic medications routinely taken for a pre-existing mental illness unless there is an acute exacerbation of a psychiatric condition.

Example – Exclusion: This criterion does not include a patient receiving the administration of routinely taken sedative medications.

- 7) **Physical Restraint.** A patient who has an order for physical restraints that are required prior to transport and which are maintained for the duration of transport.

Example – Inclusion: This criterion includes a patient with a order for physical restraint administered for the explicit purpose of reducing a patient's functional capacity because the patient presents a danger to the physical safety of him or herself and/or others during transport. This criterion requires an order for the type of physical restraint and monitoring required during the transport.

Example – Inclusion: This criterion includes a patient being transported from or to a restrained facility, holding center or lockdown facility.

Example – Exclusion: This criterion does not include a patient with an order for simple safety straps.

- 8) **One-On-One Supervision.** A patient who has an order requiring one-on-one supervision due to a condition that places the patient and/or others at a risk of harm or elopement for the duration of the transport.

Example – Inclusion: This criterion includes a patient who has a psychiatric condition or disease who is receiving medical care for an acute psychiatric crisis.

Example – Exclusion: This criterion does not include a patient who has a history of a psychiatric condition but is not in an acute psychiatric crisis or condition.

Example – Exclusion: This criterion does not include a patient who has a diagnosis of dementia including Alzheimer's disease, other altered mental

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status or neurological condition, who is easily directed.

- 9) **Specialized Monitoring.** A patient who has an order requiring cardiac and/or respiratory monitoring, or hemodynamic monitoring, prior to, during and after transport.

Example – Inclusion: This criterion includes a patient who has been monitored via telemetry at the transferring facility for an arrhythmia, who continues to need telemetry monitoring during the transport, and who is expected to require telemetry monitoring after transport.

Example – Inclusion: This criterion includes a patient who has an order for hemodynamic monitoring during transport.

Example – Inclusion: This criterion includes a patient who has received a central nervous system and/or respiratory system depressant medication who requires cardiac and/or respiratory or hemodynamic monitoring. This criterion requires the documentation of the name, dosage, route, date and time of the medication administered. It also requires an order for the specific type of monitoring required.

Example – Exclusion: This criterion does not include a patient who was not receiving cardiac monitoring or hemodynamic monitoring at the transferring facility and who is not expected to require cardiac monitoring or hemodynamic monitoring at the destination.

- 10) **Special Handling/Positioning.** A patient who has an order for specialized handling for the purpose of positioning during transport. This Criterion Requires an order that documents the condition and the type of specialized handling and/or positioning that is required to transport to the destination.

Example – Inclusion: This includes a patient who requires specialized handling and positioning during transport, as well as the assistance of medically trained personnel to avoid further injury during transport. This criterion requires an order that documents the significant mobility deficit and the type of special positioning required.

Example – Inclusion: The patient's diagnosis and the order for non-

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emergent ambulance transportation supports the need for special positioning due to contractures, spica cast, recent extremity fractures, (e.g. post-operative hip) or other conditions, and the specific type of positioning required prior, during and after transport is appropriately documented in a order.

Example – Inclusion: The criterion includes a patient utilizing an orthopedic device due to a medical condition requiring the use of a backboard or in halo traction. This criterion also includes patients who have external fixation, including external traction devices, which make it impractical for the patient to be positioned in a wheelchair or standard car seat. This criterion requires an order for non-emergent ambulance transportation and specialized handling for an orthopedic device or condition. The order must include the specific type of positioning required at the time of transport and through transport to the destination.

Example – Inclusion: The criterion includes a patient with a medical diagnosis of multiple myeloma who has a history of pathologic fractures compromising his or her spinal cord causing paraplegia.

Example – Exclusion: This criterion does not include a patient who is bed confined* but for whom there is no order or need for medical care, aid, monitoring, or treatment during transport as detailed in any of the above criteria.

* Terms such as bedridden, bed confined, stretcher patient or required restraints do not, by themselves, support medical necessity. The determining factor is the condition of the patient. In addition, "bed confined" is not meant to be the sole criterion to be used in determining medical necessity.

Example – Exclusion: This criterion does not include a quadriplegic or paraplegic patient who can be transported by wheelchair or stretcher, who does not meet any of the other criteria in this listing, or who does not have a order for special positioning or medical monitoring.

Example – Exclusion: This criterion does not include a patient who has a Foley catheter, a G-tube, or other medical equipment for which there is no medical need or order for monitoring during transport.

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Example – Exclusion: This criterion does not include the transport of a patient with a stage I or II decubitus ulcer on the buttock with a travel time less than one hour.

