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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

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
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

**Editor's Note:** The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2013 to January 2, 2014.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) Section Number: 146.840                      Proposed Action:  
Amend
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Alternative Health Care Delivery Act [210 ILCS 3/35]
- 5) Complete Description of the Subjects and Issues Involved: The proposed rulemaking modifies the reimbursement rate for services provided in a birth center facility located in Cook County.
- 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., 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

217/782-1233

HFS.Rules@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded Birth Centers
  - 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 anticipated by the Department when the most recent regulatory agendas were published.

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 146

## SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

## SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

## Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

## SUBPART B: SUPPORTIVE LIVING FACILITIES

## Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
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146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Non-Compliance Action
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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

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146.540	Covered Children's Community-Based Health Care Center Services
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## SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

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146.600	General Description
146.610	Structural Requirements
146.620	Participation Requirements
146.630	Resident Participation Requirements
146.640	Services
146.650	Reimbursement for Medicaid Residents
146.660	Staffing
146.670	Assessment and Service Plan and Quarterly Evaluation

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

146.680	Monitoring
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## SUBPART F: BIRTH CENTERS

146.800	General Description
146.810	Participation Requirements
146.820	Record Requirements
146.830	Covered Birth Center Services
146.840	Reimbursement of Birth Center Services

**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:** Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. 11803, effective August 1, 2009; emergency amendment at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13885,

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

effective August 27, 2012; amended at 37 Ill. Reg. 17624, effective October 23, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART F: BIRTH CENTERS

**Section 146.840 Reimbursement of Birth Center Services**

- a) Facility services provided by a birth center located in Cook County will be reimbursed at the lower of billed charges or 75 percent of the ~~statewide~~ average facility payment rate made to a hospital located in Cook County for an uncomplicated vaginal birth.
- b) Facility services provided by a birth center located outside of Cook County will be reimbursed at the lower of billed charges or 75 percent of the statewide average facility payment rate made to a hospital located outside of Cook County for an uncomplicated vaginal birth.
- ~~c~~b) Observation services will be reimbursed at the lower of billed charges or at 75 percent of the rate established by the Department for the number of hours of observation billed pursuant to 89 Ill. Adm. Code 148.140(b)(1)(D).
- ~~d~~e) Transfer fees for a birth center located in Cook County will be reimbursed at the lower of billed charges or 15 percent of the ~~statewide~~ average facility payment rate made to a hospital located in Cook County for an uncomplicated vaginal birth.
- e) Transfer fees for a birth center located outside of Cook County will be reimbursed at the lower of billed charges or 15 percent of the statewide average facility payment rate made to a hospital located outside of Cook County for an uncomplicated vaginal birth.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.436                      Proposed Action: New
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This proposed rulemaking converts static supplemental payments for long term stay hospitals to a per diem rate add-on with admissions on or after November 16, 2013.
- 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</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.140	Amend	37 Ill. Reg. 9875; July 12, 2013
- 11) Statement of Statewide Policy Objectives: This rulemaking does affect units of local government. It will have an impact on government-owned or government-operated hospitals.
- 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

201 South Grand Avenue E., 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

HFS.Rules@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals
  - 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 anticipated by the Department when the most recent Regulatory Agenda was published.

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 148

## HOSPITAL SERVICES

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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

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- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

148.880 Program Reporting

148.TABLE A Renal Participation Fee Worksheet

148.TABLE B Bureau of Labor Statistics Equivalence

148.TABLE C List of Metropolitan Counties by SMSA Definition

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

**SOURCE:** Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg.

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9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002;

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amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006;

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amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; preemptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011; emergency amendment at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 148.70(g) suspended at 36 Ill. Reg. 13737, effective August 15, 2012; suspension withdrawn from Section 148.70(g) at 36 Ill. Reg. 18989, December 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 148.70(g) at 36 Ill. Reg. 18976, effective December 12, 2012 through June 30, 2013; emergency amendment to Section 148.140(b)(1)(F) suspended at 36 Ill. Reg. 13739, effective August 15, 2012; suspension withdrawn from Section 148.140(b)(1)(F) at 36 Ill. Reg. 14530, September 11, 2012; emergency amendment to Sections 148.140(b) and 148.190(a)(2) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 14851, effective September 21, 2012 through June 30, 2013; amended at 37 Ill. Reg. 402, effective December 27, 2012; emergency rulemaking at 37 Ill. Reg. 5082, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10432, effective June 27, 2013; amended at 37 Ill. Reg. 17631, effective October 23, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

**Section 148.436 Long Term Stay Hospital Per Diem Payments**

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Conversion of Static Payments to Per Diem Payments for Long Term Stay Hospital

- a) Hospitals qualifying as a long term stay hospital on July 1, 2013, as defined at 89 Ill. Adm. Code 149.50(c)(4), shall have their payments paid as a per diem rate add-on for all current claims beginning with admissions on or after November 16, 2013.
- b) Each long term stay hospital's per diem add-on shall be the sum of its annual payment amounts in accordance with Sections 148.126, 148.295 and 148.296 for State fiscal year 2011, divided by its covered days for dates of service in State fiscal year 2011 as contained in the Department's Medicaid Management Information System (MMIS).
- c) For the payments due and payable in the period beginning July 1, 2013 through November 15, 2013, each long term stay hospital will be paid an annual amount prorated. The prorated amount shall be the product of the sum of the long term stay hospital's annual payment amounts in accordance with Sections 148.126, 148.295 and 148.296 for State fiscal year 2013 multiplied by the quotient resulting from dividing 137 days by 365 days.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Child Support Services
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
160.70	Amend
160.75	Amend
160.89	Amend
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13], PA 97-926, PA 98-563 and PA 98-318
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments comply with PA 97-926 and 98-563 that allow registration of final administrative orders that have been initiated by the Department. Further, they clarify that if a party is seeking only to register their administrative order without any affirmative action attached, the registering party would not have to serve the other party via personal service and use first class mail. However, if a modification or other affirmative action is attached to the registration, the personal service requirement remains. Also, PA 98-563 gives the Department the authority to provide an obligee a one-time notice to advise that the Department will no longer compute any interest that may have accumulated on his/her case between May 1, 1987 and January 1, 2006 unless the obligee responds within 60 days. If the obligee responds within the 60 days, the Department will do a manual account review and manually add any interest that may have accumulated during the pre-2006 timeframe to the case account. The statute does not allow the obligee to lose the interest, it just means, if the notice is not returned within the 60 day timeframe, the obligee can pursue the interest in court personally.

Additionally, removal of the termination date from the Income Withholding Notice (IWN) will be implemented to comply with federal regulations. If the non-custodial parent falls behind on his/her payments, the termination date would change to beyond the original termination date to collect on past due payments.

The proposed amendments also comply with PA 98-318, which provides the Department the authority to intercept gambling winnings from non-custodial parents who are delinquent in paying their child support. It also provides that the gaming establishments have the authority to withhold winnings and transmit those winnings to HFS for disbursement to custodial parents who are owed child support. It also provides administrative procedures ensuring due process and the possibility to contest the action

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and clarify further what the Department's administrative law judge has the authority to do in the modification of the Department's administrative orders.

- 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>
160.60	Amend	37 Ill. Reg. 12342; August 2, 2013
160.61	Amend	37 Ill. Reg. 12342; August 2, 2013
160.65	Amend	37 Ill. Reg. 12342; August 2, 2013

- 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., 3<sup>rd</sup> Floor  
 Springfield IL 62763-0002

217/782-1233  
 HFS.Rules@illinois.gov

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

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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 2013

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER 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

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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

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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. 8017, effective May 28, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

**Section 160.70 Enforcement of Support Orders**

- a) **Income Withholding**  
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases, and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal

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and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].

- b) Federal and State Income Tax Refunds and Other Payments
- 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a], Section 2505-650 of the Department of Revenue Law [20 ILCS 2505/2505-650] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due ~~the~~ responsible relatives.
  - 2) The Department shall submit past-due support amounts to:
    - A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
      - i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of \$150 for TANF, AFDC and Foster Care cases; however, amounts under this subsection (b)(2)(A)(i) may not be combined with amounts under subsection (b)(2)(A)(ii) to reach the minimum amounts required for submittal; and
      - ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than \$500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of \$500; however, amounts under this subsection (b)(2)(A)(ii) may not be combined with amounts under subsection

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(b)(2)(A)(i) to reach the minimum amounts required for submittal.

- B) the Illinois Department of Revenue to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:
- i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$25, whichever is less;
  - ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
  - iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of those circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past-due support amount that will be submitted for intercept, and that any additional past due support that accumulates will be subject to collection by the Department without further notice;
  - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
    - i) a redetermination by the Department; ~~or, after such redetermination,~~

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- ii) [after the redetermination](#), an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
  - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund that may be payable to that spouse, in the case of a joint federal income tax return.
- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by requesting:
  - A) a hearing by the Department within 15 days after the date of mailing of the notice; or
  - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.
- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

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- 8) The Department shall notify:
- A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
  - B) the U.S. Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
  - C) the Illinois Department of Revenue of any deletion of an amount submitted for State income tax refund and the Comptroller for other payment intercept or any significant decrease in the amount; and
  - D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.
- 9) The Department shall:
- A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
  - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, ~~thesueh~~ equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion refunds and payments in matters ~~in which~~ ~~where~~ the intercepted funds have not yet been transferred to the Department.
- 10) The Department shall, as promptly as possible, apply collections it receives as a result of intercept under this subsection (b) as follows:
- A) federal income tax refunds first to satisfy any IV-D TANF or

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AFDC or IV-D foster care assigned past-due support, and then to satisfy any IV-D non-TANF past-due support; and

- B) other federal and State payments in accord with distribution provisions in Subpart F ~~of this Part~~.
- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
- A) amounts intercepted under this subsection (b) will be applied in accordance with Section 160.130;
  - B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his or her share of a joint tax refund.
- c) Unemployment Insurance Benefits
- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters ~~in which~~wherein the relative has accumulated a past-due support amount equal to a one-month support obligation.
  - 2) The Department shall take the following action:
    - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
    - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
    - C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:

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- i) the amount of the income withholding order; or
    - ii) fifty percent of the Unemployment Insurance Benefit.
  - D) receive amounts deducted direct from DES.
  - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
  - F) post each collection to the Department's payment record.
  - G) apply each collection to the current support obligation, then to past-due obligations.
  - H) provide a redetermination within 180 days after the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.
- 3) The Department of Employment Security shall take the following action:
- A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
  - B) pay all amounts deducted direct to the Department.
- d) Contempt of Court and Other Legal Proceedings
- 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one-month support obligation, except as set forth in subsection (d)(2)-~~of this Section~~.
  - 2) Contempt proceedings shall not be used in the following instances:
    - A) the responsible relative has no known available income or assets

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from which to satisfy the support obligation and is:

- i) receiving public assistance;
  - ii) mentally or physically disabled;
  - iii) incarcerated;
  - iv) out-of-the-country;
  - v) deceased; or
  - vi) otherwise situated, making such action unproductive.
- B) other legal or administrative remedies are more appropriate under the circumstances.
- 3) Contempt and other legal proceedings shall be used to:
- A) establish the amount of past-due support;
  - B) obtain a judgment for purposes of:
    - i) imposition of a lien against real estate; or
    - ii) levy upon real estate and personal property; or
    - iii) registration in another state;
  - C) secure an order for lump sum or periodic payment of the past-due support or judgment;
  - D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
  - E) obtain full or partial payment of past due support through incarceration;

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- F) ascertain the responsible relative's source and amount of income or location and value of assets;
  - G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
  - H) secure other enforcement relief; and
  - I) combine any~~obtain any combination~~ of the actions authorized by this subsection (d)(3)~~above~~.
- 4) During the course of contempt or other legal proceedings to enforce support, if it appears~~shall appear~~ that 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 TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for responsible~~such~~ relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].
- 5) In TANF cases, the Department 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 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]~~.
- e) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
  - 2) A petition for a rule to show cause or other petition filed by a Department

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legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:

- A) the past-due amount is at least \$3,500; and
  - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.
- 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy or memorandum of judgment in the county where the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure ~~[735 ILCS 5/Art. XII]~~).
- 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure ~~[735 ILCS 5/Art. XII]~~) when the relative has a known equity that is not less than \$3,500 in excess of any statutory exemption.
- f) Liens Against Real Estate and Personal Property – Administrative Enforcement of Order for Support
- 1) Liens ~~Against Real Estate~~against real estate
    - A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
      - i) the amount of past-due support is at least \$3,500; and
      - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
    - B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with

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the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:

- i) the name and address of the responsible relative;
  - ii) a legal description of the real estate to be levied;
  - iii) the amount of past-due support to be satisfied by the levy;
  - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
  - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.
- C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (f).
- D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$3,500 in excess of any statutory exemption.

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- 2) Liens Against Personal Property~~against personal property~~
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
- i) the amount of past-due support is at least \$1,000;
  - ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
  - iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.
- B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or who may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:
- i) the name and address of the responsible relative;
  - ii) a description of the account or personal property to be levied;
  - iii) the amount of past-due support to be satisfied by the levy;
  - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;

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- v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
  - vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.
- C) In addition to the information to be included in the Notice of Lien or Levy under subsection (f)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:
- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code ~~305 ILCS 5/10-24~~;
  - ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit those assets within five days after being served with a Notice to Surrender Assets by the Department;
  - iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any fee be deducted from the account before

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- remitting any assets from the account to the Department;
- iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy; and
  - v) include the federal Notice of Right to Garnish Federal Benefits stating that procedures established under 31 CFR 212 for identifying and protecting federal benefits deposited to accounts at financial institutions do not apply to the Notice of Lien or Levy issued by the Department.
- D) The form for the response to Notice of Lien or Levy provided for under subsection (f)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:
- i) the amount of assets in the responsible relative's account;
  - ii) the amount of the fee to be deducted from the account;
  - iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;
  - iv) the name and address of any joint owners of the account; and
  - v) the amount of assets surrendered and remitted to the Department.
- E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (f).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and

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(c) shall not apply.

- G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (f).
- g) Security, Bond or Other Guarantee of Payment
- 1) Except as provided in subsections (g)(2) and (3) ~~of this Section~~, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security or bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code ~~[305 ILCS 5/10-17.4]~~.
  - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the

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Department may require the relative to post security ~~or~~, bond, or give some other guarantee of payment. Except ~~when~~~~where~~ the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

- 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a ~~request~~~~prayer~~ for an order requiring the responsible relative to post security ~~or~~, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

#### h) Past-Due Support Information to Consumer Reporting Agencies

- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (b)(2)(A) ~~of this Section~~:
  - A) the name, last known address and Social Security Number of the responsible relative; and
  - B) the terms and amount of past-due support that has accumulated under the order for support.
- 2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies ~~that, which advance notice~~ shall inform the relative of the following:
  - A) the IV-D case name and identification number;
  - B) the past-due support amount that will be reported;
  - C) the date past-due support will be reported; and
  - D) the right to prevent reporting by payment of the past-due support

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amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:
  - A) a request for:
    - i) a redetermination; or
    - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
  - B) payment in full of the amount of the past-due support stated in the:
    - i) advance notice; or
    - ii) notice of redetermination or hearing results.
- 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to ~~those~~ agencies.
  - i) High-Volume Automated Administrative Enforcement in Interstate Cases
    - 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of ~~the~~ enforcement activity to the requesting state.

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- 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and shall seize those assets through levy or other appropriate processes.
- 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
  - A) Include information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
  - B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
- 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of the other state.
- 5) The Department shall maintain records of:
  - A) The number of requests for assistance received by the Department.
  - B) The number of cases for which the Department collected support in response to a request and the actual amount of support collected.
- j) Past-Due Support Certified to the Illinois Department of Revenue, to Municipalities~~municipalities~~ or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
  - 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Illinois Public Aid Code ~~{305 ILCS 5/10-17.9}~~), to municipalities with ordinances to immobilize and impound vehicles for non-payment of child

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support (see Section 10-17.3 of the Illinois Public Aid Code, ~~305 ILCS 5/10-17.3~~) or to another state's IV-D agency for administrative enforcement ~~when~~where the responsible relative has property in the other state.

- 2) The Department may certify past-due support amounts to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
  - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
  - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3)~~of this Section~~;
  - C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
  - D) the responsible relative is not deceased.
- 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state ~~that, which advance notice~~ shall inform the responsible relative of the following:
  - A) the IV-D case name and identification number;
  - B) the past-due support amount that will be submitted for collection;
  - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
  - D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

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- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
  - A) the amount of past-due support owed;
  - B) the amount to be paid toward the past-due amount;
  - C) the amount of current child support obligations; and
  - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, municipalities or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
  - A) name;
  - B) Social Security Number;
  - C) IV-D identification number; and
  - D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by making a written request for a hearing by the Department within 15 days after the date of mailing of the notice.
- 8) A written request for hearing made within 15 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue, to

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municipalities or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) ~~of this Section~~.

- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
  - A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
  - B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, ~~that which~~ is still in the possession of the Department.
- k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
  - 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$2,500:
    - A) the name, last known address and Social Security Number of the responsible relative; and
    - B) the terms and amount of past-due support that has accumulated under the order for support.
  - 2) The Department shall provide the responsible relative with a notice at least

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15 days prior to certifying past-due support to the Secretary of Health and Human Services ~~that, which advance notice~~ shall inform the relative of the following:

- A) the IV-D case name and identification number;
  - B) the past-due support amount that will be certified;
  - C) the date past-due support will be certified; and
  - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
- A) a request for:
    - i) a redetermination; or
    - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
  - B) payment in full of the amount of the past-due support stated in the:
    - i) advance notice; or
    - ii) notice of redetermination or hearing results.

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- 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- 1) List of Responsible Relatives
    - 1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code ~~§305 ILCS 5/12-12.1~~ shall be developed as required by this subsection (l).
    - 2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing \$5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:
      - A) the name of the responsible relative;
      - B) the responsible relative's last known address; and
      - C) the amount of past-due support as of a given date, expressed within a range (for example, \$50,000-\$100,000), that has accumulated under the support order.
    - 3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.
    - 4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:
      - A) the IV-D case name and identification number;
      - B) the past-due support amount as of a given date;
      - C) the earliest date by which past due support information will be published;

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- D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing within 15 days after the date of mailing of the advance notice; and
  - E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.
- 5) Factors for a satisfactory payment plan will include, but are not limited to:
- A) the amount of past-due support owed;
  - B) the amount to be paid toward the past-due support;
  - C) the amount of the current support obligations; and
  - D) the responsible relative's ability to pay.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.
- 7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:
- A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or
  - B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection (1)(7).
- m) Certification to the Illinois Secretary of State for Driver's License Suspension

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- 1) The Department shall issue a Notice of Intent to Request Suspension of an Illinois Driver's License to a responsible relative in accordance with Section 10-17.6 of the Illinois Public Aid Code [~~305 ILCS 5/10-17.6~~] and Section 7-702 of the Illinois Vehicle Code [625 ILCS 5/7-702], when the following circumstances exist:
  - A) the amount of past-due support is at least \$2500, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
  - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
- 2) The Notice of Intent to Request Suspension of an Illinois Driver's License shall contain the following:
  - A) the IV-D case name and identification number;
  - B) the past due support amount and the amount of interest that will be certified;
  - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
  - D) the right of the responsible relative to prevent certification to the Secretary of State for driver's license suspension by payment of the past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department or to contest the amount of past-due support and interest that is owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
  - E) the right of the responsible relative to prevent certification to the Secretary of State for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by

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the Department within 15 days after the date of mailing by the Department.

- 3) Factors for an acceptable payment plan will include, but are not limited to:
  - A) the amount of past due support and interest owed;
  - B) the amount of current child support ordered to be paid; and
  - C) the responsible relative's ability to pay.
- 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of the Notice of Intent to Request Suspension of an Illinois driver's license shall be deemed by the Department to be a satisfactory payment plan.
- 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Suspension of an Illinois Driver's License shall stay the Department from certifying past-due support and interest, or failure to comply with a subpoena or warrant, to the Secretary of State.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- 7) Following certification to the Secretary of State for driver's license suspension and upon request of the responsible relative, the Department shall direct the Secretary of State to issue a family financial responsibility driving permit in accordance with Section 10-17.6(b) of the Illinois Public Aid Code ~~[305 ILCS 5/10-17.6(b)]~~ and Section 7-702.1(b) of the Illinois Vehicle Code ~~[625 ILCS 5/7-702.1(b)]~~, when the following circumstances exist requiring the responsible relative to operate a motor vehicle:
  - A) between the responsible relative's residence and place of employment, or within the scope of employment related duties, as verified by the employer in writing; or

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- B) for the purpose of providing transportation for the responsible relative or a household member to receive alcohol treatment, other drug treatment, or medical care as verified in writing by the treatment center or physician that includes the duration of treatment; or
  - C) for the purpose of the unemployed responsible relative seeking employment.
- 8) When directing the issuance of a family financial responsibility driving permit for the purpose of seeking employment under subsection (m)(7)(C) ~~of this Section~~, the Department shall require that:
- A) the permit be limited to Monday through Friday between the hours of 8:00 a.m. and 12:00 p.m. (noon) unless the responsible relative provides written documentation showing that to so limit the hours of the permit would have an adverse effect on the responsible relative's ability to seek employment; and
  - B) the responsible relative provides to the Department a job search diary every 30 days showing contact with no fewer than 10 potential employers during a 30 day period.
- 9) The maximum duration of a family financial responsibility driving permit shall be one year from the date of issuance by the Secretary of State, with the ability of the responsible relative to request issuance of a new permit after the initial permit has expired.
- 10) The Department may direct the issuance of a family financial responsibility driving permit to the responsible relative only if no alternative means of transportation is reasonably available for the purposes stated in this subsection (m).
- 11) The Department shall direct the Secretary of State to cancel the family financial responsibility driving permit in the event the responsible relative violates the conditions of its issuance.
- 12) Any responsible relative aggrieved by the Department's determination on a request for issuance of a family financial responsibility driving permit may

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file a written request for hearing within 15 days after the date of mailing of the results of the determination to the responsible relative. The Department shall proceed in accordance with 89 Ill. Adm. Code 104.106 upon receipt of a request for hearing.

- n) Certifying Past Due Support or Failure to Comply with a Subpoena or Warrant to State Professional, Occupational or Recreational Licensing Agencies
- 1) The Department shall issue a Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License to a responsible relative when the following circumstances exist:
    - A) the amount of past due support is at least \$1,000, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
    - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
  - 2) The Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall inform the responsible relative of the following:
    - A) the IV-D case name and identification number;
    - B) the past due support amount and the amount of interest that will be certified;
    - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
    - D) the right of the responsible relative to prevent certification to the licensing agency by payment of the past due support amount and interest in full or by entering into a payment plan satisfactory to the Department, or to contest the amount of past due support and interest owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and

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- E) the right of the responsible relative to prevent certification to the licensing agency for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant, or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.
- 3) Factors for an acceptable payment plan will include, but are not limited to:
    - A) the amount of past due support and interest owed;
    - B) the amount of current child support ordered to be paid; and
    - C) the responsible relative's ability to pay.
  - 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall be deemed by the Department to be a satisfactory payment plan.
  - 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall stay the Department from certifying past due support and interest or failure to comply with a subpoena or warrant to the licensing agency.
  - 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a timely written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- o) Debit Authorization for Obligor's Who Are Not Subject to Income Withholding
    - 1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account

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periodically in an amount equal to the amount of the child support obligation.

- 2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.
- 3) The child support enforcement debit authorization form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.
- 4) When an obligor does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], he or she must sign a child support enforcement debit authorization form. The obligor must sign a separate child support enforcement debit authorization form for each financial institution holding an account on his or her behalf in which a child support payment is to be debited and transferred to the State Disbursement Unit.
- 5) The signing and issuance of a child support enforcement debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.
- 6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the child support enforcement debit authorization form.

p) Judicial Registration of Administrative Support Orders

- 1) A final administrative support order established by the Department under Article X of the Public Aid Code may be registered in the appropriate circuit court of this State by the Department or by a party to the order by filing:
  - A) Two copies, including one certified copy, of the administrative order to be registered;
  - B) Any subsequent modification of the administrative support order;

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- C) Any voluntary acknowledgement of paternity of the child covered by the order;
  - D) Documents showing service of the notice of support obligation that commenced the procedure for establishment of the administrative support order as required by Section 10-4 of the Public Aid Code;
  - E) Documentation showing the amount of past due support accrued under the administrative order by a sworn statement by the person requesting registration or a certified copy of the Department payment records; and
  - F) A Notice of Registration containing: the name of the obligor and, if known, the obligor's address and the name of the obligee and the obligee's address unless the obligee alleges in an affidavit or pleading under oath that the health, safety or liberty of the party or child would be jeopardized by the disclosure, in which case the information must be sealed and not disclosed to the other party or public. After a hearing, the court may order the disclosure of information that the court determines to be in the interest of justice.
- 2) Every Notice of Registration must be accompanied by a copy of the registered administrative support order and the relevant information accompanying the order as noted in subsection (p)(1).
  - 3) The filing of the administrative support order constitutes registration with the circuit court.
  - 4) The Department shall certify the administrative support order or payment record by attaching a copy of the Department's certification (HFS 390).
  - 5) The registering party shall serve notice of the registration on the other party by first class mail, unless the administrative support order was entered by default or the registering party is also seeking an affirmative remedy. The registering party shall serve notice on the Department in all cases by first class mail.

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- A) If the administrative support order was entered by default against the obligor, the obligor must be served with the registration by any method provided by law for service of summons.
  - B) If the petition or comparable pleading seeking an affirmative remedy is filed with the registration, the non-moving party must be served with the registration and the affirmative pleading by any method provided by law for service of summons.
- 6) A Notice of Registration of an administrative support order must provide the following information:
- A) That a registered administrative order is enforceable in the same manner as an order for support issued by the circuit court.
  - B) That a hearing to contest enforcement of the registered administrative support order must be requested within 30 days after the date of service of the notice.
  - C) That failure to contest, in a timely manner, the enforcement of the registered administrative support order shall result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted.
  - D) The amount of any alleged arrearages.
- 7) A non-registering party seeking to contest enforcement of a registered administrative support order shall request a hearing within 30 days after the date of service of notice of the registration. The non-registering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered administrative support order, or to contest the remedies being sought or the amount of any alleged arrearages.
- 8) If the non-registering party fails to contest the enforcement of the registered administrative support order in a timely manner, the order shall be confirmed by operation of law.

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- 9) If a non-registering party requests a hearing to contest the enforcement of the registered administrative support order, the circuit court shall schedule the matter for hearing and give notice to the parties and the Department of the date, time and place of the hearing.
- 10) A party contesting the enforcement of a registered administrative support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
- A) The Department lacked personal jurisdiction over the contesting party.
  - B) The administrative support order was obtained by fraud.
  - C) The administrative support order has been vacated, suspended or modified by a later order.
  - D) The Department has stayed the administrative support order pending appeal.
  - E) There is a defense under the law to the remedy sought.
  - F) Full or partial payment has been made.
- 11) If a party presents evidence establishing a full or partial payment defense, the court may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered administrative support order may be enforced by all remedies available under State law.
- 12) If the contesting party does not establish a defense to the enforcement of the administrative support order, the court shall issue an order confirming the administrative support order. Confirmation of the registered administrative support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Upon confirmation, the registered administrative support order shall be treated in the same manner as a support order entered by the circuit court, including

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the ability of the court to entertain a petition to modify the administrative support order due to a substantial change in circumstances, or petitions for visitation or custody of the child or children covered by the administrative support order. Nothing in this Section shall be construed to alter the effect of a final administrative support order, or the restriction of judicial review of such a final order to the provisions of the Administrative Review Law, as provided in Section 10-11 of the Illinois Public Aid Code.

- q) Certification to State Gaming Licensee of Past Due Support
- 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to State Gaming Licensees (as defined in Section 10-17.15 of the Illinois Public Aid Code). This process will be accomplished via an electronic interface between the Department and the State Gaming Licensee. The Department shall provide signage to the State Gaming Licensee in compliance with the law.
  - 2) The Department shall certify past-due support amounts to be withheld to any State Gaming Licensee when the following conditions exist:
    - A) The amount of past due support is at least \$1,200 and the responsible relative has not made a voluntary payment within 90 days prior to the certification;
    - B) As of the date of certification, the Department has not received notice of a pending bankruptcy case involving the responsible relative; and
    - C) The State Gaming Licensee has notified the Department regarding the winnings of a responsible relative owing past-due support.
  - 3) The State Gaming Licensee shall withhold from winnings required to be reported to the Internal Revenue Service on Form W2-G, or any subsequent amendment or replacement to that form, for licensees covered under the Riverboat Gambling Act [230 ILCS 10] and the Illinois Horse Racing Act of 1975 [230 ILCS 5], with the additional requirement that the winnings are subject to withholding for federal tax purposes for licensees

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covered under the Illinois Horse Racing Act of 1975, up to the full amount of winnings necessary to pay the responsible relative's past-due support.

- A) "Winnings" means any cash award that results from a specific wager connected with limited gaming or pari-mutuel wagering for which the licensee is required to file form W2-G, or a substantially equivalent form, with the Internal Revenue Service (IRS). "Winnings" do not apply to the awarding of merchandise, other non-cash items, promotional awards, loyalty program awards or other cash prize awards not associated with a specific wagering event.
- B) For the withholding of winnings, the State Gaming Licensee shall be entitled to an administrative fee not to exceed the lesser of 4% of the total amount of cash winnings paid the responsible relative or \$150.
- C) The past-due child support required to be withheld under this subsection (q)(3)(C), and the administrative fee under subsection (q)(3)(B), would have priority over any secured or unsecured claim or charitable contribution requested on cash winnings, except claims for federal or State taxes that are required to be withheld under federal or State law.
- D) In no event shall the total amount withheld from the winnings, including the administrative fee, exceed the total cash winnings claimed. If the amount claimed is greater than the amount sufficient to satisfy the past-due support amount, the State Gaming Licensee shall pay the responsible relative the remaining balance of the payout, less the administrative fee, at the time it is claimed.
- E) The State Gaming Licensee shall provide information required by the Department regarding the responsible relative whose winnings may be subject to being withheld pursuant to this subsection (q)(3) at the time the winnings are redeemed or to be paid by the State Gaming Licensee. At the time the winnings are withheld, an agent of the Illinois Racing Board shall be responsible for notifying the person identified as being delinquent in child support payments that the Gaming Licensee under the Illinois Horse Racing Act of

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1975 is required by law to withhold all or a portion of the winnings. Upon request of a State Gaming Licensee under the Riverboat Gambling Act, an agent of the Illinois Gaming Board shall be responsible for notifying the person identified as being delinquent in child support payments that the Gaming Licensee is required by law to withhold all or a portion of the winnings. These notice requirements may be satisfied by giving the person a copy of the certification the Department submitted to the State Gaming Licensee.

- 4) As part of the Department's annual notice to responsible relatives who owe past-due child support, as provided for in subsection (b)(3), the Department shall include a statement regarding the Department's ability to certify the past-due balance to a State Gaming Licensee. This advance notice shall inform the responsible relative of the following:
- A) The IV-D case name and identification number;
  - B) The past-due support amount that will be submitted for collection; and
  - C) The type of collection remedies available to the Department.
- 5) Immediately upon receipt of the information required by subsection (q)(3)(E), the Department's certification to the State Gaming Licensee shall provide the following information regarding the responsible relative:
- A) Name;
  - B) IV-D identification number;
  - C) The past due support amount to be withheld;
  - D) The amount of the administrative fee that the State Gaming Licensee may retain; and
  - E) The amount, if any, that may be released to the responsible relative.

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- 6) The State Gaming Licensee shall provide the responsible relative with a receipt of the withheld winnings and shall transfer those funds to the Department via electronic transfer. The Department shall hold the funds until the expiration of the period in which the responsible relative may request a hearing or, if a hearing has been requested, until a final administrative decision is rendered.
- 7) The responsible relative may contest the certification by the Department to the State Gaming Licensee by a written request for hearing made to the Department within 15 days after the date of the certification.
- 8) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that subsections (b) and (c) of that Section shall not apply.
- 9) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 10) The Department shall:
  - A) Apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligations; or
  - B) If the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible, refund to the responsible relative any overpayment, pursuant to the certification for collection, that is still in the possession of the Department.
- 11) Confidentiality  
Information provided to and accessed by the State Gaming Licensee is considered confidential.
- 12) Other Remedies  
Except for those administrative orders providing solely for payment of past due support, the Department shall pursue any other remedies provided for by law

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to enforce and collect past-due support owed by responsible relatives in IV-D cases.

- sq) For all other hearings provided for under this Section, if the Department's hearing officer determines that the Quantitative Standard for Review has been met or that the party or parties requesting the hearing has or have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order of support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision resulting in entry of a new administrative order for support. In recommending terms of the new administrative order for support, either for current support or, in the event that a current support obligation is no longer owed and only past-due support remains, and therefore, periodic payments toward the past-due support must be ordered, the hearing officer shall calculate the new support terms in accordance with the provisions of Section 160.60(c)(2).

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.75 Withholding of Income to Secure Payment of Support**

- a) **Definitions**  
The definitions contained in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15] shall apply in this Section.
- b) **Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice**
- 1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:
- A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor

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becomes delinquent in paying the order for support; and

- B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and
  - C) the obligor's Social Security Number disclosed to the court as required by law; and
  - D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.
- 2) The income withholding notice prepared by the Department shall:
- A) be in the standard format prescribed by the federal Department of Health and Human Services; and
  - B) state the date of entry of the order for support upon which the income withholding notice is based; and
  - C) direct any payor to withhold the dollar amount required for current support under the order for support; and
  - D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and
  - E) state the amount of the payor income withholding fee as provided by law; and
  - F) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and

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- G) state the duties of the payor and the fines and penalties provided by law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and
  - H) state the rights, remedies, and duties of the obligor, as provided by law; and
  - I) include the Social Security Number of the obligor; and
  - ~~J) include the date withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and~~
  - ~~JK)~~ contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and
  - ~~KL)~~ direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.
- 3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A) ~~of this Section~~, if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of an income withholding notice upon the payor, as required by law.
- c) Service of Income Withholding Notice
- 1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within two business days after the date the order is received if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the Department receives the payor's address from the Illinois Directory of

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New Hires, as established under Section 1801.1 of the Unemployment Insurance Act [820 ILCS 405/1801.1], the Department shall serve an income withholding notice and, where applicable, a National Medical Support Notice, on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) The Department may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.
  - 3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A) ~~of this Section~~, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.
  - 4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.
- d) Income Withholding After Accrual of Delinquency
- 1) The Department shall prepare and serve an income withholding notice within two business days after the date the obligor accrues a delinquency if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If

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the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) An income withholding notice prepared by the Department under subsection (d)(1) ~~of this Section~~ shall:
  - A) contain the information required under subsection (b)(2) ~~of this Section~~; and
  - B) contain the total amount of the delinquency as of the date of the notice; and
  - C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and
  - D) be served on the payor and the obligor in the manner provided in subsection (c)(2) ~~of this Section~~.
- 3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:
  - A) a dispute concerning the existence or amount of the delinquency; or
  - B) the identity of the obligor.
- 4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A) ~~of this Section~~, shall apply only to the initial service of an income withholding notice on a payor of the obligor.

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- e) Initiated Withholding
- 1) Notwithstanding any other provision of this Section, if the court has not required that income withholding take effect immediately, the Department, pursuant to this subsection (e), may initiate withholding regardless of whether a delinquency has accrued, by preparing and serving an income withholding notice on the payor that contains the information required under subsection (b)(2)-of this Section and states that the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A)-of this Section no longer ensures payment of support, and the reason or reasons why it does not.
  - 2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2)-of this Section.
  - 3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B)-of this Section (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):
    - A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A)-of this Section continues to ensure payment of support; or
    - B) the identity of the obligor.
- f) Petitions to Modify, Suspend or Terminate an Order for Withholding
- 1) At any time the Department, through its legal representative, may petition the court to:
    - A) modify, suspend or terminate the income withholding notice because of a modification, suspension, or termination of the underlying order for support;

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- B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
  - C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.
- 2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2)~~-of this Section~~, a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.
  - 3) The Department may serve a notice on the payor to:
    - A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or
    - B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.
  - 4) The notice provided for under subsection (f)(3)~~-of this Section~~ shall be served on the payor in the manner provided for service of income withholding notices in subsection (c)(2)~~-of this Section~~, and a copy shall be provided to the obligor and the obligee.
- g) **Additional Duties**  
The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:
    - 1) an offset under federal or State law; or
    - 2) partial payment of the delinquency or arrearage or both.
  - h) **Alternative Procedures for Service of an Income Withholding Notice**

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- 1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:
    - A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b) ~~of this Section~~, irrespective of whether a separate order for withholding was entered prior to July 1, 1997; and
    - B) The obligor has accrued a delinquency after entry of the most recent order for support.
  - 2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d) ~~of this Section~~, except that the notice shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.
  - 3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c) ~~of this Section~~. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.
- i) Notice to Payor  
Whenever the Department serves an income withholding notice on a payor, notice of the following shall be included in or with the income withholding notice:
- 1) that the payor must begin deducting no later than the next payment of income that is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;
  - 2) that the payor must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would (but for

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the duty to withhold income) have been paid or credited to the obligor;

- 3) that if the payor knowingly fails to withhold the amount designated in the income withholding notice or to pay any amounts withheld to the State Disbursement Unit within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of \$100 for each day that the amount designated in the income withholding notice (whether or not withheld by the payor) is not paid to the State Disbursement Unit after the period of seven business days has expired;
- 4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;
- 5) that for each deduction the payor must provide the State Disbursement Unit at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 6) that for withholding of income, the payor is entitled to a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor;
- 7) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act (15 USC 1601). Income available for withholding shall be applied first to the current support obligation, then to any premium required for employer, labor union, or trade union-related health insurance coverage ordered under the order for support, and then to payment required on past due support obligations. If there is insufficient available income remaining to pay the full amount of the required health insurance premium after withholding of income for the current support obligation, then the remaining available income shall be applied to payments required on past due support obligations;
- 8) require that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;

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- 9) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;
  - 10) that the income withholding notice is binding upon the payor until service of an order of the court or a notice from the Department or Clerk of the Circuit Court;
  - 11) that the payor is subject to a fine of up to \$200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;
  - 12) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;
  - 13) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments; and
  - 14) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.
- j) Notice to Obligor  
When the Department serves a copy of the income withholding notice on the obligor as required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:
- 1) that income withholding has commenced;
  - 2) the information provided to the payor under subsection (i) ~~of this Section~~;
  - 3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h) ~~of this Section~~, as applicable;

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- 4) that at any time the obligor may petition the court to:
    - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or
    - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
    - C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or
    - D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:
      - i) the amount of current support;
      - ii) the amount of the arrearage;
      - iii) the periodic amount for payment of the arrearage; or
      - iv) the periodic amount for payment of the delinquency;
  - 5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days after the change; and
  - 6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed \$200.
- k) Penalties
- In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal

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representatives, may request that the court:

- 1) enter judgment against the payor, or an officer or employee of the payor, as provided by law, and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;
- 2) impose a penalty or fine upon the payor or invoke any other remedy allowed by law.

l) Intergovernmental Income Withholding

Within the timeframes specified in subsections (c)(1) and (d)(1) ~~of this Section~~, and pursuant to the provisions of the Uniform Interstate Family Support Act [750 ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another jurisdiction.

m) Use of National Medical Support Notice to Enforce Health Insurance Coverage

- 1) When an order for support is being enforced by the Department under this Section, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice.
- 2) A National Medical Support Notice shall be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Section, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support shall not prevent immediate service of a National Medical Support Notice by the Department. The Department may serve a National Medical Support Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.
- 3) At the time of service of a National Medical Support Notice on the employer, the Department shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. The Department shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the

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clerk of the circuit court.

- 4) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days after the date the National Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer. Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of the Income Withholding for Support Act, the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Department.
- 5) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Department within 20 business days after the date of the Notice:
  - A) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.
  - B) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.
  - C) Health insurance coverage is not available because the obligor is no longer employed by the employer.

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- 6) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Department within 40 business days after the date of the Notice.
- 7) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Department at the address stated in the National Medical Support Notice. The National Medical Support Notice, including the requirement to withhold any required premium, shall continue to be binding on the employer until the employer is served with a court order resolving the contest or until notified by the Department.
- 8) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Department and shall provide information for the purpose of enforcing health insurance coverage under this Section.
- 9) The Department shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect that the Department is responsible for enforcing.
- 10) Unless stated otherwise in this Section, all of the provisions of this Section relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical Support Notice, including but not limited to, the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50 of the Income Withholding for Support Act. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which a child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the

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severable notice to plan administrator part of the Notice been timely transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Department.

- 11) When the administrator of a health insurance plan returns the severable notice to plan administrator portion of a National Medical Support Notice to the Department indicating that there is more than one option available for coverage of the child under the plan, the Department, within 20 days after the date the portion is returned, shall consult with the obligee, select from the available options, and inform the plan administrator of the option selected.

- n) **Refund of Improperly Withheld Amounts**  
The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.89 Interest**

- a) The Department shall calculate interest on child support judgments, including judgments arising by operation of law from child support orders, by applying one-twelfth of the current statutory interest rate as provided in Section 2-1303 of the Code of Civil Procedure [\[735 ILCS 5\]](#) to the unpaid child support balance as of the end of each calendar month. The unpaid child support balance at the end of the month is the total amount of child support ordered, excluding the child support that was due for that month to the extent that it was not paid in that month and including judgments for retroactive child support, less all payments received and applied as set forth in this Section.
- b) The accrued interest shall not be included in the unpaid child support balance when calculating interest at the end of the month.
- c) The unpaid child support balance as of the end of each month shall be determined by calculating the current monthly child support obligation and applying all payments received for that month, except federal income tax refund intercepts, first to the current monthly child support obligation and then applying any payments in excess of the current monthly child support obligation to the unpaid

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child support balance owed from previous months. The current monthly child support obligation shall be determined from the document that established the support obligation.

- d) Federal income tax refund intercepts and any payments in excess of the current monthly child support obligation shall be applied to the unpaid child support balance. Any payments in excess of the current monthly child support obligation and the unpaid child support balance shall be applied to the accrued interest on the unpaid child support balance. Interest on child support obligations may be collected by any means available under federal and State laws, rules, and regulations providing for the collection of child support.
- e) The provisions of this Section shall also apply to calculation of interest on maintenance and unallocated maintenance and child support judgments arising by operation of law from maintenance and unallocated maintenance and child support orders.
- f) The Department shall provide the obligee a one-time written notice advising the obligee that he or she must notify the Department in writing within 60 days after the date of the notice that he or she wishes to have the Department compute any interest that accrues on a specific docket in his or her case between May 1, 1987 and December 31, 2005. The notice shall further explain that, if the obligee fails to notify the Department within the 60 day period:
  - 1) the Department shall have no further duty to enforce and collect interest accrued on support obligations established under the Illinois Public Aid Code or any other law that are owed to the obligee prior to January 1, 2006; and
  - 2) any interest due on that docket prior to January 1, 2006 may be pursued by the obligee through a court action but not through the Department's IV-D agency.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Section Number: 240.796                      Proposed Action:  
New
- 4) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725]
- 5) A Complete Description of the Subjects and Issues Involved: Implementing administrative rules to regulate the monitoring of Class II UIC wells receiving any Class II Fluids or hydraulic fracturing flowback from wells where high volume horizontal hydraulic fracturing operation were conducted for the purpose of determining whether such Class II UIC wells are contributing to seismic activity. The administrative rules will also regulate when the Department will notify Class II UIC well permittees of induced seismic activity in the area and how to mitigate the operations of Class II UIC wells to reduce future induced seismicity events.
- 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: Public hearings have been scheduled on the following dates at the following locations:

Tuesday, November 26, 2013  
6:30pm-8:30pm

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University of Illinois at Chicago (UIC)  
726 S. Halsted Street, Student Center East, Room 302  
Chicago, IL 60607

Tuesday, December 3, 2013  
6:30pm-8:30pm  
Rend Lake College Theater  
468 North Ken Gray Parkway  
Ina, IL 62846

Note: Information regarding the format of the public hearings can be found at [www.dnr.illinois.gov](http://www.dnr.illinois.gov)

Comments on the proposed rulemaking may be submitted to the Department until Friday, January 3, 2014.