- 11) **Clinical Observation.** A patient who requires clinical observation is moving from one environment with 24-hour clinical observation or treatment provided by certified or licensed nursing personnel to another environment with 24-hour clinical observation or treatment provided by certified or licensed nursing personnel. This criterion is based upon a patient's need for clinical observation or treatment, prior to, during and after transport to the destination. This criterion is not satisfied based solely on the type of hospital or other facility from which the patient is being transferred to or from.

Example – Exclusion: This criterion excludes a patient transferring from a hospital to a long term care facility that does not require clinical observation or treatment as set forth in this subsection.

(Source: Added by emergency rulemaking at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013)

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NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.260	Amendment
125.380	Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute that Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); and 77 FR 76824 (2012)
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 6) Effective Date: January 28, 2013
- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products in section rules.

The Food Safety and Inspection Service (FSIS) is establishing January 1, 2016, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2013, and December 31, 2014. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: January 11, 2013
- 10) A copy of the peremptory amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) These peremptory amendments are in compliance with Section 5-150 of the Illinois Administrative Procedure Act.

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- 12) Are there any other proposed rulemakings pending to this Part? No
- 13) Statement of Statewide Policy Objectives: These preemptory amendments do not affect units of local government.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

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

217/785-5713
217/785-4505 (fax)

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

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACTPART 125
MEAT AND POULTRY INSPECTION ACTSUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
125.148	Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments

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125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported Products (Repealed)
125.300	Special Services Relating to Meat and Other Products
125.305	Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

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SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; preemptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; preemptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117,

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effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended

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at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; preemptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; preemptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; preemptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; preemptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; preemptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; preemptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012; preemptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012; amended at 36 Ill. Reg. 14664, effective October 1, 2012; preemptory amendment at 36 Ill. Reg. 17930, effective December 21, 2012; preemptory amendment at 37 Ill. Reg. 875, effective January 28, 2013.

SUBPART B: MEAT INSPECTION

Section 125.260 Labeling, Marking and Containers

- a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10),

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NOTICE OF PEREMPTORY AMENDMENTS

317.2(j)(12) through 317.4(f)(2), 317.5, 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400 (2010; 75 FR 82148, effective January 1, 2012; [77 FR 76824, effective December 31, 2012](#)).

- b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
- c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.
- e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).
- f) Any Type I establishment is authorized to use generically approved labeling for meat and poultry products as defined in subsection (h) of this Section without the labeling being submitted for approval to the Department, provided the labeling is in accordance with this Section and shows all mandatory features in a prominent manner as required in 9 CFR 317.2 and 381 and is not otherwise false or misleading.
- g) The Department shall select samples of generically approved labeling from the records maintained by official establishments to determine compliance with labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in 225 ILCS 650/13.
- h) Generically approved labeling is labeling that complies with the following:

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- 1) Labeling for a product that has a product standard as specified in 9 CFR 319 and 381 or the Standards and Labeling Policy Book and does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees, or is not a domestic product labeled in a foreign language;
- 2) Labeling for single-ingredient products, such as beef steak or lamb chops, that does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees or is not a domestic product labeled with a foreign language;
- 3) Labeling for containers of products sold under contract specifications to federal government agencies that the product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling and are made available to the inspector-in-charge;
- 4) Labeling for shipping containers that contain fully labeled immediate containers, provided that the labeling complies with 9 CFR 316.13 and 381.127;
- 5) Labeling for products not intended for human food, provided it complies with 9 CFR 325, 381.152(c) and 381.193;
- 6) Meat inspection legends;
- 7) Inserts, tags, liners, pasters and similar devices containing printed or graphic matter and for use or to be placed within containers and coverings of products, provided the devices contain no reference to product and bear no misleading feature;
- 8) Labeling for consumer test products not intended for sale;
- 9) Labeling that was previously approved by the Department as sketch labeling, and the final labeling was prepared without modification or with the following modifications:

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- A) All features of the labeling are proportionately enlarged or reduced provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;
- B) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound" or "oz." for "ounce" or of the word "pound" for "lb." or "ounce" for "oz.";
- C) A master or stock label has been approved where the name and address of the distributor are omitted and the name and address are applied before being used (in that case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when the labels are offered for approval);
- D) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc., are used with approved labeling (The use of the designs will not make necessary the application of labeling not otherwise required.);
- E) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;
- F) The addition, deletion or amendment of a dated or undated coupon, a cents-off statement, cooking instructions, packer product code information or the UPC product code information;
- G) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;
- H) Any change in the net weight, provided the size of the net weight statement complies with 9 CFR 317.2 and 318.121;
- I) The addition, deletion or amendment of recipe suggestions for the product;