Comments may be submitted in writing, by mail or hand delivery to the following address:

Robert G. Mool  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/782-1809

In addition, comments may be submitted electronically by visiting the Department's web site at [www.dnr.illinois.gov](http://www.dnr.illinois.gov).

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None

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- 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 this rulemaking at the time the agendas were published.

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

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## PART 240

## THE ILLINOIS OIL AND GAS ACT

## SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.130	Hearings – Notices (Repealed)
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.140	Violations Not Requiring Formal Action
240.150	Notice of Violation
240.155	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings and Enforcement Cessation Orders
240.185	Cessation of Oil Production Operations
240.186	Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment
240.190	Temporary Relief Hearings
240.195	Subpoenas

## SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

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Section	
240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill or Operate
240.251	Revocation of Permit to Drill
240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

## SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section	
240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well
240.311	Application for Freshwater Aquifer Exemption
240.312	Freshwater Aquifer Exemptions
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

## SUBPART D: SPACING OF WELLS

Section	
240.400	Definitions

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240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

SUBPART E: WELL DRILLING,  
COMPLETION AND WORKOVER REQUIREMENTS

Section	
240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage
240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING  
REQUIREMENTS FOR PRODUCTION WELLS

Section	
240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and Disposal Wells (Repealed)
240.670	Avoidable Waste of Gas (Repealed)
240.680	Escape of Unburned Gas Prohibited (Repealed)

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SUBPART G: WELL CONSTRUCTION, OPERATING  
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section	
240.700	Applicability and Definitions
240.710	Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells
240.720	Surface and Production Casing Requirements for Conversion to Class II UIC Wells
240.730	Surface and Production Casing Requirements for Existing Class II UIC Wells
240.740	Other Construction Requirements for Class II UIC Wells
240.750	Operating Requirements for Class II UIC Wells
240.760	Establishment of Internal Mechanical Integrity for Class II UIC Wells
240.770	Establishment of External Mechanical Integrity for Class II UIC Wells
240.780	Reporting Requirements for Class II UIC Wells
240.790	Confidentiality of Well Data
240.795	Commercial Saltwater Disposal Well
<u>240.796</u>	<u><a href="#">Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity</a></u>

## SUBPART H: LEASE OPERATING REQUIREMENTS

Section	
240.800	Definitions
240.805	Lease and Well Identification
240.810	Tanks, Tank Batteries and Containment Dikes
240.820	Flowlines
240.830	Power Lines
240.840	Equipment Storage
240.850	Concrete Storage Structures
240.860	Pits
240.861	Existing Pit Exemption For Continued Production Use
240.862	Existing Pit Exemption For Alternative Use
240.870	Leaking Unpermitted Drill Hole
240.875	Leaking Previously Plugged Well
240.880	Initial Spill Notification
240.890	Crude Oil Spill Remediation Requirements
240.891	Crude Oil Spill Waste Disposal and Remediation
240.895	Produced Water Spill Remediation Requirements

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## SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section	
240.900	Definitions
240.905	Application for Permit to Operate a Liquid Oilfield Waste Transportation System
240.906	Application for a Liquid Oilfield Waste Transportation Vehicle Permit
240.910	Inspection of Vehicles (Tanks)
240.920	Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits
240.925	Liquid Oilfield Waste Recordkeeping Requirements
240.926	Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements
240.930	Produced Water
240.940	Crude Oil Bottom Sediments
240.945	Lease Road Oiling
240.950	Crude Oil Spill Waste Disposal (Repealed)
240.960	Oil Field Brine Hauling Permit Conditions (Repealed)
240.970	Inspection of Vehicles (Repealed)
240.980	Transfer of Permits (Repealed)
240.985	Revocation of Oil Field Brine Hauling Permit (Repealed)
240.990	Records and Reporting Requirements (Repealed)
240.995	Bonds – Blanket Surety Bond (Repealed)

## SUBPART J: VACUUM

Section	
240.1000	Definitions
240.1005	Applicability
240.1010	Application for Vacuum Permit
240.1020	Contents of Application
240.1030	Authority of Person Signing Application
240.1040	Notice and Hearing
240.1050	Issuance of Permit
240.1060	Permit Amendments

## SUBPART K: PLUGGING OF WELLS

Section	
240.1105	Plugging of Non-Productive Wells (Repealed)

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240.1110	Definitions
240.1115	Plugging Responsibility
240.1120	Plugging of Uncased Wells
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- 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting Requirements
- 240.1855 Well Drilling Completion and Workover Requirements
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240.1870 Plugging of Gas Storage and Observation Wells

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## Section

240.1900	Applicability
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240.1920	Authority of Person Signing Application
240.1930	Issuance of Permit
240.1940	When Wells Shall Be Plugged and Department Notification
240.1950	Plugging and Restoration Requirements
240.1960	Converting to Water Well

AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. 13281, effective July 26, 2011; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART G: WELL CONSTRUCTION, OPERATING  
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS**Section 240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity**a) Applicability

This Section applies to all Class II UIC disposal wells that inject any Class II fluids or hydraulic fracturing flowback from a high volume horizontal hydraulic fracturing operation permitted by the Department under the Hydraulic Fracturing Regulatory Act [225 ILCS 732]. This Section does not apply to Class II UIC wells used for enhanced oil recovery operations.

b) Definitions

For purposes of this Section, the terms defined in 62 Ill. Adm. Code 245.110 have the same meanings when used in this Section. Additionally, the following terms have the meanings ascribed in this subsection:

"Green Light Alert" means the Department received notice from either USGS or ISGS that there was an earthquake in Illinois with a magnitude less than 3.0.

"Induced Seismicity" means an earthquake event that is felt, recorded by the national seismic network, and attributable to a Class II UIC well used for disposal of flowback and produced fluid from high volume horizontal hydraulic fracturing operations. (Section 1-96(a) of the Hydraulic Fracturing Regulatory Act)

"ISGS" means Illinois State Geological Survey.

"Red Light Alert" means the Department received notice from either USGS or ISGS that there was an earthquake in Illinois or a bordering state with a magnitude of 5.0 or greater.

"USGS" means United States Geological Survey.

"Yellow Light Alert" means the Department received notice from either USGS or ISGS that there was an earthquake in Illinois or a bordering state with a magnitude of at least 3.0, but less than 5.0.

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c) Class II UIC Well Operations

- 1) All Class II UIC wells regulated by this Section shall be equipped with a flow meter capable of monitoring the rate of flow of fluids injected down into the well on a per day basis consistent with the Class II UIC permit issued by the Department.
- 2) All permittees shall record and maintain pressure and flow data for each Class II UIC well on a monthly basis. The report shall include the average and maximum monthly injection rates and pressures. The records shall be submitted to the Department in accordance with Section 240.780(e). The records shall be maintained for at least 5 years and shall be available to the Department for inspection upon request.

d) Induced Seismicity Reporting

- 1) The Department will report any Yellow Light Alert to all Class II UIC well permittees with wells located within a 3 mile radius of the earthquake event's epicenter measured from the surface above the hypocenter. After receiving a Yellow Light Alert, a Class II UIC well permittee has the discretion to operate the permitted well according to the terms of the permit, adjust the operation of the permitted well reducing the volume of fluids injected into the well, and consult with the Department and ISGS about the implications of the Yellow Light Alert as it relates to the operation of the well.
- 2) The Department will report any Red Light Alert to all Class II UIC well permittees with wells located within a 6 mile radius of the earthquake event's epicenter measured from the surface above the hypocenter.

e) Induced Seismicity Cessation Orders

The Department shall issue orders to permittees of Class II UIC wells for the immediate cessation of operations due to conditions that create imminent danger to the health and safety of the public, or significant damage to property, pursuant to Section 19.1 of the Oil and Gas Act and 62 Ill. Adm. Code 246.186, under any of the following conditions:

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- 1) If a particular well regulated by this Section receives a third Yellow Light Alert and within the last year the same permittee received a Notice of Violation for the same well related to flow, pressure or mechanical integrity;
  - 2) If a particular well regulated by this Section receives any number of Yellow Light Alerts and there is confirmed property damage to any building or structure as a result of the earthquake event with a magnitude greater than 4.5. The confirmation can be performed by personnel from the Department or personnel from any local, state or federal agency;
  - 3) If a particular well regulated by this Section receives a fifth Yellow Light Alert; or
  - 4) If a particular well regulated by this Section receives a Red Light Alert and is within 3 miles of the epicenter of the earthquake event measured from the surface above the hypocenter.
- f) The Department has discretion to issue cessation orders to permittees with wells regulated by this Section within 6 miles of any earthquake epicenter, when necessary, if, after consultation with ISGS, induced seismicity conditions warrant cessation.
- g) Induced Seismicity Mitigation Requirements
- 1) After receiving a cessation order, in addition to the requirements of the order, the permittee shall schedule a meeting with the Department and representatives of ISGS at the Department's Headquarters, One Natural Resources Way, Springfield, Illinois, to be held within 30 calendar days after issuance of the order and before the cessation order hearing. Once scheduled, the permittee shall confirm the meeting in writing to both the Department and ISGS and provide the last 6 months of well data required in subsection (c)(2) to help facilitate the meeting. The purpose of the meeting will be to determine possible ways to mitigate induced seismicity events near the permitted well.
  - 2) If the permittee and Department, in consultation with ISGS, reach agreement on how to test induced seismicity mitigation, the Department

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shall present the agreement as a settlement before the Hearing Officer for the cessation order hearing (see Section 240.186(d)).

- h) Enforcement  
Penalties for administrative and operating violations are specified in Section 240.160(c). Violations under this Section are classified as administrative or operating, as follows:
- 1) Failure to comply with any portion of subsection (c)(2) related to records is an administrative violation.
  - 2) Failure to schedule and attend a meeting within 30 days after the issuance of a cessation order is an administrative violation.
  - 3) Failure to install a flow meter, or maintain a flow meter in operating condition, is an operating violation.
  - 4) Failure to cease operations after a cessation order is issued by the Department is an operating violation.
  - 5) Failure to comply with an induced seismicity mitigation agreement is an operating violation.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Hydraulic Fracturing Regulatory Act
- 2) Code Citation: 62 Ill. Adm. Code 245
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
245.100	New
245.110	New
245.115	New
245.120	New
245.200	New
245.210	New
245.220	New
245.230	New
245.240	New
245.250	New
245.260	New
245.270	New
245.300	New
245.310	New
245.320	New
245.330	New
245.340	New
245.350	New
245.360	New
245.400	New
245.410	New
245.500	New
245.510	New
245.520	New
245.530	New
245.540	New
245.550	New
245.560	New
245.570	New
245.580	New
245.600	New
245.610	New
245.615	New
245.620	New

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245.630	New
245.700	New
245.710	New
245.715	New
245.720	New
245.730	New
245.800	New
245.805	New
245.810	New
245.815	New
245.820	New
245.825	New
245.830	New
245.835	New
245.840	New
245.845	New
245.850	New
245.855	New
245.860	New
245.870	New
245.900	New
245.910	New
245.920	New
245.930	New
245.940	New
245.1000	New
245.1010	New
245.1020	New
245.1030	New
245.1100	New
245.1110	New
245.1120	New
245.1130	New
245.1140	New
245.1200	New

- 4) Statutory Authority: Implementing and authorized by the Hydraulic Fracturing Regulatory Act [225 ILCS 732]

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- 5) A Complete Description of the Subjects and Issues Involved: Implementing administrative rules to regulate the permitting, drilling, construction, operation, and plugging of wells and the restoration of well sites where high volume horizontal hydraulic fracturing operations are conducted.
- 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: Public hearings have been scheduled on the following dates at the following locations:

Tuesday, November 26, 2013  
6:30pm-8:30pm  
University of Illinois at Chicago (UIC)  
726 S. Halsted Street, Student Center East, Room 302  
Chicago IL 60607

Tuesday, December 3, 2013  
6:30pm-8:30pm  
Rend Lake College Theater  
468 North Ken Gray Parkway  
Ina IL 62846

Note: Information regarding the format of the public hearings can be found at [www.dnr.illinois.gov](http://www.dnr.illinois.gov)

Comments on the proposed rulemaking may be submitted to the Department until Friday,

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January 3, 2014.

Comments may be submitted in writing, by mail or hand delivery to the following address:

Robert G. Mool  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/782-1809

In addition, comments may be submitted electronically by visiting the Department's web site at [www.dnr.illinois.gov](http://www.dnr.illinois.gov).

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

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

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NOTICE OF PROPOSED RULES

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 245

HYDRAULIC FRACTURING REGULATORY ACT

SUBPART A: GENERAL PROVISIONS

Section

- 245.100 Applicability
- 245.110 Definitions
- 245.115 Incorporated Materials
- 245.120 Permit Requirements

SUBPART B: REGISTRATION AND PERMITTING PROCEDURES

Section

- 245.200 Registration Procedures
- 245.210 Permit Application Requirements
- 245.220 Permit Bonds or Other Collateral Securities
- 245.230 Permit Application Receipt and Department Review
- 245.240 Public and Governmental Notice by the Department
- 245.250 Public and Governmental Notice by the Permit Applicant
- 245.260 Public Comment Periods
- 245.270 Public Hearings

SUBPART C: PERMIT DECISIONS

Section

- 245.300 Permit Decision
- 245.310 Permit Denial
- 245.320 Permit Conditions
- 245.330 Permit Modifications
- 245.340 Permit Transfers
- 245.350 Permit Release
- 245.360 Judicial Review

SUBPART D: WELL SITE PREPARATION

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Section

- 245.400 Setback Requirements
- 245.410 Access Roads, Public Roads and Topsoil Conditions

SUBPART E: WELL CONSTRUCTION

Section

- 245.500 General Conditions and Requirements
- 245.510 Well Drilling, Storage and Disposal of Drilling Waste
- 245.520 Cement Requirements
- 245.530 Surface Casing Requirements
- 245.540 Establishment of Internal Mechanical Integrity
- 245.550 Installation and Testing of Blowout Prevention Equipment
- 245.560 Intermediate Casing Requirements
- 245.570 Production Casing Requirements
- 245.580 Establishment of Formation Integrity

SUBPART F: WATER QUALITY

Section

- 245.600 Water Quality Monitoring
- 245.610 Water Pollution Investigations
- 245.615 Procedures
- 245.620 Rebuttable Presumption of Pollution or Diminution
- 245.630 Prohibitions

SUBPART G: CHEMICAL DISCLOSURE; TRADE SECRETS

Section

- 245.700 Chemical Disclosure by Permittee
- 245.710 Chemical Disclosure by Contractor
- 245.715 Chemical Use Prohibitions
- 245.720 Department Publication of Chemical Disclosures and Claims of Trade Secret
- 245.730 Trade Secret Disclosure to Health Professional

SUBPART H: HIGH VOLUME HORIZONTAL HYDRAULIC  
FRACTURING PREPARATIONS AND OPERATIONS

Section

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245.800	General Conditions and Requirements
245.805	Hydraulic Fracturing String Requirements and Pressure Testing
245.810	Surface Equipment Pressure Testing
245.815	Notice and Approval Before Commencement of High Volume Horizontal Hydraulic Fracturing Operations
245.820	Secondary Containment Inspections
245.825	General Fluid Storage
245.830	Reserve Pits
245.835	Mechanical Integrity Monitoring
245.840	Hydraulic Fracturing Fluid and Flowback Confinement
245.845	Management of Gas and Produced Hydrocarbons During Flowback
245.850	Hydraulic Fracturing Fluid and Hydraulic Fracturing Flowback Storage, Disposal or Recycling, Transportation and Reporting Requirements
245.855	Spills and Remediation
245.860	High Volume Horizontal Hydraulic Fracturing Operations Completion Report
245.870	Use of Diesel in High Volume Horizontal Hydraulic Fracturing Operations Prohibited

SUBPART I: HIGH VOLUME HORIZONTAL  
HYDRAULIC FRACTURING PRODUCTION

Section	
245.900	Managing Natural Gas and Hydrocarbon Fluids During Production
245.910	Uncontrolled Emissions from Storage Tanks Containing Natural Gas and Hydrocarbon Fluids
245.920	Flaring Waiver
245.930	Annual Flaring Reports
245.940	Produced Water Disposal or Recycling, Transportation and Reporting Requirements

## SUBPART J: PLUGGING AND RESTORATION

Section	
245.1000	Plugging and Restoration Requirements
245.1010	Plugging Previously Abandoned Unplugged or Insufficiently Plugged Wells
245.1020	Restoration of Lands Other than the Well Site and Production Facility
245.1030	Restoration of the Well Site and Production Facility

## SUBPART K: ENFORCEMENT

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## Section

245.1100	Suspension, Revocation, Remediation and Administrative Penalties
245.1110	Notice of Violation
245.1120	Director's Decision
245.1130	Director's Decision Hearings
245.1140	Alternative Enforcement

SUBPART L: MEDIUM VOLUME HORIZONTAL HYDRAULIC  
FRACTURING OPERATIONS COMPLETION REPORTS

## Section

245.1200	Medium Volume Horizontal Hydraulic Fracturing Completion Reports
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AUTHORITY: Implementing and authorized by the Hydraulic Fracturing Regulatory Act [225 ILCS 732].

SOURCE: Adopted at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 245.100 Applicability**

- a) **High Volume Horizontal Hydraulic Fracturing Operations**  
This Part applies to all horizontal wells in which any single stage of a stimulation treatment using more than 80,000 gallons, or in which the total amount of all stages of stimulation treatment using more than 300,000 gallons, in the pressurized application of hydraulic fracturing fluid to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas *are planned, have occurred since June 17, 2013, or are occurring in this State* (Section 1-20 of the Act).
- b) **Medium Volume Horizontal Hydraulic Fracturing Operations**  
Subpart L applies to all *horizontal wells* in which the total amount of *all stages of stimulation treatment using more than 80,000 gallons but less than 300,001 gallons* in the pressurized application of hydraulic fracturing fluid to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas are planned, have occurred since June 17, 2013, or are occurring in this State (Section 1-98 of the Act).

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- c) *The provisions of this Part shall be in addition to the provisions of the Illinois Oil and Gas Act [225 ILCS 725] and the rules adopted under that Act (62 Ill. Adm. Code 240). However, if there is a conflict between the provisions of the Illinois Oil and Gas Act and the rules enacted pursuant thereto, the provisions of the Act and this Part shall prevail. (Section 1-20 of the Act)*

**Section 245.110 Definitions**

*For the purposes of this Part, unless the context otherwise requires:*

"Act" means the Hydraulic Fracturing Regulatory Act [225 ILCS 732].

"Affected patient" means a person receiving health care services from a health professional for an illness or injury diagnosed by the health professional to be caused by exposure to any chemicals used in high volume horizontal hydraulic fracturing operations that are subject to a claim of trade secret by a permittee or contractor.

"Agency" means the Illinois Environmental Protection Agency. (Section 1-5 of the Act)

"API" means the American Petroleum Institute, which is a national trade association that develops and publishes equipment and operating standards for the oil and natural gas industry.

"Applicant" means any person registered with the Department pursuant to Section 245.200 of this Part that has filed an application in accordance with this Part.

"Application" means a filing by an applicant to the Department seeking a high volume horizontal hydraulic fracturing permit pursuant to Section 245.210 or a modification pursuant to Section 245.330 of this Part.