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- J) Any change in punctuation;
- K) Newly assigned or revised establishment numbers for a particular establishment that has been approved by the Department;
- L) The addition or deletion of open dating information;
- M) A change in the type of packaging material on which label is printed;
- N) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;
- O) The deletion of the word "new" on new product labeling;
- P) The addition, deletion or amendment of special handling statements, provided that the change is consistent with [9](#) CFR 317.2(k) and 318.125(a);
- Q) The addition of safe handling instructions as required by [9](#) CFR 317.2(1) and 381.125(b);
- R) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of the ingredients prescribed in [9](#) CFR 318, 319 and 381.147;
- S) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;
- T) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;

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- U) A change in the establishment number by a corporation or parent company for an establishment under its ownership;
 - V) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;
 - W) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and
 - X) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only".
- i) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.
 - j) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (2004)).
 - k) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
 - l) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.
 - m) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.

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- n) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Peremptory amendment at 37 Ill. Reg. 875, effective January 28, 2013)

SUBPART C: POULTRY INSPECTION

Section 125.380 Labeling and Containers

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.133, 381.134, 381.136 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443; 381.444; 381.445; 381.454; 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (2010; 75 FR 82148, effective January 1, 2012; 76 FR 82077, effective December 30, 2011; [77 FR 76824, effective December 31, 2012](#)).
- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
- c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
- d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
- e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
- f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).
- g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.
- h) The Department shall approve the manufacture of a device or label containing an

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official mark of inspection provided the device or label is in compliance with Section 125.90.

- i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.
- k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
- l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.
- m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
- n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.
- o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.

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- p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
- r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Peremptory amendment at 37 Ill. Reg. 875, effective January 28, 2013)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF SUSPENSION OF EMERGENCY RULE

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

Section Numbers: 140.491

Date Originally Published in Illinois Register: 7/20/12
36 Ill. Reg. 11329

Date Suspension Published in Illinois Register: 8/31/12
36 Ill. Reg. 13738

Date Suspension Became Effective: 8/15/12

Date Suspension Withdrawn: 1/8/13

The Joint Committee on Administrative Rules hereby certifies that, pursuant to Section 5-125 of the Illinois Administrative Procedure Act and 1 Ill. Adm. Code 230.600(c)(6), the Joint Committee, at its meeting on 1/8/13, has withdrawn the Suspension of the Department of Healthcare and Family Services' emergency amendments to Section 140.491 of the rule titled Medical Payment (89 Ill. Adm. Code 140; 36 Ill. Reg. 11329) contingent upon, and effective with, HFS filing an emergency amendment repealing the July 1, 2012 emergency amendments.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FOURTH 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

2. Summary of information: Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the 4th Quarter of 2012. 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:

Apportionment – Sales Factor
Compensation
Partnerships
Public Law 86-272/Nexus
Subtraction Modifications – Pensions
Transferees

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.

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2012 FOURTH 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 and 2011 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

217/782-7055

DEPARTMENT OF REVENUE

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2012 FOURTH QUARTER INCOME TAX SUNSHINE INDEX

APPORTIONMENT – SALES FACTOR

IT 12-0001-PLR 10/25/2012 Receipts from sale of stock in a subsidiary corporation are not included in the Illinois numerator of the sales factor when no income-producing activities are performed within Illinois.

COMPENSATION

IT 12-0031-GIL 11/13/2012 Deferred compensation received for employee services performed entirely within Illinois are taxable by Illinois.

PARTNERSHIPS

IT 12-0032-GIL 12/03/2012 A partnership that derives income from both lottery winnings and investment income is not excluded from partnership treatment as an entity formed for the sole purpose of playing the lottery, and if it derives more than 10% of its gross income from lottery winnings, it is not an investment partnership.

PUBLIC LAW 86-272/NEXUS

IT 12-0029-GIL 10/05/2012 Sales activities conducted within Illinois by employees of the taxpayer with regard to insurance policies are not protected under Public Law 86-272.

SUBTRACTION MODIFICATIONS – PENSIONS

IT 12-0033-GIL 12/10/2012 Payment to retired federal employee that is subject to FICA tax is not eligible for subtraction as a payment under a government retirement plan.

TRANSFEREES

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2012 FOURTH QUARTER INCOME TAX SUNSHINE INDEX

IT 12-0030-GIL 10/18/2012 Transferees of a dissolved corporation are potentially liable for unpaid Illinois income tax obligations of the corporation.