"Aquatic life" means all fish, reptiles, amphibians, crayfish, and mussels. (Section 1-5 of the Act)

"Aquifer" means saturated (with groundwater) soils and geologic materials that are sufficiently permeable to readily yield economically useful quantities (at least 70 gallons per minute) of fresh water to wells, springs, or streams under ordinary

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*hydraulic gradients. "Aquifer" is limited to aquifers identified as major sand and gravel aquifers in the Illinois State Water Survey's Illinois Community Water Supply Wells map (Map Series 2006-01). (Section 1-5 of the Act)*

*"Base fluid" means the continuous phase fluid type, including, but not limited to, water or nitrogen gas used in a high volume horizontal hydraulic fracturing operation. (Section 1-5 of the Act)*

*"BTEX" means benzene, toluene, ethylbenzene, and xylene. (Section 1-5 of the Act)*

*"Chemical" means any element, chemical compound, or mixture of elements or compounds that has its own specific name or identity, such as a Chemical Abstracts Service number, regardless of whether the chemical is subject to the requirements of 29 CFR 1910.1200(g)(2). (Section 1-5 of the Act)*

*"Chemical Abstracts Service" means the division of the American Chemical Society that is the globally recognized authority for information on chemical substances. (Section 1-5 of the Act)*

*"Chemical Abstracts Service number" or "CAS number" means the unique identification number assigned to a chemical by the Chemical Abstracts Service. (Section 1-5 of the Act)*

*"Completion combustion device" means any ignition device, installed horizontally or vertically, used in exploration and production operations to combust otherwise vented emissions. (Section 1-5 of the Act)*

*"Delineation well" means a well drilled in order to determine the boundary of a field or producing reservoir. (Section 1-5 of the Act)*

*"Department" or "IDNR" means the Illinois Department of Natural Resources. (Section 1-5 of the Act)*

*"Diesel" means a substance having any one of the following Chemical Abstracts Service Registry numbers: 68334-30-5; 68476-34-6; 68476-30-2; 68476-31-3; 8008-20-6; or 68410-00-4. "Diesel" includes any additional substances regulated by the United States Environmental Protection Agency as diesel fuel*

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*used in hydraulic fracturing activities under the federal Safe Drinking Water Act (42 USC 300f et seq.). (Section 1-5 of the Act)*

*"Director" means the Director of the Illinois Department of Natural Resources or his or her designee. (Section 1-5 of the Act)*

*"Enhanced oil recovery operation" means any secondary or tertiary recovery method used in an effort to recover hydrocarbons from a pool by injection of fluids, gases or other substances to maintain, restore, or augment natural reservoir energy, or by introducing gases, chemicals, other substances, or heat, or by in-situ combustion, or by any combination thereof. (Section 1-5 of the Act)*

*"Flare" means a thermal oxidation system using an open, enclosed, or semi-enclosed flame. "Flare" does not include completion combustion devices as defined in this Section. (Section 1-5 of the Act)*

*"Flowback period" means the period of time when hydraulic fracturing fluid flows back to the surface from a well following a stimulation treatment, either in preparation for a subsequent phase of stimulation treatment or in preparation for cleanup and placing the well into production. "Flowback period" begins when the hydraulic fracturing fluid returns to the surface following a stimulation treatment. "Flowback period" ends with either the well shut in, or when the well is producing continuously to the flow line or to a storage vessel for collection, whichever occurs first. (Section 1-5 of the Act)*

*"Fresh water" means surface and subsurface water in its natural state that is suitable for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, that is capable of supporting aquatic life, and contains less than 10,000 ppm total dissolved solids. (Section 1-5 of the Act)*

*"Gas" means all natural gas, including casinghead gas, and all other natural hydrocarbons not defined as oil. (Section 1-5 of the Act)*

*"GPS" means Global Positioning System.*

*"Groundwater" means any water below the land surface that is within the saturated zone or geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 1-5 of the Act)*

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*"Health care services" means any services included in the furnishing to any individual of medical care, or the hospitalization incident to the furnishing of such care, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury, including home health and pharmaceutical services and products. [215 ILCS 134/10]*

*"Health professional" means a physician, physician assistant, nurse practitioner, registered professional nurse, emergency medical technician, or other individual appropriately licensed or registered to provide health care services. (Section 1-5 of the Act)*

*"Hearing officer" means the presiding officer at the public hearing and other hearings referenced in this Part. The term also includes administrative law judge.*

*"High volume horizontal hydraulic fracturing operations" means all stages of a stimulation treatment of a horizontal well by the pressurized application of more than 80,000 gallons in any single stage or more than 300,000 gallons in total of hydraulic fracturing fluid to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas. (Section 1-5 of the Act)*

*"High volume horizontal hydraulic fracturing permit" means the permit issued by the Department allowing high volume horizontal hydraulic fracturing operations to occur at a well site. (Section 1-5 of the Act)*

*"High volume horizontal hydraulic fracturing treatment" shall have the same definition as "High volume horizontal hydraulic fracturing operations".*

*"Horizontal well" means a well with a wellbore drilled laterally at an angle of at least 80 degrees to the vertical and with a horizontal projection exceeding 100 feet measured from the initial point of penetration into the potential productive formation through the terminus of the lateral in the same common source of hydrocarbon supply. (Section 1-5 of the Act)*

*"Hydraulic fracturing" means the pressurized application of hydraulic fracturing fluid to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas.*

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*"Hydraulic fracturing additive" means any chemical substance or combination of chemicals, including, but not limited to, any chemical or proppant that is added to a base fluid for the purposes of preparing a hydraulic fracturing fluid for a high volume horizontal hydraulic fracturing operation. (Section 1-5 of the Act)*

*"Hydraulic fracturing flowback" means all hydraulic fracturing fluid and other fluids or materials that return to the surface after a stage of hydraulic fracturing has been completed and prior to the well being placed in production. (Section 1-5 of the Act)*

*"Hydraulic fracturing fluid" means the mixture of the base fluid and all the hydraulic fracturing additives, used to perform hydraulic fracturing. (Section 1-5 of the Act)*

*"Hydraulic fracturing string" means any pipe or casing string used for the transport of hydraulic fracturing fluids during high volume horizontal hydraulic fracturing operations. (Section 1-5 of the Act)*

"IEMA" means the Illinois Emergency Management Agency.

"Inspector" means a well inspector from the Department's Office of Oil and Gas Resource Management.

*"Intake" means a pipe or other means to withdraw raw water from a water source. (Section 1-5 of the Act)*

*"Landowner" means the legal title holder or owner of real property and includes an owner of an undivided interest, a life tenant, a remainderman, a public or private corporation, a trustee under an active trust, and the holder of the beneficial interest under a land trust. "Landowner" does not include a mortgagee, a trustee under a trust deed in the nature of a mortgage, a lien holder, or a lessee. (Section 1-5 of the Act)*

*"Low pressure well" means a well with reservoir pressure and vertical well depth such that 0.445 times the reservoir pressure (in psia) minus 0.038 times the vertical well depth (in feet) minus 67.578 psia is less than the flow line pressure at the sales meter. (Section 1-5 of the Act)*

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"Material Safety Data Sheet" or "MSDS" means a document provided by chemical or industrial manufacturers that contains information on chemicals. An MSDS includes: nature of the chemical, precautions to take in using the chemical, conditions of safe use, clean-up procedure for a release, and recommended disposal procedures.

"Medium volume hydraulic fracturing operations" means a stimulation treatment of a horizontal well by the pressurized application of more than 80,000 gallons but less than 300,001 gallons in total of hydraulic fracturing fluid to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas.

*"Nature preserve" shall have the same meaning as provided in Section 3.11 of the Illinois Natural Areas Preservation Act [525 ILCS 30/3.11]. (Section 1-5 of the Act)*

*"Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of specific gravity, which are produced at the well in liquid form by ordinary production methods or by the use of an oil and gas separator and which are not the result of condensation of gas after it leaves the underground reservoir. (Section 1-5 of the Act)*

*"Operator" means the individual or entity controlling the right to drill or produce a horizontal well in accordance with the requirements of the Illinois Oil and Gas Act. (Section 1-5 of the Act)*

"Ordinary high water mark" means the boundary of a water source delineated by the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. For:

rivers, the ordinary high water mark is the elevation of the top of the bank of the channel; and

natural or artificial lakes, ponds or reservoirs, the ordinary high water mark is the operating elevation of the normal operating pool.

*"Owner" shall have the same meaning as provided in Section 1 of the Illinois Oil and Gas Act. (Section 1-5 of the Act)*

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*"Perennial stream" means a stream that has continuous flow in its stream bed during all of the calendar year. (Section 1-5 of the Act)*

*"Permit" means a high volume horizontal hydraulic fracturing permit issued under the Act and this Part. (Section 1-5 of the Act)*

*"Permittee" means a person holding a high volume horizontal hydraulic fracturing permit under the Act and this Part. (Section 1-5 of the Act)*

*"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or its legal representative, agent, or assigns. (Section 1-5 of the Act)*

*"Pollution or diminution" means:*

*in groundwater, any of the following:*

*detection of benzene or any other carcinogen in any Class I, Class II, or Class III groundwater;*

*detection of any constituent in 35 Ill. Adm. Code 620.310(a)(3)(A)(i) equal to or above the listed preventive response criteria in any Class I, Class II, or Class III groundwater;*

*detection of any constituent in 35 Ill. Adm. Code 620.410(a), (b), (c), (d), (e), or (f) equal to or above the listed standard in any Class I, Class II, or Class III groundwater;*

*detection of any constituent in Class III groundwater equal to or above a standard established under 35 Ill. Adm. Code 620.260; or*

*detection of any constituent in Class I, Class II, or Class III groundwater equal to or above a cleanup objective listed in 35 Ill. Adm. Code 742.*

*in surface water, exceeding any applicable numeric or narrative standard in 35 Ill. Adm. Code 302 or 304. (Section 1-5 of the Act)*

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*"Produced water" means water, regardless of chloride and total dissolved solids content, that is produced from a well in conjunction with oil or natural gas production or natural gas storage operations, but does not include hydraulic fracturing flowback. (Section 1-5 of the Act)*

*"Proppant" means sand or any natural or man-made material that is used during high volume horizontal hydraulic fracturing operations to prop open the artificially created or enhanced fractures. (Section 1-5 of the Act)*

*"Public water supply" means all mains, pipes, and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, and storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use, and which serves at least 15 service connections or which regularly serves at least 25 persons at least 60 days per year. (Section 1-5 of the Act)*

"Real property" means the surface, subsurface or mineral rights of land.

"Real property interest" means ownership in the surface, subsurface or mineral rights of land.

"Real property surface interest" means ownership in only the surface rights of land.

"Recycled water" means water in hydraulic fracturing flow back from a hydraulic fracturing operation or produced water that is physically or chemically treated for use as the base fluid or a component of hydraulic fracturing fluid.

*"Register of Land and Water Reserves" means the list of areas registered in accordance with Section 16 of the Illinois Natural Areas Preservation Act and 17 Ill. Adm. Code 4010. (Section 1-5 of the Act)*

"Registrant" means any person that registers with the Department to apply for high volume horizontal hydraulic fracturing permits pursuant to Section 245.200 of this Part.

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*"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. (Section 1-5 of the Act)*

*"Serious violation" means any violation set forth in 62 Ill. Adm. Code 240.140(c). (Section 1-5 of the Act)*

*"Service connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user. (Section 1-5 of the Act)*

*"Stimulation treatment" shall have the same definition as "hydraulic fracturing".*

*"Surface water" means all water that is open to the atmosphere and subject to surface runoff. (Section 1-5 of the Act)*

*"Total water volume" means the total quantity of water from all sources used in the high volume horizontal hydraulic fracturing operations, including surface water, groundwater, produced water, or recycled water. (Section 1-5 of the Act)*

*"True vertical depth" or "TVD" means the vertical distance from a depth in a planned or existing wellbore or well to a point at the surface. (Section 1-5 of the Act)*

*"Water pollution" means any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the State, or the discharge of any contaminant into any water of the State, as will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, or fish or other aquatic life. (Section 1-5 of the Act)*

*"Water source" means:*

*any existing water well or developed spring used for human or domestic animal consumption; or*

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*any river, perennial stream, aquifer, natural or artificial lake, pond, wetland listed on the Register of Land and Water Reserves, or reservoir.*  
(Section 1-5 of the Act)

*"Well" means the entire length of any drill hole, including all horizontal well bores, required to be permitted under the Illinois Oil and Gas Act.* (Section 1-5 of the Act)

*"Well site" means surface areas, including the surface location of the well, occupied by all equipment or facilities necessary for, or incidental to, high volume horizontal hydraulic fracturing operations, construction, drilling, production, or plugging a well.* (Section 1-5 of the Act)

*"Wildcat well" means a well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists.* (Section 1-5 of the Act)

*"Wildlife" means any bird or mammal that is by nature wild by way of distinction from those that are naturally tame and are ordinarily living unconfined in a state of nature without the care of man.* (Section 1-5 of the Act)

**Section 245.115 Incorporated Materials**

- a) The following documents are incorporated or referenced in various Sections of this Part:
  - 1) ANSI/API Specification 10A, Specification for Cements and Materials for Well Cementing, December 2010 (API Spec 10A)
  - 2) API Specification 5CT, Specification for Casing and Tubing, July 2011 (API Spec 5CT)
  - 3) ANSI/API Recommended Practice 5A3, Recommended Practice on Thread Compounds for Casing, Tubing, Line Pipe, and Drill Stem Elements, November 2009 (API RP 5A3)
  - 4) ANSI/API Specification 10D, Specification for Bow-String Casing Centralizers, September 2002, Reaffirmed August 2010 (API Spec 10D)

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- 5) API Technical Report 10TR4, Selection of Centralizers for Primary Cementing Operations, May 2008 (API Spec 10TR4)
  - 6) ANSI/API Recommended Practice 10D-2, Recommended Practice for Centralizer Placement and Stop-collar Testing, August 2004, Reaffirmed July 2010 (API RP 10D-2)
  - 7) API Specification 16D, Specification for Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment, July 2004, 2-Year Extension May 2010 (API Spec 16D)
- b) All incorporations by reference in this Part refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.
  - c) All materials incorporated by reference are available for inspection and copying at the Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271.

**Section 245.120 Permit Requirements**

- a) *A person may not conduct high volume horizontal hydraulic fracturing operations, drill, deepen, convert a horizontal well in this State where high volume horizontal hydraulic fracturing operations are planned or occurring, or convert a vertical well into a horizontal well where high volume horizontal hydraulic fracturing operations are planned in this State, unless the person is registered with the Department, has been issued a permit by the Department under this Part, and has obtained all applicable authorizations required by the Illinois Oil and Gas Act (Section 1-30(a) of the Act).*
- b) *If multiple wells are to be stimulated using high volume horizontal hydraulic fracturing operations from a single well site, then a separate permit shall be obtained for each well at the well site. (Section 1-30(b) of the Act)*
- c) A permittee may not conduct high volume horizontal hydraulic fracturing operations that deviate from the terms of the permit, unless the permittee obtains a modification of the permit under Section 245.330.

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- d) A person may not operate a well where high volume horizontal hydraulic fracturing operations were previously permitted or conducted pursuant to a permit issued to another, unless the person is registered with the Department and obtains a transfer of the permit under Section 245.350.

## SUBPART B: REGISTRATION AND PERMITTING PROCEDURES

**Section 245.200 Registration Procedures**

- a) *Every applicant for a permit under this Part shall first register with the Department at least 30 days before applying for a permit, using a registration form provided by the Department. (Section 1-35(a) of the Act)*
- b) *The registration form:*
- 1) *shall require the following information (Section 1-35(a) of the Act):*
    - A) *the name and address of the registrant, the registrant's legal status (individual, partnership, corporation or other), and the name, address and legal status of any parent, subsidiary, or affiliate of the registrant (Section 1-35(a)(1) of the Act);*
    - B) *disclosure of all findings of a serious violation or an equivalent violation under federal, Illinois or other state laws or regulations in the development or operation of an oil or gas exploration or production site via hydraulic fracturing by the registrant or any parent, subsidiary, or affiliate of the registrant within the previous 5 years (Section 1-35(a)(2) of the Act);*
    - C) *proof of insurance to cover injuries, damages, or loss related to pollution in the amount of at least \$5,000,000 per occurrence, from an insurance carrier authorized, licensed, or permitted to do this insurance business in this State that holds at least an A- rating by A.M. Best & Co. or any comparable rating service (Section 1-35(a)(3) of the Act).*
  - 2) shall be signed by the registrant or the registrant's designee who has been vested with the authority to act on behalf of the registrant. The signature of the registrant or the registrant's designee constitutes a certificate that the

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registrant has read the registration form and that, to the best of the registrant's knowledge, information and belief, the information set forth in the form is true and accurate.

- c) The registration form shall be submitted to the Department electronically via the Department's website or mailed to Office of Oil and Gas Resource Management, at One Natural Resources Way, Springfield IL 62702.
- d) Within 21 days after the receipt of a registration form, if the Department determines that the registration form is compliant with the requirements of subsection (b) and the person submitting the registration form is properly registered as a permittee under the Illinois Oil and Gas Act, then the registration form shall be accepted and the Department will provide the registrant with:
  - 1) a statement that the registrant is registered with the Department for purposes of applying for high volume horizontal hydraulic fracturing permits pursuant to this Part;
  - 2) the date the registration was accepted; and
  - 3) a high volume horizontal hydraulic fracturing registration number to be used when applying for high volume horizontal hydraulic fracturing permits pursuant to this Part.
- e) Within 21 days after receipt of a registration form, if the Department determines that the registration form is deficient relative to the requirements of subsection (b), or the person submitting the registration form is not properly registered as a permittee under the Illinois Oil and Gas Act, then the registration shall not be accepted and the Department will notify the registrant with a statement of the deficiencies. The registrant shall not be considered registered for purposes of applying for high volume horizontal hydraulic fracturing permits pursuant to this Section until the deficiencies have been cured, the registration form resubmitted and a Department determination pursuant to subsection (d) has been made.
- f) *A registrant must* keep its registration current at all times while it holds a permit issued under this Part by notifying *the Department of any change in the information identified in subsection (b)* within 60 days after the change. (Section 1-35(a)(3) of the Act)

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- g) All registrants shall resubmit the registration form pursuant to subsections (b) and (c) beginning September 1, 2016 and by September 1 of every even numbered year thereafter.

**Section 245.210 Permit Application Requirements**

- a) *Every applicant for a permit under this Part must submit the following information to the Department on an application form provided by the Department (Section 1-35(b) of the Act):*
- 1) **Applicant Information**  
*The name, email address, and address of the applicant, the name and address of any parent, subsidiary, or affiliate of the applicant, and the applicant's high volume horizontal hydraulic fracturing registration number (Section 1-35(b)(1) of the Act);*
  - 2) **Well Location**  
*The proposed well name, well location, and legal description per the Public Land Survey System of the well, well site, and its unit area (Section 1-35(b)(1) of the Act). The well location shall be surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer and the description of the surveyed well location shall also include the legal description, the GPS latitude and longitude location, and ground elevation of the well. The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement;*
  - 3) **Well Site Setback Plan**  
*A statement whether the proposed location of the well site is in compliance with the setback requirements of Section 245.400 and a plat map, which shows the proposed surface location of the well site, providing the distance in feet from the surface location of the well site to the features described in Section 245.400(a) (Section 1-35(b)(3) of the Act) and a statement explaining how the size of the well site is sufficient to conduct all aspects of high volume horizontal hydraulic fracturing operations within its boundaries;*

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- 4) **Directional Drilling Plan**  
*A detailed description of the directional drilling plan for the proposed well to be used for the high volume horizontal hydraulic fracturing operations, including, but not limited to, the following information (Section 1-35(b)(4) of the Act):*
- A) *the approximate total true vertical and measured depth to which the well is to be drilled or deepened (Section 1-35(b)(4)(A) of the Act);*
  - B) *the proposed angle and direction (heading) of the well (Section 1-35(b)(4)(B) of the Act);*
  - C) *the actual depth or the approximate depth at which the well to be drilled deviates from vertical (Section 1-35(b)(4)(C) of the Act);*
  - D) *the planned depth at which the well enters the formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations;*
  - E) *the angle and direction of any nonvertical portion of the well until the well reaches its total target depth or its actual final depth (Section 1-35(b)(4)(D) of the Act) ;*
  - F) *the planned horizontal deviation and direction (heading) of the proposed horizontal portion of the well (Section 1-35(b)(4)(E) of the Act); and*
  - G) *the planned bottom hole location of the well;*
- 5) **Underground Fresh Water Information**  
*The estimated depth and elevation, according to the most recent publication of the Illinois State Geological Survey of Groundwater for the location of the well or any other relevant information known to the applicant, of the lowest potential fresh water along the entire length of the proposed well (Section 1-35(b)(5) of the Act);*
- 6) **High Volume Horizontal Hydraulic Fracturing Operations Plan**

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*A detailed description of the proposed high volume horizontal hydraulic fracturing operations, including, but not limited to, the following (Section 1-35(b)(6) of the Act):*

- A) *the formations affected by the high volume horizontal hydraulic fracturing operations, including, but not limited to, geologic name and geologic description of the formations that will be stimulated by the operation (Section 1-35(b)(6)(A) of the Act), and a description of the confining zone and the formations constituting or contributing to that zone, including, but not limited to, a description of the lithology, extent, thickness, permeability, porosity, transmissive faults, fractures, water or water source content, and susceptibility to vertical propagation of fractures, of the confining formations, if known after reasonable inquiry;*
  - B) *the anticipated surface treating pressure range (Section 1-35(b)(6)(B) of the Act);*
  - C) *the maximum anticipated injection treating pressure (Section 1-35(b)(6)(C) of the Act);*
  - D) *the estimated or calculated fracture pressure of the producing and confining zones (Section 1-35(b)(6)(D) of the Act);*
  - E) *the planned depth of all proposed perforations or depth to the top of the open hole section (Section 1-35(b)(6)(E) of the Act); and*
  - F) *the anticipated type, source and volume of the base fluid anticipated to be used in the high volume horizontal hydraulic fracturing treatment;*
- 7) Scaled Plat Maps, Diagrams or Cross-sections
- A) *A scaled plat map showing the well location and all known previous well bores within 750 feet of any part of the horizontal well bore that penetrated within 400 vertical feet of the formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations (Section 1-35(b)(7) of the Act). If the well bores are present, then also include the following*

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information for each well bore: well name, location and permit number;

- B) a scaled map showing the proposed unit, including the unit boundaries and the location of the proposed well, well pad, well site, access road and any other operating facilities;
  - C) a scaled top-view diagram showing the well location, direction of drilling below the surface entry point into the formation to be stimulated, and total depth. Also indicate the location at the surface of all known previous well bores that penetrated within 400 feet of the formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations; and
  - D) a scaled cross-section of the well bore from the surface through total depth, providing the information required in subsections (a)(4) and (a)(5), and showing the formations to be stimulated as described in subsection (a)(6)(A);
- 8) Chemical Disclosure Report
- Unless the applicant documents to the Department's satisfaction why the information is not available at the time the application is submitted (in which case the applicant shall comply with Sections 245.700 and 245.720), a chemical disclosure report identifying each chemical and proppant anticipated to be used in hydraulic fracturing fluid for each stage of the high volume horizontal hydraulic fracturing operations, including the following (Section 1-35(b)(8) of the Act):*
- A) *for each stage, the total volume of water anticipated to be used in the high volume horizontal hydraulic fracturing treatment of the well or the type and total volume of the base fluid anticipated to be used in the high volume horizontal hydraulic fracturing treatment, if something other than water (Section 1-35(b)(8)(A) of the Act);*
  - B) *each hydraulic fracturing additive anticipated to be used in the hydraulic fracturing fluid, including the trade name, vendor, a brief descriptor of the intended use or function of each hydraulic fracturing additive, and the Material Safety Data Sheet (MSDS), if applicable (Section 1-35(b)(8)(B) of the Act);*

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- C) *each chemical anticipated to be intentionally added to the base fluid, including, for each chemical, the Chemical Abstracts Service number, if applicable* (Section 1-35(b)(8)(C) of the Act); *and*
  - D) *the anticipated concentration in the base fluid, in percent by mass, of each chemical to be intentionally added to the base fluid* (Section 1-35(b)(8)(D) of the Act);
- 9) **Water Use Self-Certification**  
*A self-certification explaining the applicant's compliance with the Water Use Act of 1983 [525 ILCS 45] and applicable regional water supply plans* (Section 1-35(b)(9) of the Act);
- 10) **Water Source Management Plan**
- A) If fresh water is anticipated to be used in the high volume horizontal hydraulic fracturing treatment, *a water source management plan that shall include the following information* (Section 1-35(b)(10) of the Act):
    - i) *the name and location (county, latitude, longitude) of the source of the fresh water, such as surface or groundwater, anticipated to be used for water withdrawals, and the anticipated withdrawal location* (Section 1-35(b)(10)(A) of the Act);
    - ii) *the anticipated volume and rate of each fresh water withdrawal from each withdrawal location* (Section 1-35(b)(10)(B) of the Act);
    - iii) *the anticipated months when fresh water withdrawals shall be made from each withdrawal location* (Section 1-35(b)(10)(C) of the Act);
    - iv) *the methods to be used to minimize fresh water withdrawals as much as feasible* (Section 1-35(b)(10)(D) of the Act); *and*

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- v) *the methods to be used for surface water withdrawals to minimize adverse impact to aquatic life* (Section 1-35(b)(10)(E) of the Act);
- B) *Where a surface water source is wholly contained within a single property, and the landowner of the property expressly agrees in writing to its use for fresh water withdrawals, the applicant is not required to include this surface water source in the fresh water withdrawal and management plan* (Section 1-35(b)(10) of the Act). For this exception to apply, the water use agreement with the landowner of the property must be provided with the permit application. Any confidential provisions of a water use agreement may be redacted by the applicant;
- C) If recycled water is anticipated to be used in the high volume horizontal hydraulic fracturing treatment, describe the source of the recycled water and the anticipated volume to be used; and
- D) If water other than fresh water or recycled water is anticipated to be used in the high volume horizontal hydraulic fracturing treatment, describe the source of such other water and the anticipated volume to be used;
- 11) **Hydraulic Fracturing Fluids and Flowback Plan**  
*A hydraulic fracturing fluids and flowback plan for the handling, storage, transportation, and disposal, recycling, or reuse of hydraulic fracturing fluids and hydraulic fracturing flowback consistent with the requirements of Subpart H. The plan shall identify the specific Class II injection well or wells that will be used to dispose of the hydraulic fracturing flowback or the facilities where the hydraulic fracturing flowback will be reused or recycled. The plan shall describe the capacity of the tanks to be used for the capture and storage of all the anticipated hydraulic fracturing flowback and of the lined reserve pit to be used, if necessary, to temporarily store any flowback in excess of the capacity of the tanks. Identification of the Class II injection well or wells shall be by name, identification number, and specific location and shall include the date of the most recent mechanical integrity test for each Class II injection well* (Section 1-35(b)(11) of the Act);

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- 12) Well Site Safety Plan  
*A well site safety plan to:*
- A) *address proper safety measures to be employed during high volume horizontal hydraulic fracturing operations for the protection of persons on the well site* (Section 1-35(b)(12) of the Act) that complies with federal and State law;
  - B) *address proper safety measures to be employed during high volume horizontal hydraulic fracturing operations for the protection of the general public* (Section 1-35(b)(12) of the Act) that complies with federal and State law;
  - C) identify the presence of any hazardous materials used or stored at the well site;
  - D) provide contact information for all appropriate emergency responders; and
  - E) provide contact information for the applicant to be used by emergency responders.
- 13) Containment Plan  
*A containment plan describing the containment practices and equipment to be used and the area of the well site where containment systems will be employed* (Section 1-35(b)(13) of the Act) to be compliant with Sections 245.820, 245.825 and 245.830;
- 14) Casing and Cementing Plan  
*A casing and cementing plan that describes the casing and cementing practices to be employed, including the size of each string of pipe, the starting point, and depth to which each string is to be set and the extent to which each string is to be cemented* (Section 1-35(b)(14) of the Act) to be compliant with Sections 245.530, 245.560 and 245.570;
- 15) Traffic Management Plan  
A traffic management plan that is developed by the applicant, preferably in coordination with the impacted highway authorities (county, township, road district system, and municipal street system) to *identify the*

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*anticipated roads, streets, and highways that will be used* (Section 1-35(b)(15) of the Act) to facilitate the well site construction, drilling operations, high volume horizontal hydraulic fracturing operations, production, and continued operations of the well site. The traffic management plan shall include the following:

- A) a scaled map of the proposed routes the applicant intends to use to construct the well site, perform high volume horizontal hydraulic fracturing operations, production and continued operations, for at least a 10 mile radius around the well site, identifying all the different highway jurisdictions;
- B) anticipated well site construction and drilling operations start and end dates, high volume hydraulic fracturing operations start and end dates, and other high traffic operations start and end dates;
- C) contact information for the applicant's representative with knowledge of the traffic management plan; and
- D) contact information for a representative of each impacted highway authority;

## 16) Landowner and Permittees Information

- A) *The names and addresses of all landowners of any real property surface interest in land within 1,500 feet of the proposed well site as disclosed by the records in the office of the recorder of the county or counties* (Section 1-35(b)(16) of the Act);
- B) *The names and addresses of all persons with an oil and gas lease in land within 1,500 feet of the proposed well site as disclosed by the records in the office of the recorder of the county or counties* (Section 1-35(b)(16) of the Act); and
- C) *The names and addresses of all permittees under the Act or the Illinois Oil and Gas Act, in land within 1,500 feet of the proposed well site;*

## 17) Public Notice Drafts

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*Drafts of the specific public notice and general public notice as required by Section 245.250 using the forms provided by the Department (Section 1-35(b)(17) of the Act);*

- 18) Plugging and Restoration Plan
  - A) A plan for the pre-high volume horizontal hydraulic fracturing operations plugging of previously abandoned unplugged or insufficiently plugged wells pursuant to Section 245.1010. For any well bores identified in subsection (a)(7)(A), this plan shall provide evidence demonstrating that the well bore contains an adequate volume of cement and is constructed and plugged in a manner that will prevent the migration of fluids into fresh water from the borehole or that the well bores will be plugged pursuant to Section 245.1010;
  - B) A plan for restoration of lands used by the permittee other than the well site and production facility pursuant to Section 245.1020; and
  - C) A plan for the plugging of the well and the restoration of the well site to be in compliance with 62 Ill. Adm. Code 240.Subpart K and Sections 245.1000 and 245.1030 of this Part;
- 19) Proof of Insurance

*Proof of insurance* by the applicant, and any contractor performing high volume horizontal hydraulic fracturing operations at the proposed well, that each is insured *to cover injuries, damages, or loss related to pollution in the amount of at least \$5,000,000* per occurrence (Section 1-35(b)(19) of the Act);
- 20) Registration Certification

Certification that the applicant's registration information provided pursuant to Section 245.200 is accurate and up to date;
- 21) Access Roads

A plan for compliance with the requirement that the access road to the well site must be located in accordance with access rights either obtained by agreement with the surface landowner or pursuant to the Drilling Operations Act [765 ILCS 530] and located as far as practical from

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occupied structures, places of assembly and property lines of unleased property as required by Section 245.410;

- 22) Topsoil Preservation Plan  
A plan for compliance with the requirement to preserve topsoil as required by Section 245.410;
- 23) Fugitive Dust Control Plan  
A plan for compliance with the requirement to implement practices to control fugitive dust as required by Section 245.410;
- 24) Water Quality Monitoring Work Plan  
The work plan to ensure accurate and complete water quality sampling and testing as set forth in Section 245.600(a), reviewed and certified by a professional engineer or professional geologist;
- 25) Applicant Disclosure  
Disclosure of and a written explanation for the following:
  - A) any adjudication of violations by the applicant involving *fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere* (Section 1-60(a)(4) of the Act);
  - B) any revocation of a *high volume horizontal hydraulic fracturing permit, or its equivalent, in any other state, province, district, or territory for incurring a material or major violation or using fraudulent or dishonest practices* (Section 1-60(a)(5) of the Act);
- 26) Contractor Information  
A statement indicating whether the applicant or a contractor will be performing the high volume horizontal hydraulic fracturing operations. If a contractor will be performing the high volume horizontal hydraulic fracturing operations, provide the contractor's name, address and telephone number, and the direct telephone number of the person responsible for high volume horizontal hydraulic fracturing operations at the well site for the contractor. If any information is not known about the

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contractor at this time, the application shall be supplemented before the high volume horizontal hydraulic fracturing operations begin;

## 27) Violations Report

A violations report indicating whether the applicant or any parent, subsidiary or affiliate of the applicant has pending Notices of Violations or Director's Decisions under the Act, this Part, the Illinois Oil and Gas Act, or the administrative rules promulgated under that Act; and

## 28) Compliance with Consultation

The applicant, acting as a third party consulting with the Department, shall provide documentation that the consultation process concerning impacts on State endangered and threatened species and Natural Areas has been complied with and terminated by the Department in accordance with 17 Ill. Adm. Code 1075.

- b) *When an application is made to conduct high volume horizontal hydraulic fracturing operations at a well site located within the limits of any city, village, or incorporated town, the application shall state the name of the city, village, or incorporated town and be accompanied with a certified copy of the official consent for the high volume horizontal hydraulic fracturing operations to occur from the municipal authorities where the well site is proposed to be located. No permit shall be issued unless consent is secured and filed with the permit application. In the event that a modification to the permit is subsequently sought for an amended location or any other significant permit deviation, a new certified consent is required for the amended location.* (Section 1-35(c) of the Act)
- c) *The permit application shall be accompanied by a bond or equivalent financial instrument as required by Section 245.220(a) (Section 1-35(d) of the Act).*
- d) *Each application for a permit under this Part shall include payment of a non-refundable fee of \$13,500 (Section 1-35(e) of the Act). Checks shall be made payable to the Illinois Department of Natural Resources.*
- e) *Each application submitted under this Part shall be signed, under the penalty of perjury, by the applicant or the applicant's designee who has been vested with the authority to act on behalf of the applicant and has direct knowledge of the information contained in the application and its attachments. Any person signing an application shall also sign an affidavit with the following certification:*

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*"I certify, under penalty of perjury as provided by law and under penalty of refusal, suspension, or revocation of a high volume horizontal hydraulic fracturing permit, that this application and all attachments are true, accurate, and complete to the best of my knowledge." (Section 1-35(f) of the Act)*

- f) *The permit application shall be submitted to the Department in both electronic and hard copy format at the same time. One hard copy of the permit application and all documents attached to the application shall be provided. The electronic format shall be searchable (Section 1-35(g) of the Act) and provided to the Department on compact disc, DVD or Universal Serial Bus (USB) compatible storage devices. Permittee shall also provide the Department, in electronic and hard copy format, a duplicate set of any pages containing names or addresses of individuals in which the names and addresses, except those provided pursuant to subsections (a)(1) and (a)(26), are redacted for purposes of confidentiality. Review of the permit application shall not be considered for the purposes of Section 245.230 if the Department is unable to access the submitted electronic format.*
- g) *The application for a high volume horizontal hydraulic fracturing permit may be submitted as a combined permit application with the permittee's application to drill on a form as the Department shall prescribe. The combined application must include the information required in this Section. The submission of a combined permit application under this subsection shall not be interpreted to relieve the applicant or the Department from complying with the requirements of this Part, the Act, the Illinois Oil and Gas Act and the rules adopted under that Act. (Section 1-35(h) of the Act)*

**Section 245.220 Permit Bonds or Other Collateral Securities**

- a) No person shall be allowed to construct, drill, operate, perform high volume horizontal hydraulic fracturing operations, or produce from a well for which a permit is necessary under this Part if that well is not covered and protected by a bond or other collateral securities as required by this Section.
- b) All applicants *for a permit under this Part*, and persons requesting permit transfers, *shall provide a bond* at the time of filing an application for permit pursuant to Section 245.210 or at the time of filing a request for transfer of permit

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pursuant to Section 245.340. *The bond shall be in the amount of \$50,000 per permit or a blanket bond of \$500,000 for all permits.* (Section 1-65(a) of the Act) All bonds must meet the following requirements during the permit application process and through the entire term of an issued permit until the bond is released as provided by subsection (d):

- 1) Bonds shall be signed by the permittee as principal and by a good and sufficient corporate surety legally authorized to transact business as a surety in Illinois.
  - 2) Each bond shall provide that the bond shall not be cancelled by the surety without at least 90 days' notice to the Department. Notice shall be served upon the Department in writing by registered or certified mail to the Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management, One Natural Resources Way, Springfield IL 62702.
  - 3) Within the 90-day notice period and before the bond is cancelled the permittee shall deliver to the Department a replacement bond. If the replacement bond is not delivered, all activities covered by the bond shall cease at the expiration of the 90-day notice period.
  - 4) If the authority to transact business in Illinois of any surety upon which a bond is filed with the Department is suspended or revoked, the permittee, within 30 days after receiving notice of the suspension/revocation, shall notify the Department and shall make substitution by providing a bond or other security as required by this Section. Upon the failure of the permittee to make the substitution of bond or other security, all activities covered by the bond shall cease until substitution has been made.
- c) *In lieu of a bond, other collateral securities such as cash, certificates of deposit, or irrevocable letters of credit under the following terms and conditions* may be provided by a permittee (Section 1-65(a) of the Act):
- 1) Cash: Cash shall be placed in the Department's possession.
  - 2) Certificates of Deposit

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- A) Certificates of deposit shall be payable to the permittee and assigned to the Department, both in writing submitted to the Department and upon the records of the bank issuing the certificates. If assigned, the Department will require the banks issuing these certificates to waive all rights of setoff or liens against the certificates.
  - B) The Department will not accept an individual certificate of deposit in an amount in excess of the maximum insurable amount determined by the Federal Deposit Insurance Corporation.
  - C) Any interest accruing on a certificate of deposit shall be for the benefit of the permittee except that accrued interest shall first be applied to any prepayment penalty when a certificate of deposit is forfeited by the Department.
  - D) The certificate of deposit, if a negotiable instrument, shall be placed in the Department's possession. If the certificate of deposit is not a negotiable instrument, a withdrawal receipt, endorsed by the permittee, shall be placed in the Department's possession.
- 3) Letters of Credit
- A) The letter may only be issued by a bank organized or authorized to do business in the United States (issuing bank). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois.
  - B) Letters of credit shall be irrevocable during their terms. A letter of credit shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or other collateral securities at least 30 days before its expiration date.
  - C) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with subsection (e).

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- D) The Department will not accept a letter of credit in excess of 10% of the issuing bank's total capital and surplus accounts, as certified by the President of the bank providing the letter of credit and as evidenced by the most recent quarterly Call Report provided to the Federal Deposit Insurance Corporation.
- E) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.
- d) *The bond or other collateral securities shall remain in force until the well is plugged, abandoned and restored, or transferred. Upon plugging, abandoning and restoring, or transferring a well to the satisfaction of the Department and in accordance with the Illinois Oil and Gas Act, the bond or other collateral securities shall be promptly released by the Department. Upon the release by the Department of the bond or other collateral securities, any cash or collateral securities deposited shall be returned by the Department to the applicant or permittee who deposited it. (Section 1-65(b) of the Act)*
- e) *If, after notice and the opportunity for hearing, the Department determines that any of the requirements of the Act or this Part or the orders of the Department have not been complied with within the time limit set by any notice of violation issued thereunder, the permittee's bond or other collateral securities shall be subject to forfeiture pursuant to the following procedure (Section 1-65(c) of the Act):*
- 1) A permittee's failure to comply with the Department's order finding a violation of the Act or this Part constitutes grounds for bond forfeiture.
  - 2) The Department will send written notification by certified mail, return receipt requested, to the permittee and the surety on the

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bond, if any, informing them of the determination to forfeit the bond pursuant to subsection (e)(1).

- 3) The Department may allow a surety to correct the violation if the surety can demonstrate an ability to complete the corrective work in accordance with the requirements of the Act and this Part. No surety liability shall be released until the successful correction of the violation ordered by the Department.
- 4) In the event forfeiture of the bond or other collateral securities is warranted by subsection (e)(1), the Department will afford the permittee the right to a hearing, if the hearing is requested in writing by the permittee within 30 days after the bond forfeiture notification is received in accordance with subsection (e)(2). If the permittee does not request a hearing within the 30-day period, the determination to forfeit the bond shall be a final administrative decision. If a hearing is requested by the permittee, the hearing shall be scheduled within 30 days after the receipt of the request for hearing, and shall be conducted by a Hearing Officer.
- 5) At the bond forfeiture hearing, the Department will present evidence and has the burden of proof to support its determination to forfeit the bond under subsection (e)(1). The permittee may present evidence contesting the Department's determination. The Hearing Officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
- 6) Within 30 days after the close of the record for the bond forfeiture hearing, the Hearing Officer shall issue recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.
- 7) The Director or his or her designee shall review the administrative record in a contested case, in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director or designee, shall then issue the Department's final

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administrative decision affirming, vacating or modifying the Hearing Officer's decision.

- 8) *In no way will payment under this bond exceed the aggregate administrative penalty as specified in the Notice of Violation or Director's Decision. (Section 1-65(c) of the Act)*
- 9) *Forfeiture under this subsection (e) shall not limit any duty of the permittee to mitigate or remediate harms or foreclose enforcement by the Department or the Agency. (Section 1-65(c) of the Act)*
- f) *When any bond or other collateral security is forfeited under the provisions of the Act or this Part, the Department shall collect the forfeiture without delay. The surety shall have 30 days to submit payment for the bond after receipt of notice by the permittee or the Department of the forfeiture. (Section 1-65(d) of the Act)*
- g) If the permittee's bond is subject to forfeiture and used for anything other than plugging and restoration of the well and well site, the permittee shall have 30 days from the date of the Department's determination to forfeit the bond to replace the bond. Failure to replace the bond within this time shall result in the immediate cessation of activities covered by the bond and permit.
- h) *All forfeitures shall be deposited in the Mines and Minerals Regulatory Fund to be used, as necessary, to mitigate or remediate violations of the Act or this Part. (Section 1-65(e) of the Act)*

**Section 245.230 Permit Application Receipt and Department Review**

- a) All registrants who anticipate filing a permit application with the Department shall notify the Office of Oil and Gas Resource Management at least 5 business days before the anticipated date of filing by both email at [DNR.HFApplication@partner.illinois.gov](mailto:DNR.HFApplication@partner.illinois.gov) and by telephone at 217-782-7756 to advise the Office of the anticipated permit filing. The registrant shall provide the name of the applicant and the name and telephone number of an applicant contact person in case the Office has any questions.

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- b) Upon receipt of a permit application, the Department shall provide *notice to the applicant that the permit application was received* (Section 1-40(b) of the Act) and of the following:
- 1) the review number assigned by the Department to the permit application;
  - 2) the date of receipt of the permit application;
  - 3) the dates of the public comment period on the permit application; and
  - 4) the date, time and address of the public hearing and the name of the Hearing Officer scheduled to preside over the public hearing for the permit application that will apply should a request for public hearing be filed.
- c) Any application received by the Office after 12:00 p.m. (Central Standard Time) will be considered received on the following business day.
- d) *Upon receipt of a permit application, the Department shall have no more than 60 calendar days from the date it receives the permit application to approve, with any conditions the Department may find necessary, or reject the application for the high volume horizontal hydraulic fracturing permit. The applicant may waive, in writing, the 60-day deadline upon its own initiative or in response to a request by the Department.* (Section 1-35(i) of the Act)
- e) *If, during the review period, the Department determines that the permit application is not complete under the Act, does not meet the requirements of Section 245.210, or requires additional information, the Department shall notify the applicant in writing of the application's deficiencies and allow the applicant to correct the deficiencies and provide the Department any information requested to complete the application. If the applicant fails to provide adequate supplemental information, the Department may reject the application.* (Section 1-35(j) of the Act)

**Section 245.240 Public and Governmental Notice by the Department**

- a) *Within 5 calendar days after the Department's receipt of the high volume horizontal hydraulic fracturing permit application, the Department shall post notice of its receipt and a copy of the permit application on its website. Except for*

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the names and addresses provided in the permit application pursuant to Section 245.210(a)(1) and (a)(26), all other names and addresses of individuals provided in the permit application shall be considered confidential and shall not be posted on the Department's website. *The notice shall include* (Section 1-40(a) of the Act):

- 1) the date the application was received by the Department;
  - 2) *the dates of the public comment period* (Section 1-40(a) of the Act) for the permit application;
  - 3) *directions for interested parties to submit comments* (Section 1-40(a) of the Act) or *objections* (Section 1-50(a) of the Act);
  - 4) the review numbers assigned by the Department to the permit application;
  - 5) the date, time and address of the public hearing and the name of the Hearing Officer scheduled to preside over the public hearing on the permit application should a request for public hearing be filed; and
  - 6) *directions for any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit on how and when to request a public hearing on the permit application* (Section 1-50 of the Act).
- b) *Within 5 calendar days after the Department's receipt of the permit application, the Department shall provide the Agency, the Office of the State Fire Marshal, Illinois State Water Survey, and Illinois State Geological Survey with notice of the application* (Section 1-40(b) of the Act).
  - c) *Within 5 calendar days after the Department's receipt of the permit application, the Department shall provide a copy of the permit application's well site safety plan to the Office of the State Fire Marshal* (Section 1-35(b)(12) of the Act).
  - d) *Within 5 calendar days after the Department's receipt of the permit application, the Department shall provide a copy of the permit application's containment plan to the Office of the State Fire Marshal* (Section 1-35(b)(13) of the Act).