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2012 FOURTH QUARTER SALES & MISCELLANEOUS 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 251

2. Summary of information: Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 2012. 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:

Aircraft Use Tax	Miscellaneous
Computer Software	Rolling Stock
Food	Service Occupation Tax
Hotel Operators' Tax	Trade-Ins
Manufacturing Machinery & Equipment	Use Tax
Medical Appliances	Vehicle Use Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of

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2012 FOURTH QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

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

217/782-7055

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2012 FOURTH QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

AIRCRAFT USE TAX

ST 12-0062-GIL 12/20/2012 Aircraft Use Tax liability is incurred on aircraft acquired by gift, transfer, or non-retail purchase. See 86 Ill. Adm. Code 152.101.

COMPUTER SOFTWARE

ST 12-0055-GIL 10/03/2012 Canned computer software is considered taxable tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. See 86 Ill. Adm. Code 130.1935.

FOOD

ST 12-0063-GIL 12/21/2012 This letter concerns the sale of gift baskets. See 86 Ill. Adm. Code 130.310.

HOTEL OPERATORS' TAX

ST 12-0060-GIL 11/30/2012 The Hotel Operators' Occupation Tax Act is imposed upon hotel operators engaged in the business of renting, leasing or letting rooms in a hotel. See 86 Ill. Adm. Code 480.101.

MANUFACTURING MACHINERY & EQUIPMENT

ST 12-0056-GIL 10/24/2012 This letter describes the Manufacturing Machinery and Equipment Exemption and the Manufacturer's Purchase Credit. See 86 Ill. Adm. Code 130.330 and 130.331.

MEDICAL APPLIANCES

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 FOURTH QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

- ST 12-0012-PLR 11/30/2012 A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.311.
- ST 12-0013-PLR 11/30/2012 A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.311.
- ST 12-0064-GIL 12/27/2012 A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.311.

MISCELLANEOUS

- ST 12-0057-GIL 11/02/2012 The Department will not approve the accuracy of private legal publications.
- ST 12-0058-GIL 11/02/2012 The sale of airline tickets is not a sale of tangible personal property and is not subject to the Retailers Occupation Tax or Use Tax. See 86 Ill. Adm. Code 130.101 and 150.101.

ROLLING STOCK

- ST 12-0010-PLR 10/12/2012 This letter concerns the rolling stock exemption for aircraft. See 86 Ill. Adm. Code 130.340.

SERVICE OCCUPATION TAX

- ST 12-0059-GIL 11/29/2012 If tangible personal property is transferred incident to sales of service, this will result in either Service Occupation Tax liability or Use Tax liability for the serviceman depending upon his or her activities. See 86 Ill. Adm. Code 140.101.

DEPARTMENT OF REVENUE

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TRADE-INS

ST 12-0009-PLR 10/03/2012 This letter revokes Private Letter Ruling ST 12-0005-PLR. This letter concerns advance trade-in transactions by a lessor of motor vehicles. See 86 Ill. Adm. Code 130.455.

USE TAX

ST 12-0011-PLR 11/21/2012 This letter concerns the use of carbon excavated from property owned by an electric generating facility and used by that facility as fuel to generate electricity. See 86 Ill. Adm. Code 150.101.

ST 12-0065-GIL 12/27/2012 The Illinois Use Tax Act imposes a tax on the purchaser by taxing the use of tangible personal property purchased from a retailer. See 35 ILCS 105/3.

VEHICLE USE TAX

ST 12-0061-GIL 12/07/2012 Article X of the Illinois Vehicle Code imposes a tax on the privilege of using a motor vehicle in this State that is acquired by gift, transfer, or purchase. This letter rescinds ST 12-0054-GIL.

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 January 7, 2013 through January 14, 2013 and have been scheduled for review by the Committee at its February 5, 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>
2/20/13	<u>Department of Healthcare and Family Services</u> , Medical Payment (89 Ill. Adm. Code 140)	11/2/12 36 Ill. Reg. 15425	2/5/13
2/24/13	<u>Illinois State Board of Investment</u> , Rules and Regulations of the Board (74 Ill. Adm. Code 800)	11/2/12 36 Ill. Reg. 15428	2/5/13
2/27/13	<u>Department of Public Health</u> , Structural Pest Control Code (77 Ill. Adm. Code 830)	9/21/12 36 Ill. Reg. 14198	2/5/13
2/27/13	<u>Department of Public Health</u> , Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)	8/3/12 36 Ill. Reg. 12238	2/5/13
2/27/13	<u>Department of Public Health</u> , Sheltered Care Facilities (77 Ill. Adm. Code 330)	8/3/12 36 Ill. Reg. 12225	2/5/13
2/27/13	<u>Department of Public Health</u> , Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)	8/3/12 36 Ill. Reg. 12209	2/5/13

ILLINOIS ADMINISTRATIVE CODE
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