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- e) *Within 5 calendar days after the Department's receipt of the permit application, the Department shall provide a copy of the permit application's traffic management plan to the Office of the State Fire Marshal (Section 1-35(b)(15) of the Act).*
- f) *Public Hearing Notice: At least 10 calendar days before the date of the public hearing, the Department shall publish notice of the public hearing in a newspaper of general circulation published in, or as near possible to, the county where the proposed well site will be located (Section 1-50(d) of the Act). The notice shall include:*
- 1) the date, time and place of the public hearing;
  - 2) the name and mailing address of the Hearing Officer scheduled to preside over the public hearing;
  - 3) the purpose of the public hearing and the name of the applicant;
  - 4) the legal description, per the Public Land Survey System, of the proposed well site and unit area;
  - 5) the review number for the permit application; and
  - 6) *a statement that any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit may file (Section 1-40(c)(3)(G) of the Act) a request for public hearing on the permit application pursuant to Section 245.270.*

**Section 245.250 Public and Governmental Notice by the Permit Applicant**

- a) *The applicant shall provide the following public and governmental notice (Section 1-40(c) of the Act):*
- 1) *Applicants shall mail specific public notice by U.S. Postal Service certified mail, return receipt requested, within 3 calendar days after submittal of the high volume horizontal hydraulic fracturing permit application to the Department to:*

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- A) *all persons identified as landowners of any real property surface interest in land within 1,500 feet of the proposed well site as disclosed by the records in the office of the recorder of the county or counties;*
  - B) *all persons identified as persons with an oil and gas lease within 1,500 feet of the proposed well site as disclosed by the records in the office of the recorder of the county or counties;*
  - C) *all permittees under the Act or the Illinois Oil and Gas Act in land within 1,500 feet of the proposed well site as disclosed by the records in the office of the recorder of the county or counties;*
  - D) *the governing body of each municipality in which the well is proposed to be located; and*
  - E) *the county board of each county in which the well is proposed to be located. (Section 1-40(c)(1) of the Act)*
- 2) *Except as otherwise provided in this subsection (a)(2), applicants shall provide general public notice by publication, once each week for 2 consecutive weeks, beginning no later than 3 calendar days after submittal of the high volume horizontal hydraulic fracturing permit application to the Department, in a newspaper of general circulation published in or, if necessary, as near possible to each county where the well proposed for high volume horizontal hydraulic fracturing operations is proposed to be located. If a well is proposed for high volume horizontal hydraulic fracturing operations in a county where there is no daily newspaper of general circulation, applicant shall provide general public notice, by publication, once each week for 2 consecutive weeks, in a weekly newspaper of general circulation in that county beginning as soon as the publication schedule of the weekly newspaper permits, but in no case later than 10 days after submittal of the high volume horizontal hydraulic fracturing permit application to the Department. (Section 1-40(c)(2) of the Act)*
- 3) *Within 15 calendar days after submitting the permit application to the Department, the applicant must provide a copy of the permit application's well site safety plan to the county or counties and all local fire departments*

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with jurisdictions covering the well site *in which high volume horizontal hydraulic fracturing operations will occur*. (Section 1-35(b)(12) of the Act)

- 4) *Within 15 calendar days after submitting the permit application to the Department, the applicant must provide a copy of the permit application's traffic management plan to the county or counties in which the well site is located and any impacted highway authorities identified in the traffic management plan pursuant to Section 245.210(a)(15) (Section 1-35(b)(15) of the Act).*
- 5) *The specific and general public notices required under subsections (a)(1) and (a)(2) shall be on forms provided by the Department and shall contain the following information (Section 1-40(c)(3) of the Act):*
  - A) *the name and address of the applicant (Section 1-40(c)(3)(A) of the Act);*
  - B) *the date the application for a high volume horizontal hydraulic fracturing permit was received by the Department (Section 1-40(c)(3)(B) of the Act);*
  - C) *the dates for the public comment period and a statement that anyone may file written comments, objections and recommendations about any portion of the applicant's submitted high volume horizontal hydraulic fracturing permit application with the Department during the public comment period (Section 1-40(c)(3)(C) of the Act);*
  - D) *the proposed well name, review number assigned by the Department, well location, and legal description per the Public Land Survey System of the well, well site, and its unit area (Section 1-40(c)(3)(D) of the Act). The well location shall be surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer and the description of the surveyed well location shall also include the legal description, the GPS latitude and longitude location, and ground elevation of the well. The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection*

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and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement;

- E) *a statement that the information filed by the applicant in its application for a high volume horizontal hydraulic fracturing permit is available from the Department through its website (Section 1-40(c)(3)(E) of the Act);*
  - F) *the Department's website and the address and telephone number for the Department's Office of Oil and Gas Resource Management (Section 1-40(c)(3)(F) of the Act);*
  - G) *a statement that any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit, may file written objections to a permit application and may request a public hearing pursuant to Section 245.270 (Section 1-40(c)(3)(G) of the Act); and*
  - H) the date, time and address of the public hearing and the name and address of the Hearing Officer scheduled to preside over the public hearing for the permit application should a request for public hearing be filed.
- b) *After providing the public notice as required under subsection (a), the applicant shall supplement its permit application by providing the Department with a certification and documentation that the applicant fulfilled the public notice requirements of this Section no later than 35 days after the Department's receipt of the permit application (Section 1-40(d) of the Act).*
  - c) *If multiple applications are submitted at the same time for wells located on the same well site, the applicant may use one public notice for all applications provided the notice is clear that it pertains to multiple well applications and conforms to the requirements of this Section (Section 1-40(e) of the Act).*

**Section 245.260 Public Comment Periods**

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- a) *The initial public comment period shall begin 7 calendar days after the Department's receipt of the permit application and last for 30 calendar days (Section 1-45(a) of the Act). During the initial public comment period, any person may file written comments to the Department concerning any portion of the permit application and any issue relating to the applicant's compliance with the requirements of the Act (Section 1-45(c) of the Act), this Part, the Illinois Oil and Gas Act and the administrative rules promulgated under that Act.*
- b) *When a public hearing is conducted under Section 245.270, the Department shall provide for an additional public comment period to allow for comments in response only to evidence and testimony presented at the hearing. The additional public comment period shall begin on the day after the close of the evidence at the public hearing and last for not more than 15 days, taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application. (Sections 1-45(b) and 1-35(i) of the Act)*
- c) *Written public comments may be filed via mail or electronically.*
  - 1) *Written public comments may be mailed to the Department at Illinois Department of Natural Resources, Attention: Oil and Gas Regulatory Staff, One Natural Resources Way, Springfield IL 62702.*
  - 2) *Written public comments may be sent electronically to the Department based on the information provided in the Department's notice posted on its website.*
- d) *All public comments must include the review number assigned by the Department to the permit application and be received by the Office of Oil and Gas Resource Management by 5:00 p.m. on the last day of the applicable public comment period to be eligible for Department consideration during the permit review process set forth in this Part.*
- e) *The Department may request that the applicant respond to any substantive public comments, objections and recommendations obtained during the public comment periods (Section 1-45(d) of the Act).*

**Section 245.270 Public Hearings**

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a) *Participation*

- 1) *When a permit application to conduct high volume horizontal hydraulic fracturing operations for the first time at a particular well site is received by the Department, any person having an interest that is or may be adversely affected, any government agency that is or may be affected, or the county board of a county to be affected under a proposed permit, may file a written request for public hearing (Section 1-50(a) of the Act). For purposes of this Part:*
  - A) to qualify as a person having an interest that is or may be adversely affected, a person must be:
    - i) a landowner or tenant with a real property surface interest in or resident on land within 1,500 feet of the proposed well site that is the subject of the permit application;
    - ii) a person with an oil and gas lease in land within 1,500 feet of the proposed well site that is the subject of the permit application;
    - iii) a permittee under the Act or the Illinois Oil and Gas Act in land within 1,500 feet of the proposed well site that is the subject of the permit application;
    - iv) a person identified as receiving specific notice pursuant to Section 245.240 or 245.250; or
    - v) any other person that is or may be adversely affected who can directly demonstrate in writing within the request for public hearing that the person actually has a real property interest in or uses resources of economic, recreational or environmental value that may be adversely affected by the granting of the permit at issue at the public hearing.
  - B) to qualify as a government agency that is or may be affected, a government agency must be identified as receiving specific notice or a copy of any plan pursuant to Section 245.240 or 245.250.

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- C) to qualify as a county board of a county to be affected under a proposed permit, a county board must represent a county:
- i) in which the well site or the well that is the subject of the permit application, in whole or in part, is proposed to be located; or
  - ii) identified as receiving specific notice in Section 245.240 or 245.250.
- 2) *The request for hearing* shall be served by electronic mail or certified mail, return receipt requested, upon the Hearing Officer, the Department, and the applicant. All requests for hearing shall be received by the Department before 5 p.m. on the last day of the initial public comment period established under Section 245.260(a).
- 3) *The request for hearing shall contain a short and plain statement:*
- A) stating the permit review number and acknowledging the date, time and location of the hearing;
  - B) *identifying the person, government agency or county and:*
    - i) if a person, *stating facts demonstrating that the person has an interest that is or may be adversely affected* (Section 1-50(a) of the Act) by the proposed permit as defined in subsection (a)(1)(A);
    - ii) if a government agency, stating facts demonstrating that the government agency is or may be affected by the proposed permit as defined in subsection (a)(1)(B); and
    - iii) if a county, stating facts demonstrating that it will be affected by the proposed permit as defined in subsection (a)(1)(C);
  - C) identifying each objection to, or concern with, the permit application;

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- D) explaining the specific fact or facts upon which each objection or concern is based;
  - E) referencing each statute Section and/or regulation upon which each objection or concern is based, if known;
  - F) listing all witnesses that will or may be called at the hearing, including their name, address and phone number and a summary of their expected testimony, if known. If any witness will be used as an expert, documentation of that witness' relevant qualifications, if known; and
  - G) identifying any documents supporting each objection or concern that will or may be used at the hearing (other than the permit application), if known.
- 4) All requests for hearing should include copies of any documents referenced in subsection (a)(3)(G).
- 5) *The Department shall hold a public hearing upon a request for hearing under this subsection (a), unless the request is determined by the Hearing Officer to:*
- A) *lack an adequate factual statement for finding that the person is or may be adversely affected, that the government agency is or may be affected, or that the county is affected by the proposed permit; or*
  - B) *be frivolous by presenting grounds that are readily recognizable as devoid in merit. (Section 1-50(a) of the Act)*
- 6) *Prior to, but not less than 2 business days before, the commencement of a public hearing under this Section, any person who could have requested the hearing under subsection (a)(1) may petition the Department to participate in the hearing in the same manner as the party requesting the hearing. The petition shall be in writing and meet the requirements for requests for hearing set forth in subsection (a)(3). The petitioner shall serve the petition by electronic mail or certified mail, return receipt requested, upon the Department, the Hearing Officer, and the applicant.*

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*The petitioner shall be allowed to participate in the hearing in the same manner as the party requesting the hearing if the petition meets the requirements set forth in subsection (a)(3). (Section 1-50(b) of the Act)*

- b) Public Hearing Procedures and Location
  - 1) *The public hearing to be conducted under this Section shall comply with the contested case requirements of the Illinois Administrative Procedure Act [5 ILCS 100] and this Section. (Section 1-50(c) of the Act)*
  - 2) All public hearings under this Part will be held in the county where the well site is located or such other location as the Department deems appropriate.
- c) Hearing Officer
  - 1) All public hearings shall be conducted by a Hearing Officer designated by the Director. Hearing Officers shall be licensed to practice law in the State of Illinois with at least 5 years' experience. Hearing Officers may be employees of the Department or work for the Department pursuant to contract.
  - 2) The Hearing Officer shall take all necessary action and shall have all powers necessary to render a decision on requests for public hearings and on petitions for participation, to avoid delay, to maintain order, to develop a clear and complete record, to conduct a fair hearing and to issue a hearing decision addressing issues raised by requests for public hearings and petitions for participation or, alternatively, to dispose of any case by dismissal, stipulation, agreed settlement, consent order or default, including the following:
    - A) To administer oaths and affirmations;
    - B) To receive relevant evidence;
    - C) To regulate the course of the hearing and the conduct of the parties and their counsel;
    - D) To consider and rule upon procedural requests;

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- E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time each witness may testify; and
  - F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be provided to any party of record on his or her own motion or for good cause shown on motion of any party of record.
- 3) Ex parte contacts between the parties and the Hearing Officer concerning the merits of a proceeding are prohibited except upon notice and opportunity for all parties to participate. This Section does not prohibit communications concerning case status or advice concerning compliance with procedural requirements unless the area of inquiry is an area of controversy in the proceeding.
- d) Disqualification of Hearing Officer
- 1) A Hearing Officer, on his or her own motion or that of a party, may be disqualified in a proceeding due to bias or conflict of interest. However, the fact that a Hearing Officer is an employee of or under contract with the Department does not alone serve as a basis for conflict of interest.
  - 2) A motion for disqualification filed pursuant to this Section shall:
    - A) be in writing;
    - B) contain a statement of supporting grounds;
    - C) be filed with the Director and served upon all parties and the Hearing Officer; and
    - D) be filed not less than 2 business days before the scheduled date of the public hearing.

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- 3) Unless the Director orders otherwise, the Hearing Officer and any party to a proceeding in which a motion is filed under this Section may file a response.
  - 4) The Director shall rule on all motions filed pursuant to this Section immediately or as expeditiously as possible. If a motion filed under this Section is granted, the Director shall appoint a new Hearing Officer for the proceeding.
- e) **Postponement or Continuance of Hearing**  
A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts justifying the request and attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 2 business days prior to the scheduled hearing date. The Hearing Officer shall grant a motion requesting postponement or continuance only upon the most substantial of grounds and the public hearing is to be rescheduled as quickly as possible, taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application.
- f) **Failure to Appear at Hearing**  
If any party, after a proper request for public hearing, fails to appear at the hearing, and, absent an emergency situation beyond the party's control, that party's request for public hearing shall be dismissed. If other proper requests for public hearing remain, the public hearing will proceed with any remaining parties. If the party failing to appear is the applicant, the hearing will not proceed and, absent an emergency situation beyond the applicant's control, the Department will reject the permit application.
- g) **Conduct of Hearing**
- 1) Taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application, pre-hearing conferences are not expected and will only be scheduled on request of a party if the Hearing Officer determines

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that good cause is provided to do so and delay of the public hearing will not result. Any pre-hearing conference may be conducted via telephone.

- 2) Taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application based upon the information required to be supplied with permit applications, requests for hearing and petitions for participation, discovery will only be allowed for good cause shown after a motion is served on all parties, shall be at the discretion of the Hearing Officer, and shall be limited to requests for production of documents and the presence of witnesses at the public hearing. All motions for discovery are required to be made as early as possible, but in no event less than 2 business days before the scheduled date for the public hearing, and in a manner to avoid delay of the public hearing.
- 3) Every person, government agency or county filing a request for hearing or petition to participate at the public hearing shall enter an appearance in writing.
- 4) All parties in the hearing shall have the right to be represented by an attorney. Parties that are individuals do not need to be represented by an attorney. Parties required by Illinois law to be represented by an attorney in the courts of this State must be represented by an attorney at the public hearing.
- 5) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
- 6) The Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or to provide evidence necessary to reach a decision on the request for hearing or petition to participate. The Department's role shall be to assist in creating a complete and accurate record at the public hearing.
- 7) **Ruling on Participation**  
The Hearing Officer shall first determine and rule on whether each request for hearing satisfies the requirements of subsection (a)(5), giving due consideration to the sophistication of the petitioner and whether the petitioner is represented by counsel. If there are also petitions to

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participate, the Hearing Officer shall determine whether each petition to participate satisfies the requirements of subsection (a)(5). *Notice* provided to any person, government agency, or county pursuant to 245.240 or Section 245.250 shall not constitute standing for purposes of requesting a public hearing (Section 1-40(e) of the Act). The Hearing Officer shall base this ruling on the standards set forth in subsection (a)(5). Any Hearing Officer decision denying participation to any party under this subsection (g)(7) shall be a final administrative decision by the Department and subject to judicial review under the Administrative Review Law and rules promulgated under that Law.

- 8) Preliminary Matters  
After ruling on participation, the following shall be addressed prior to receiving evidence at the discretion of the Hearing Officer:
  - A) Parties may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of the notice of hearing, proof of publication and the application at issue.
  - B) Ruling may be made on any pending motions.
  - C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.
- h) Issues Presented  
The issues presented to the Hearing Officer at the public hearing are the validity of objections and concerns set forth in requests for hearing or petitions for participation. In determining whether an objection to or concern with a permit application is valid, the issue presented is whether the permit application or any portion of the permit application fails to comply with the identified requirements of the Act or this Part.
- i) Burden and Standard of Proof  
Parties requesting the public hearing and, if applicable, petitioning to participate in the public hearing shall have the burden of establishing the validity of their objections and concerns through the introduction of credible evidence. The standard of proof is the preponderance of the evidence.
- j) Evidence

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- 1) **Admissibility**  
The Illinois Rules of Evidence shall generally apply to these proceedings. However, evidence not admissible under those rules of evidence may be admitted, except when precluded by statute, if it is of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs. The Hearing Officer shall rule on the admissibility of evidence.
- 2) **Official Notice**  
Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.
- 3) **Case Presentation**  
The parties requesting the public hearing shall present their case first. If there are parties that petitioned to participate in the hearing, they will then present their case. The Hearing Officer will determine whether the Department or the applicant presents additional evidence and in what order. The Hearing Officer will determine whether to allow rebuttal evidence. All witnesses are subject to cross-examination. The Hearing Officer may allow opening statements and closing arguments.
- 4) **Briefs**  
The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within such time as the Hearing Officer shall determine, taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application.
- k) **Record of Proceedings; Testimony**  
*A complete record of the public hearings and all testimony shall be made by the Department and recorded stenographically or electronically (Section 1-50(c) of the Act). Any person testifying shall be required to do so under oath.*
- l) **Settlement Discussions**  
The Hearing Officer may provide an opportunity for the parties to enter into settlement discussions before issuing the hearing decision within such time as the

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Hearing Officer shall determine taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application.

## m) Hearing Decision

- 1) After the close of evidence at any public hearing held under this Section, the Hearing Officer, after consultation with the Department staff regarding any technical issues as necessary, shall prepare a hearing decision determining the validity of the objections and concerns set forth in the request for hearing and petitions for participation and identifying any potential impacts on the pending permit application based on the evidence and testimony presented at the hearing. The hearing decision shall provide necessary findings of fact and conclusions of law in making this determination.
- 2) If applicable, the hearing decision shall also report any settlement agreement reached between parties along with a determination whether the settlement agreement is consistent with the requirements of this Part and the Act.
- 3) The Hearing Officer shall issue and serve on all parties the hearing decision within 7 days after the close of evidence taking into consideration that the Department shall have no more than 60 days from the date it receives the permit application to approve or reject the permit application.
- 4) The Department shall incorporate the Hearing Officer's hearing decision into the permit application process for consideration consistent with Section 245.300.

## n) Post Hearing

*If the hearing decision determines that a valid objection or concern with the permit application exists such that there is a potential impact to the pending permit application, the applicant may attempt to correct the deficiencies and provide the Department any information required to address the valid objection or concern. If the applicant fails to provide adequate supplemental information to address a valid objection or concern, the Department may reject the application or condition the permit accordingly. (Section 1-35(j) of the Act)*

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## SUBPART C: PERMIT DECISIONS

**Section 245.300 Permit Decision**

- a) *The Department shall have no more than 60 calendar days from the date it receives the permit application to approve, with any conditions the Department may find necessary, or reject the application for the high volume horizontal hydraulic fracturing permit. The applicant may waive, in writing, the 60-day deadline upon its own initiative or in response to a request by the Department. (Section 1-35(i) of the Act)*
- b) *For the purpose of determining whether to issue a permit, the Department shall consider and the Department's record of decision shall include (Section 1-53(b) of the Act):*
  - 1) *the application for the high volume horizontal hydraulic fracturing permit, including all documentation required by Section 245.210 (Section 1-53(b)(1) of the Act);*
  - 2) *all written comments received during the public comment periods and, if applicable, the complete record from the public hearing held under Section 245.270 (Section 1-53(b)(2) of the Act), and specifically including the hearing decision;*
  - 3) *all supplemental information provided by the applicant in response to:*
    - A) *any public comments (Section 1-53(b)(3) of the Act);*
    - B) *the hearing decision;*
    - C) *the requirements of this Part; and*
    - D) *Department requests for information;*
  - 4) *any information known to the Department as the public entity responsible for regulating high volume horizontal hydraulic fracturing operations and oil and gas operations, including, but not limited to, inspections of the proposed well site as necessary to ensure adequate review of the application (Section 1-53(b)(4) of the Act).*

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- c) *The Department shall issue a high volume horizontal hydraulic fracturing permit, with any conditions the Department may find necessary, only if the record of decision demonstrates that* (Section 1-53(a) of the Act):
- 1) *the well site location restrictions of Section 245.400 have been satisfied* (Section 1-53(a)(1) of the Act);
  - 2) *the application meets the requirements of Section 245.210* (Section 1-53(a)(2) of the Act);
  - 3) *the plans required to be submitted with the application under Section 245.210 are adequate and effective* (Section 1-53(a)(3) of the Act) to comply with the Act, this Part, the Illinois Oil and Gas Act, and the administrative rules promulgated under that Act.
  - 4) *the high volume horizontal hydraulic fracturing operations, as proposed, are reasonably expected to be conducted in a manner that will protect the public health and safety and prevent pollution or diminution of any water source* (Section 1-53(a)(4) of the Act);
  - 5) *the water quality monitoring work plan required under Section 245.600 has been submitted to the Department* (Section 1-53(a)(5) of the Act);
  - 6) *the applicant or any parent, subsidiary, or affiliate of the applicant has not failed to abate a violation of the Act, this Part, the Illinois Oil and Gas Act* (Section 1-53(a)(6) of the Act), or the administrative rules promulgated under that Act specified in a final administrative decision of the Department or any court decisions related to that decision;
  - 7) *the Class II injection wells to be used for disposal of hydraulic fracturing flowback comply with all applicable requirements for internal and external mechanical integrity testing as required in 62 Ill. Adm. Code 240.760 and 240.770, including that the well has been tested within the previous 5 years.* (Section 1-53(a)(7) of the Act) The Class II injection wells to be used for disposal of hydraulic fracturing flowback must be shown to be in compliance with 62 Ill. Adm. Code 240.360 at the time of the issuance of the high volume horizontal hydraulic fracturing permit;

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- 8) *there is no good cause to deny the permit under Section 245.310 (Section 1-53(a)(8) of the Act); and*
- 9) The registration and permitting procedures set forth in Subpart B have been satisfied.
- d) *The Department shall, by U.S. Mail and electronic transmission, provide the applicant with a copy of the high volume horizontal hydraulic fracturing permit as issued or its final administrative decision denying the permit to the applicant and shall, by U.S. Mail or electronic transmission, provide a copy of the permit as issued or the final administrative decision denying the permit to any person or unit of local government who received specific public notice under Section 245.240 or 245.250 or participated in any public hearing under Section 245.270. (Section 1-53(c) of the Act)*
- e) *The Department's decision to approve or deny a high volume horizontal hydraulic fracturing permit shall be considered a final administrative decision subject to judicial review under the Administrative Review Law [735 ILCS 5/Art. III] and the rules adopted under that Law (Section 1-53(d) of the Act).*
- f) *Following completion of the Department's review process, the Department's website shall indicate whether an individual high volume horizontal hydraulic fracturing permit was approved or denied and provide a copy of the approval or denial (Section 1-53(e) of the Act).*
- g) *The complete administrative record of the permit decision shall be maintained and shall be accessible to the public on the Department's website until final release of the applicant's bond pursuant to Section 245.220(d) (Section 1-50(c) of the Act).*

**Section 245.310 Permit Denial**

In addition to failing to meet the requirements of Section 245.300(c)(1) through (c)(7), *the Department may also refuse to issue a high volume horizontal hydraulic fracturing permit for one or more of the following causes (Section 1-60(a) of the Act):*

- a) *providing incorrect, misleading, incomplete, or materially untrue information in a permit application or any document required to be filed with the Department during the permit application process (Section 1-60(a)(1) of the Act);*

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- b) *using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere* (Section 1-60(a)(4) of the Act);
- c) *having a high volume horizontal hydraulic fracturing permit, or its equivalent, revoked in any other state, province, district, or territory for incurring a material or major violation or using fraudulent or dishonest practices* (Section 1-60(a)(5) of the Act); or
- d) *an emergency condition exists under which conduct of the high volume horizontal hydraulic fracturing operations would pose a significant hazard to public health, aquatic life, wildlife, or the environment* (Section 1-60(a)(6) of the Act).

**Section 245.320 Permit Conditions**

- a) *Each permit issued by the Department shall require the permittee to comply with all provisions of the Act, this Part, the Illinois Oil and Gas Act, the administrative rules promulgated under that Act, and all other applicable local, State, and federal laws, rules, and regulations in effect at the time the permit is issued* (Section 1-55(a) of the Act).
- b) The permit application and all *plans, maps, and diagrams submitted with the application shall be* incorporated into and be *conditions of the permit* (Section 1-55(a) of the Act).
- c) The Department shall include any additional terms or conditions on the permit that, based on its review of the permit application, the Department determines to be necessary to ensure the goals and requirements of the Act and this Part.
- d) *A permit, and all conditions to the permit, issued under this Part shall last until plugging and restoration in compliance with this Part, the Act, the Illinois Oil and Gas Act, and the administrative rules promulgated under that Act are completed to the Department's satisfaction* (Section 1-55(b) of the Act).
- e) The permittee shall also be responsible for adjusting to field conditions as necessary during well drilling and construction (see Subpart F), high volume horizontal hydraulic fracturing operations, and hydraulic fracturing flowback periods (see Subpart H), to ensure the safety of people, property, wildlife, and the

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environment as long as the actions are adequate and effective to comply with the Act, this Part, the Illinois Oil and Gas Act, and the administrative rules promulgated under that Act. The actions shall be reported to the Department's District Office within 72 hours for the Department's determination whether the actions require the filing of an application for permit modification pursuant to Section 245.330.

- f) A permit and all conditions thereto shall continue in full force and effect until the permit is released by the Department pursuant to Section 245.350.

**Section 245.330 Permit Modifications**

- a) Except for the actions allowed pursuant to Section 245.320(e), actions that materially deviate from the original permit require the permit to be modified prior to being conducted. *No permit issued under this Part may be modified without approval of the Department* pursuant to this Section (Section 1-55(c) of the Act).
- b) Applications for permit modification shall be made on a Department permit application form and shall specifically identify the applicant, the well, and each proposed deviation to the original permit.
- 1) Sections of a permit modification application that are not the subject of a proposed deviation from an original permit are not required to be completed. All sections of a permit modification application that are not completed will be considered to incorporate the original permit (and original permit application) as the content of the permit modification application for those sections.
- 2) *Each permit modification application submitted under this Part shall be signed, under the penalty of perjury, by the applicant or the applicant's designee who has been vested with the authority to act on behalf of the applicant and has direct knowledge of the information contained in the permit modification application and its attachments. Any person signing a permit modification application shall also sign an affidavit with the following certification:*

*"I certify, under penalty of perjury as provided by law and under penalty of refusal, suspension, or revocation of a high volume horizontal hydraulic fracturing permit, that*

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*this application and all attachments are true, accurate, and complete to the best of my knowledge.*" (Section 1-35(f) of the Act)

- c) If a permit modification application proposes to move the well, including the horizontal well bore, add new horizontal well bores, or add length to any existing or planned horizontal well bores, such that any address of a different person, any different municipality or different county would receive notice if the proposed modification application were a new permit application, the permit modification shall be considered *a significant deviation from the original application and permit* (Section 1-55(c) of the Act). The permit modification application for a significant deviation shall be accompanied by a non-refundable fee of \$13,500 as set forth in Section 245.210 and shall be reviewed and approved or rejected as if it were a completely new permit application under the permit application procedures set forth in this Part.
- d) *If a permit modification presents a serious risk to public health, life, property, aquatic life, or wildlife* (Section 1-55(c) of the Act), the modification shall be considered a significant deviation from the original application and permit. The permit modification application for a significant deviation shall be accompanied by a non-refundable fee of \$13,500 as set forth in Section 245.210 and shall be reviewed and approved or rejected as if it were a completely new permit application under the permit application procedures set forth in this Part.
- e) All other permit modification applications may be filed as an insignificant permit deviation and accompanied by a non-refundable \$5,000 permit modification fee. However, the Department has the discretion to determine that the permit modification is a significant deviation based on the content of the application. The permit modification application for insignificant permit deviation shall be reviewed and approved or rejected under the following procedures:
- 1) The Department's record of decision shall include the original permit record of decision, information provided by the application for permit modification pursuant to subsection (b), and any other additional information provided by the permittee in response to requests by the Department.
  - 2) The Department shall approve or reject the proposed insignificant permit modifications within 90 days after receipt of the permit modification

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application based on the requirements of Section 245.300(c). The Department's decision to approve or reject the proposed insignificant permit modifications shall be considered a final administrative decision subject to judicial review under the Administrative Review Law and the rules adopted under that Law.

- 3) Approval of an insignificant permit modification shall result in a modified permit that shall be considered a permit under this Part and, therefore, subject to all conditions and requirements for permits under the Act and this Part.
  - 4) The Department shall, by U.S. Mail and electronic transmission, provide the applicant with a copy of the modified permit as issued or its final administrative decision rejecting the modification request.
  - 5) The applicant shall, by U.S. Mail or electronic transmission, provide a copy of the modified permit as issued to any person or unit of local government who received specific public notice under Section 245.250 or participated in any public hearing under Section 245.270 for the original permit or any significant modifications of that permit. The applicant shall notify the Department within 30 days after receipt of the modified permit that it has complied with this subsection (e)(5).
  - 6) Following completion of the Department's review and approval process, the Department's website shall indicate whether an individual high volume horizontal hydraulic fracturing permit modification was approved or denied and provide a copy of the approval or denial.
  - 7) The complete record shall be maintained and shall be accessible to the public on the Department's website until final release of the applicant's bond.
- f) If the Department determines that an application for an insignificant deviation in subsection (e) is a significant deviation based on the content of the application, the Department shall notify the applicant and the applicant shall be required to increase the non-refundable application fee to \$13,500 as set forth in Section 245.210. Once the full application fee is received, the permit modification application shall be reviewed and approved or rejected as if it were a completely

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new permit application under the permit application procedures set forth in this Part.

**Section 245.340 Permit Transfers**

- a) *No permit may be transferred to another person without approval of the Department* (Section 1-55(b) of the Act).
- b) A request for permit transfer shall be made on a Department form and be signed by the current permittee and the proposed new permittee or by individuals authorized to sign for them.
- c) Each request for permit transfer shall include a \$2,000 non-refundable fee. The check shall be made payable to the Department.
- d) The Department shall approve a permit transfer, with any conditions the Department may find necessary, only if:
  - 1) the proposed new permittee certifies that its registration information provided pursuant to Section 245.200 is accurate and up to date;
  - 2) the permit for the well issued pursuant to the Illinois Oil and Gas Act is approved for transfer to the proposed new permittee under the requirements for permit transfers under the Illinois Oil and Gas Act administrative rules;
  - 3) the proposed new permittee and, if applicable, any contractor performing high volume horizontal hydraulic fracturing operations at the proposed well, provide proof of insurance that each is insured *to cover injuries, damages, or loss related to pollution in the amount of at least \$5,000,000* (Section 1-35(b)(19) of the Act);
  - 4) there is no good cause to deny the permit transfer under Section 245.310(a);
  - 5) the request for permit transfer is accompanied by a bond as required by Section 245.220;

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- 6) there are no outstanding unabated violations by either the current or proposed new permittee of this Part, the Act, the Illinois Oil and Gas Act, or the administrative rules promulgated under that Act, as specified in a final administrative decision by the Department.
- e) The Department shall approve or deny a request for permit transfer in writing within 90 days after receiving the request for permit transfer.
    - 1) If the request for permit transfer is approved, the current permittee shall transfer a copy of the well file to the new permittee, the new permittee will be the permittee of record for the permit, and the bond of the current permittee will be released by the Department pursuant to Section 245.220(d).
    - 2) If the request for permit transfer is denied, then the current permittee will continue to be the permittee of record for the permit.
  - f) A current or proposed new permittee may request a hearing to challenge the Department's decision if a hearing is requested in writing within 30 days after the date of the transfer or denial notice. All requests for hearing shall be mailed to the Department at Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management, One Natural Resources Way, Springfield IL 62702. All requests for hearing must be accompanied by documents evidencing the basis for objection. If no hearing is requested in this time period, the permit transfer decision shall be a final administrative decision of the Department. If a hearing is requested by the current or new permittee:
    - 1) A pre-hearing conference may be held within 60 days after the receipt of the request for hearing.
      - A) A pre-hearing conference shall be scheduled in order to:
        - i) Simplify the factual and legal issues presented by the hearing request;
        - ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;

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- iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;
    - iv) Set a hearing date; and
    - v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion.
  - B) Pre-hearing conferences may be held by telephone conference if that procedure is acceptable to all parties.
- 2) All hearings under this Section shall be conducted by a Hearing Officer and shall be held in the Department's offices located in Springfield, Illinois.
- 3) At the permit transfer hearing, the Department shall present evidence in support of its determination under subsection (e). Both the current and the new permittee may present evidence contesting the Department's determination under subsection (e). The Hearing Officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
- 4) Within 30 days after the close of the record for the permit transfer hearing, the Hearing Officer shall issue findings of fact, conclusions of law and recommendations as to the disposition of the case.
- 5) The Director or his or her designee shall review the administrative record in conjunction with the Hearing Officer's findings of fact, conclusions of law and recommendations as to the disposition of the case. The Director or designee shall then issue the Department's final administrative decision affirming, vacating or modifying the Hearing Officer's decision, which shall be subject to judicial review under the Administrative Review Law and the rules adopted under that Law.

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- 6) Failure to request a hearing in accordance with this subsection (f) shall constitute a waiver of all legal rights to contest the permit transfer decision.

**Section 245.350 Permit Release**

*A permit issued under this Part shall be released by the Department upon the Department's satisfaction that the plugging of the well and restoration of the well site is completed in compliance with the permittee's Plugging and Restoration Plan pursuant to Sections 245.210(a)(18) and 245.1030, the Act, the Illinois Oil and Gas Act, and the administrative rules promulgated under that Act. (Section 1-55(b) of the Act).*

**Section 245.360 Judicial Review**

*All final administrative decisions, including issuance or denial of a permit, made by the Department under this Part are subject to judicial review under the Administrative Review Law and rules adopted under that Law (Section 1-125 of the Act).*

## SUBPART D: WELL SITE PREPARATION

**Section 245.400 Setback Requirements**

- a) *Except as otherwise provided in this Section, no well site may be located as follows (Section 1-25(a) of the Act):*
  - 1) *within 500 feet measured horizontally from any residence or place of worship unless the landowner of the residence or the governing body of the place of worship otherwise expressly agrees in writing to a closer well site location (Section 1-25(a)(1) of the Act). This agreement shall be signed and dated by the landowner of the residence or an authorized representative of the governing body of the place of worship. A copy of the agreement shall be submitted to the Department as part of the permit application;*
  - 2) *within 500 feet measured horizontally from the edge of the property line from any school, hospital, or licensed nursing home facility (Section 1-25(a)(2) of the Act);*

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- 3) *within 500 feet measured horizontally from the surface location of any existing water well or developed spring used for human or domestic animal consumption, unless the landowner or landowners of the well or developed spring otherwise expressly agrees or agree in writing to a closer well site location (Section 1-25(a)(3) of the Act). This agreement shall be signed and dated by the landowner. A copy of the agreement shall be submitted to the Department as part of the permit application;*
- 4) *within 300 feet measured horizontally from the center of a perennial stream or from the ordinary high water mark of any river, natural or artificial lake, pond, or reservoir (Section 1-25(a)(4) of the Act), unless the landowner of a water source that is wholly contained within the landowner's property expressly, in writing, waives the setback requirements and agrees to a closer well site location (Section 1-25(b) of the Act). This agreement shall be signed and dated by the landowner. A copy of the agreement shall be submitted to the Department as part of the permit application.*
- 5) *within 750 feet of a nature preserve or a site on the Register of Land and Water Reserves (Section 1-25(a)(5) of the Act); or*
- 6) *within 1,500 feet of a surface water or groundwater intake of a public water supply; the distance from the public water supply as identified by the Department shall be measured as follows (Section 1-25(a)(6) of the Act):*
  - A) *For a surface water intake on a lake or reservoir, the distance shall be measured from the intake point on the lake or reservoir (Section 1-25(a)(6)(A) of the Act).*
  - B) *For a surface water intake on a flowing stream, the distance shall be measured from a semicircular radius extending upstream of the surface water intake (Section 1-25(a)(6)(B) of the Act).*
  - C) *For a groundwater source, the distance shall be measured from the surface location of the groundwater wellhead or the ordinary high water mark of the spring. The distance restrictions under this subsection (a) shall be determined as conditions exist at the time of*

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*the submission of the permit application pursuant to Section 245.210 (Section 1-25(a)(6)(C) of the Act).*

- b) *Unless specified otherwise, all distances shall be measured to the closest edge of the well site. (Section 1-25(a) of the Act)*

**Section 245.410 Access Roads, Public Roads and Topsoil Conditions**

- a) *The access road to the well site must be located in accordance with access rights either obtained by agreement with the surface landowner or pursuant to the Drilling Operations Act [765 ILCS 530] and located as far as practical from occupied structures, places of assembly, and property lines of unleased property (Section 1-70(b)(1) of the Act).*
- b) *The improvement, construction, or repair of a publicly owned highway or roadway, if undertaken by the owner, operator, permittee, or any other private entity, shall be performed using bidding procedures outlined in the Illinois Department of Transportation rules governing local roads and streets or applicable bidding requirements outlined in the Illinois Procurement Code [30 ILCS 500] as though the project were publicly funded (Section 1-70(b)(4) of the Act).*
- c) *Permittees shall employ practices for control of fugitive dust related to their operations. These practices shall include, but are not limited to, the use of speed restrictions, regular road maintenance, and restriction of construction activity during high-wind days. Additional management practices such as road surfacing, wind breaks and barriers, or automation of wells to reduce truck traffic may also be required by the Department, in consultation with the Agency as the Department deems appropriate, if technologically feasible and economically reasonable to minimize fugitive dust emissions. (Section 1-75(e)(10) of the Act)*
- d) *Unless otherwise approved or directed by the Department, all topsoil and subsoil stripped to facilitate the construction of the well pad, well site, and access roads must be stockpiled, stabilized to prevent erosion, and remain on site. Topsoil is the uppermost layer of soil with the darkest color or the highest content of organic matter. The topsoil shall be segregated from the subsoil. All soils shall remain on site for use in either partial or final restoration and reclamation pursuant to Subpart J. In the event it is anticipated that the final reclamation shall take place in excess of one year from drilling the well, the topsoil may be disposed of in any*

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*lawful manner provided the permittee reclaims the site with topsoil of similar characteristics of the topsoil removed.* (Section 1-70(b)(2) of the Act)

## SUBPART E: WELL CONSTRUCTION

**Section 245.500 General Conditions and Requirements**

- a) *All wells shall be constructed, and casing and cementing activities shall be conducted, in a manner that shall provide for control of the well at all times, prevent the migration of oil, gas, and other fluids into the fresh water and coal seams, and prevent pollution or diminution of fresh water.* (Section 1-70(d) of the Act)
- b) *At any time, the Department, as it deems necessary, may require construction activities in addition to those required by this Part, including but not limited to, the installation of an additional cemented casing string or strings in the well.* (Section 1-70(d)(15) of the Act)

**Section 245.510 Well Drilling, Storage and Disposal of Drilling Waste**

Drill cuttings, drilling fluids and drilling wastes must be stored and disposed of pursuant to the requirements of this Section and the requirements of the rules promulgated under the Illinois Oil and Gas Act when not in conflict with this Section.

- a) *Drill cuttings, drilling fluids, and drilling wastes not containing oil-based mud or polymer-based mud may be stored in tanks or pits* (Section 1-75(c)(11) of the Act).
- b) *Pits used to store drill cuttings, drilling fluids, and drilling wastes from wells not using fresh water mud shall be subject to the construction standards identified in Section 245.830 (Reserve Pits)* (Section 1-75(c)(11) of the Act).
- c) *Drill cuttings not contaminated with oil-based mud or polymer-based mud may be disposed of on property subject to the written approval of the Department and the surface landowner* (Section 1-75(c)(11) of the Act).
- d) *Drill cuttings contaminated with oil-based mud or polymer-based mud shall be disposed of in an Agency permitted special waste landfill or other offsite location*

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in accordance with applicable law. (Section 1-75(c)(11) of the Act). (See 62 Ill. Adm. Code 240.540(a).)

- e) *Disposal of drill cuttings or fluid down the annulus of any well is prohibited* (Section 1-75(c)(11) of the Act).

**Section 245.520 Cement Requirements**

All cementing activities for well construction shall meet the requirements of this Section.

- a) *Cement must conform to the industry standards set forth in the document referenced in Section 245.115(a)(1).* (Section 1-70(d)(4) of the Act)
- b) *Cement slurry must be prepared to minimize its free water content in accordance with the industry standards set forth in the document referenced in Section 245.115(a)(1).* (Section 1-70(d)(4) of the Act)
- c) Cement activities shall be designed and constructed in a manner to:
  - 1) *secure the casing in the wellbore* (Section 1-70(d)(4)(A) of the Act);
  - 2) *isolate and protect fresh groundwater* (Section 1-70(d)(4)(B) of the Act);
  - 3) *isolate abnormally pressured zones, lost circulation zones, and any potential flow zones, including hydrocarbon and fluid-bearing zones* (Section 1-70(d)(4)(C) of the Act);
  - 4) *properly control formation pressure and any pressure from drilling, completion and production* (Section 1-70(d)(4)(D) of the Act);
  - 5) *protect the casing from corrosion and degradation* (Section 1-70(d)(4)(E) of the Act); and
  - 6) *prevent gas flow in the annulus* (Section 1-70(d)(4)(F) of the Act).
- d) For all cementing activities, the *cement must be pumped at a rate and in a flow regime that inhibits channeling of the cement in the annulus* (Section 1-70(d)(7) of the Act).

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- e) Cement must be placed behind all surface, intermediate and production casing pursuant to the requirements of Sections 245.530, 245.560 and 245.570, respectively.
- f) *After the cement is placed behind the casing, the permittee shall wait on cement to set until the cement achieves a calculated compressive strength of at least 500 pounds per square inch, and a minimum of 8 hours before the casing is disturbed in any way, including installation of a blowout preventer (Section 1-70(d)(8) of the Act).*
- g) *Cement compressive strength tests must be performed on all cemented surface, intermediate, and production casing strings in accordance with the industry standards set forth in the document referenced in Section 245.115(a)(1):*
  - 1) *the cement shall have a 72-hour compressive strength of at least 1,200 psi; and*
  - 2) *the free water separation shall be no more than 6 milliliters per 250 milliliters of cement. (Section 1-70(d)(8) of the Act)*
- h) Cement job logs must be kept for all cementing activities pursuant to the following requirements:
  - 1) Cement job logs shall provide information about the cementing activities as specified on a form to be prescribed by the Department, including, but not limited to:
    - A) dates of cementing;
    - B) source of the cement;
    - C) type of cement; and
    - D) amount used;
  - 2) *A copy of the cement job logs and cement compressive strength test results for all cemented surface, intermediate, and production casing strings in the well shall be maintained in the well file at the well site during drilling and*

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high volume horizontal hydraulic fracturing operations *and* shall be made *available to the Department upon request* (Section 1-70(d)(9) of the Act);

- 3) Permittee shall provide the Department with a copy of all cement job logs and cement compressive strength test results 30 days after completion of cementing activities; and
- 4) Permittee shall retain these records for the life of the well until the well is plugged, abandoned and restored in accordance with the Illinois Oil and Gas Act, the administrative rules promulgated under that Act, and Subpart J of this Part.

**Section 245.530 Surface Casing Requirements**

Surface casing shall be used in the construction of all wells regulated by this Part and shall be set and cemented pursuant to the requirements of this Section.

- a) *Surface casing shall be used and set to a depth of at least 200 feet, or 100 feet below the base of the deepest fresh water, whichever is deeper. Surface casing must stop before reaching any hydrocarbon-bearing zones.* (Section 1-70(d)(10) of the Act) If the surface casing does not protect all of the fresh water, intermediate casing shall be required.
- b) *Surface casing must be made of steel and conform to the industry standards set forth in the document referenced in Section 245.115(a)(2). Additionally, the use of surface casing in the well construction must be in a manner consistent with the industry standards set forth in the document referenced in Section 245.115(a)(2).* (Section 1-70(d)(1) of the Act)
- c) *Casing thread compound must conform to and meet all manufacturing and material requirements of the industry standards set forth in the document referenced in Section 245.115(a)(3) (Section 1-70(d)(2) of the Act). Additionally, the uses of casing thread compound in the well construction must be in a manner consistent with the industry standards set forth in the document referenced in Section 245.115(a)(3).*
- d) *The borehole must be circulated and conditioned before surface casing setting and cementing to ensure an adequate cement bond* (Section 1-70(d)(5) of the Act).

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- e) The permittee shall notify the Department's District Office during normal business hours by phone and electronic mail *at least 24 hours* (Section 1-70(d)(11) of the Act) before setting and cementing surface casing to enable an inspector to be present.
- f) When setting surface casing, centralizers are required to be used as follows to keep the casing in the center of the wellbore before and during cement operations:
  - 1) A centralizer shall be placed at the bottom of the surface casing string or shoe;
  - 2) Centralizers shall be placed *above and below a stage collar or diverting tool, if run*;
  - 3) Centralizers shall be placed *through usable-quality water zones*;
  - 4) Centralizers shall be placed on *every fourth joint from the cement shoe to the ground surface or to the bottom of the cellar*;
  - 5) *The Department may require additional centralization as necessary to ensure the integrity of the well design is adequate*; and
  - 6) *All centralizers must conform to and shall meet specifications in, or equivalent to, the industry standards set forth in the documents referenced in Section 245.115(a)(4) through (a)(6).*
- g) *A pre-flush or spacer must be pumped ahead of the cement.* (Section 1-70(d)(6) of the Act)
- h) Surface casing cement must:
  - 1) be Class A cement, with a minimum density of 14.5 lbs./gal.;
  - 2) meet the cement requirements of Section 245.520(a) and (b); and
  - 3) be applied behind the casing according to the requirements of Section 245.520(c) and (d).

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- i) *Surface casing must be fully cemented to the surface with excess cements. Cementing must be by the pump and plug method with a minimum of 25% excess cement with appropriate lost circulation material, unless another amount of excess cement is approved by the Department. If cement returns are not observed at the surface, the permittee must perform remedial actions as appropriate. (Section 1-70(d)(11) of the Act)*
- j) *After the cement is placed behind the surface casing (Section 1-70(d)(8) of the Act), the cement must be tested (comprehensive strength test) and cement job logs maintained pursuant to the requirements of Section 245.520(f) through (h).*
- k) *After the surface casing cement operation is completed to the surface, the permittee shall notify the Department's District Office by phone and electronic mail to enable an inspector to be present for the following:*
  - 1) testing the internal mechanical integrity of the surface casing pursuant to Section 245.540; and
  - 2) installation and testing of the blowout prevention equipment pursuant to Section 245.550.

**Section 245.540 Establishment of Internal Mechanical Integrity**

An internal mechanical integrity test shall be performed on each cemented casing string after installation for all wells regulated by this Part.

- a) *The permittee shall contact the Department's District Office during normal business hours by phone and electronic mail at least 24 hours before conducting an internal mechanical integrity pressure test to enable an inspector to be present when the test is performed (Section 1-70(d)(16) of the Act).*
- b) Mechanical Integrity
  - 1) *The internal mechanical integrity of surface and intermediate casing strings shall be tested:*
    - A) *with fresh water or brine;*

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- B) *to no less than 0.22 psi per foot of casing string length or 1,500 psi, whichever is greater, but not to exceed 70% of the minimum internal yield; and*
- C) *for at least 30 minutes with less than a 5% pressure loss.*
- 2) *If the pressure declines more than 5% or if there are other indications of a leak, corrective action shall be taken before conducting further drilling operations. (Section 1-70(d)(16) of the Act)*
- c) *The internal mechanical integrity of the production casing string or any casing string that will have pressure exerted on it during stimulation of the well shall be tested:*
- 1) *with fresh water or brine;*
- 2) *to at least the maximum anticipated treatment pressure or 1,500 psi, whichever is greater, but not to exceed 70% of the minimum internal yield;*
- 3) *for at least 30 minutes with less than a 5% pressure loss; and*
- 4) *if the pressure declines more than 5% or if there are other indications of a leak, corrective action shall be taken before conducting further drilling operations. (Section 1-70(d)(16) of the Act)*
- d) Records of internal mechanical integrity pressure tests for all casing strings must be kept pursuant to the following requirements:
- 1) *A record of the internal mechanical integrity pressure test for each casing string must be maintained by the permittee in the well file at the well site and must be submitted to the Department on a form prescribed by the Department before conducting high volume horizontal hydraulic fracturing operations (Section 1-70(d)(16) of the Act).*
- 2) Permittee shall provide the Department with a copy of all internal mechanical integrity pressure test results for all casing strings 30 days after completion of well construction; and

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- 3) Permittee shall retain these records for the life of the well until the well is plugged, abandoned and restored in accordance with the Illinois Oil and Gas Act, the administrative rules promulgated under that Act, and Subpart J of this Part.

**Section 245.550 Installation and Testing of Blowout Prevention Equipment**

After the surface casing has been set and cemented pursuant to Section 245.530, *the permittee shall install and test blowout prevention equipment* pursuant to the requirements of this Section (Section 1-70(e)(1) of the Act).

- a) The permittee shall contact the Department's District Office during normal business hours by phone and electronic mail at least 24 hours before conducting pressure tests on the blowout prevention equipment to enable an inspector to be present when the tests are performed.
- b) The permittee or permittee's designated representative shall be present at the well site *when the blowout preventer is installed, tested, and in use.*
  - 1) *That person or personnel shall have a current well control certification from an accredited training program that is acceptable to the Department; and*
  - 2) *The certification shall be available at the well site and provided to the Department upon request. (Section 1-70(e)(3) of the Act)*
- c) *The permittee shall install all blowout prevention equipment using pipe fittings, valves, and unions placed on or connected to the blow-out prevention systems that have a working pressure capability that exceeds the anticipated pressures. (Section 1-70(e)(2) of the Act)*
- d) *A remote blowout preventer actuator that is powered by a source other than rig hydraulics shall be located at least 50 feet from the wellhead and have an appropriate rated working pressure (Section 1-70(e)(6) of the Act).*
- e) *Pressure testing of the blowout preventer and related equipment for any drilling or completion operation must be performed.*

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- 1) *Testing must be conducted in accordance with the industry standards set forth in the document referenced in Section 245.115(a)(7). A record of the pressure tests must be made on a form prescribed by the Department.*
- 2) *Testing of the blowout preventer shall include testing after the blowout preventer is installed on the well but prior to drilling below the last cemented casing seat.*
- 3) *Pressure control equipment, including the blowout preventer, that fails any pressure test shall not be used until it is repaired, or replaced, and passes the pressure test. (Section 1-70(e)(5) of the Act)*
- 4) Records of all pressure tests and repair work on blowout prevention equipment shall be maintained by the permittee in the well file at the well site and made available to the Department upon request.
- f) After installation and testing, the blowout prevention equipment must be in use *during all drilling and completion operations* and shall be maintained *in good working condition at all times* (Section 1-70(e)(1) and (3) of the Act).
- g) *Appropriate pressure control procedures* must be properly employed *and equipment* must be installed and maintained *in proper working order while conducting drilling and completion operations, including tripping, logging, running casing into the well, and drilling out solid-core stage plugs* (Section 1-70(e)(4) of the Act).

**Section 245.560 Intermediate Casing Requirements**

When intermediate casing is required by subsection (a), intermediate casing used in the construction of wells must be set and cemented pursuant to the requirements of subsections (b) through (m). *Intermediate casing used to isolate fresh water must not be used as the production string in the well in which it is installed, and may not be perforated for purposes of conducting a hydraulic fracture treatment through it.*

- a) Cemented intermediate casing must be installed under the following conditions:
  - 1) *when necessary to isolate fresh water not isolated by surface casing; or*

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- 2) *to seal off potential flow zones, anomalous pressure zones, lost circulation zones and other drilling hazards. (Section 1-70(d)(12) of the Act)*
- b) Intermediate casing shall be set and cemented to one of the standards below:
  - 1) *When intermediate casing is installed to protect fresh water, the permittee shall set a full string of new intermediate casing at least 100 feet below the base of the deepest fresh water and bring cement to the surface;*
  - 2) *In instances in which intermediate casing was set solely to protect fresh water encountered below the surface casing shoe, and cementing to the surface is technically infeasible, would result in lost circulation, or both, cement must be brought to a minimum of 600 feet above the shallowest fresh water zone encountered below the surface casing shoe or to the surface if the fresh water zone is less than 600 feet from the surface;*
  - 3) *In the case that intermediate casing was set for a reason other than to protect fresh water, the intermediate casing string shall be cemented from the shoe to a point at least 600 true vertical feet above the shoe; or*
  - 4) *If there is a hydrocarbon bearing zone that is capable of producing and that is exposed above the intermediate casing shoe, then the casing shall be cemented from the shoe:*
    - A) *to a point at least 600 true vertical feet above the shallowest hydrocarbon bearing zone;*
    - B) *to a point at least 200 feet above the shoe of the next shallower casing string that was set and cemented in the well; or*
    - C) *to the surface if less than 200 feet. (Section 1-70(d)(12) of the Act)*
- c) *The location and depths of any hydrocarbon-bearing zones or fresh water zones that are open to the wellbore above the casing shoe must be confirmed by coring, electric logs, or testing and must be reported to the Department. (Section 1-70(d)(12) of the Act)*
- d) Intermediate casing must conform to the industry standards set forth in the document referenced in Section 245.115(a)(2). Additionally, the use of

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intermediate casing in the well construction must be in a manner consistent with the industry standards set forth in the document referenced in Section 245.115(a)(2).

- e) *Casing thread compound must conform to* and meet all manufacturing and material requirements of the industry standards set forth in the document referenced in Section 245.115(a)(3) (Section 1-70(d)(2) of the Act). Additionally, the uses of casing thread compound in the well construction must be in a manner consistent with the industry standards set forth in the document referenced in Section 245.115(a)(3).
- f) *The borehole must be circulated and conditioned* before intermediate casing setting and cementing *to ensure an adequate cement bond* (Section 1-70(d)(5) of the Act).
- g) The permittee shall notify the Department's District Office during normal business hours by phone and electronic mail at least 24 hours before setting and cementing intermediate casing cementing operations to enable an inspector to be present.
- h) When setting intermediate casing in non-deviated holes, centralizers are required to be used as follows to keep the casing in the center of the wellbore before and during cementing operations:
  - 1) *Centralizers shall be placed on every fourth joint from the cement shoe to the ground surface or to the bottom of the cellar;*
  - 2) *The Department may require additional centralizers as necessary to ensure the integrity of the well design; and*
  - 3) *All centralizers must conform to and shall meet specifications in, or equivalent to, the industry standards set forth in the documents referenced in Section 245.115(a)(4) through (a)(6). (Section 1-70(d)(3) of the Act)*
- i) *A pre-flush or spacer must be pumped ahead of the cement* (Section 1-70(d)(6) of the Act).
- j) Intermediate casing cement must:

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- 1) meet the cement requirements of Section 245.520(a) and (b); and
  - 2) be applied behind the casing according to the requirements of Section 245.520(c) and (d).
- k) A radial cement bond evaluation log, or other evaluation approved by the Department, such as, but not limited to, temperature surveys, must be run to verify the cement bond on the intermediate casing. Remedial cementing is required if the cement bond is not adequate for drilling ahead. (Section 1-70(d)(13) of the Act)
- l) The cementing and testing requirements of subsections (b)(2), (b)(3), (b)(4), (c) and (k) may be waived if all intermediate casing strings are cemented to surface.
- m) After the cement is placed behind the intermediate casing (Section 1-70(d)(8) of the Act), the cement must be tested and cement job logs maintained pursuant to the requirements of Section 245.520(f) through (h).
- n) After the intermediate casing cement operation is completed, the permittee shall notify the Department's District Office by phone and electronic mail to enable an inspector to be present for testing the internal mechanical integrity of the intermediate casing pursuant to Section 245.540.
- o) If the annulus between the production casing and the surface of intermediate casing has not been cemented to the surface, the intermediate casing annulus shall be equipped with an appropriately sized and tested relief valve. The flow line from the relief valve should be secured and diverted to a lined pit or tank. (See API HF1 – Hydraulic Fracturing Operations – Well Construction and Integrity Guidelines, 1<sup>st</sup> Edition, October 2009, Section 10.4.2, Pressure Monitoring.)

**Section 245.570 Production Casing Requirements**

Production casing shall be used in the construction of all wells regulated by this Part and shall be set and cemented pursuant to the requirements of this Section.

- a) *Production casing must be fully cemented from the production casing shoe to 500 feet above the top perforated formation, if possible* (Section 1-70(d)(14) of the Act). However, if that cementing requirement will inhibit the production of oil or gas from the targeted formation, cementing of the production casing must be

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completed from at least just above the top of the perforated formation to 500 feet above the top of the perforated formation.

- b) Production casing must conform to the industry standards set forth in the document referenced in Section 245.115(a)(2). Additionally, the use of production casing in the well construction must be in a manner consistent with the industry standards set forth in the document referenced in Section 245.115(a)(2).
- c) *Casing thread compound must conform to* and meet all manufacturing and material requirements of *the industry standards* set forth in the document referenced in Section 245.115(a)(3) (Section 1-70(d)(2) of the Act). Additionally, the uses of casing thread compound in the well construction must be in a manner consistent with the industry standards set forth in the document referenced in Section 245.115(a)(3).
- d) *The borehole must be circulated and conditioned* before production casing setting and cementing *to ensure an adequate cement bond* (Section 1-70(d)(5) of the Act).
- e) The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail before setting and cementing production casing to enable an inspector to be present.
- f) When setting production casing, centralizers are required to be used as follows to keep the casing in the center of the wellbore prior to and during cement operations:
  - 1) In the vertical portion of the well, *a centralizer shall be placed on every fourth joint from the kickoff point to the ground surface or to the bottom of the cellar;*
  - 2) In the horizontal portion of the well, rigid centralizers shall be used and placed accordingly to ensure at least 80% standoff;
  - 3) *The Department may require additional centralizers as necessary to ensure the integrity of the well design;* and
  - 4) *All centralizers* used in the vertical portion of the well must conform to and *shall meet specifications in, or equivalent to,* the industry standards

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set forth in the documents referenced in Section 245.115(a)(4) through (a)(6). (Section 1-70(d)(3) of the Act)

- g) *A pre-flush or spacer must be pumped ahead of the cement* (Section 1-70(d)(6) of the Act).
- h) Production casing cement must:
  - 1) meet the cement requirements of Section 245.520(a) and (b); and
  - 2) be applied behind the casing according to the requirements of Section 245.520(c) and (d).
- i) *After the cement is placed behind the production casing* (Section 1-70(d)(8) of the Act), the cement must be tested and cement job logs maintained pursuant to the requirements of Section 245.520(f) through (h).
- j) After the production casing cement operation is completed, the permittee shall notify the Department's District Office by phone or electronic mail to enable an inspector to be present for testing the internal mechanical integrity of the production casing pursuant to Section 245.540.

**Section 245.580 Establishment of Formation Integrity**

- a) *A formation pressure integrity test shall be conducted below the surface casing and below all intermediate casing* in order to demonstrate:
  - 1) that the integrity of the casing shoe is sufficient to contain the wellbore pressures anticipated in the permit application;
  - 2) that no flow path exists to formations above the casing shoe; and
  - 3) that the casing shoe is competent to handle an influx of formation fluid or gas without breaking down.
- b) *The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail at least 24 hours before conducting a formation pressure integrity test to enable an inspector to be present when the test is performed.*

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- c) *The actual hydraulic fracturing treatment pressure must not exceed the mechanical integrity test pressure of the casing tested pursuant to Section 245.540 at any time during high volume horizontal hydraulic fracturing operations.*
- d) Records of all formation integrity tests must be kept pursuant to the following requirements:
- 1) *A record of the formation integrity test must be maintained by the permittee in the well file at the well site and must be submitted to the Department on a form prescribed by the Department before conducting high volume horizontal hydraulic fracturing operations. (Section 1-70(d)(18) of the Act)*
  - 2) Permittee shall provide the Department with a copy of all formation integrity test results 30 days after completion of well construction.
  - 3) Permittee shall retain these records for the life of the well until the well is plugged, abandoned and restored in accordance with the Illinois Oil and Gas Act, the administrative rules promulgated under that Act, and Subpart J of this Part.

## SUBPART F: WATER QUALITY

**Section 245.600 Water Quality Monitoring**

Water quality monitoring shall be conducted pursuant to the requirements of this Section and in accordance with the water quality monitoring work plan submitted pursuant to Section 245.210(a)(24). Unless specified otherwise, all distances are measured horizontally from the closest edge of the well site.

- a) **Water Quality Monitoring Work Plan**  
*Each applicant for a high volume horizontal hydraulic fracturing permit shall provide the Department with a water quality monitoring work plan to ensure accurate and complete sampling and testing as required under this Section. A water quality monitoring work plan shall include, at a minimum, the following (Section 1-80(a) of the Act):*

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- 1) *information identifying all water sources within the range of testing under this Section* (Section 1-80(a)(1) of the Act);
- 2) *a sampling plan and protocol consistent with the requirements of subsections (b), (c) and (d), including notification to the Department at least 7 calendar days prior to sample collection* (Section 1-80(a)(2) of the Act);
- 3) *the name and contact information of an independent third party under the supervision of a professional engineer or professional geologist that shall be designated to conduct sampling to establish a baseline as provided for under subsection (b)* (Section 1-80(a)(3) of the Act);
- 4) *the name and contact information of an independent third party under the supervision of a professional engineer or professional geologist that shall be designated to conduct sampling to establish compliance with monitoring as provided within subsection (c)* (Section 1-80(a)(4) of the Act);
- 5) *the name and contact information of an independent testing laboratory accredited or certified by the Agency to perform the required laboratory method and to conduct the analysis required under subsections (b) and (c)* (Section 1-80(a)(5) of the Act). When no laboratory has been accredited or certified by the Agency to analyze a particular substance requested in subsection (d), results will be considered only if they have been analyzed by a laboratory accredited or certified by another State agency or an agency of the federal government, if the standards used for the accreditation or certification of that laboratory are substantially equivalent to the accreditation standard under Section 4(o) of the Illinois Environmental Protection Act [415 ILCS 5];
- 6) proof that the applicant provided each landowner referenced in subsections (a)(7) through (a)(10) with a notice of water sampling rights under the Act pursuant to a form prescribed by the Department and prior to the landowner's execution of any document regarding water sampling.
- 7) *proof of access and the right to test within the area for testing prescribed within subsections (b) and (c)* (Section 1-80(a)(6) of the Act);

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- 8) *copies of any non-disclosure agreements made with landowners, if applicable (Section 1-80(a)(6) of the Act). Landowners of private property may condition access or permission for sampling of private water wells or ponds wholly within their property or a portion of any perennial stream or river that flows through their property under a non-disclosure agreement that includes the following terms and conditions (Section 1-80(d) of the Act):*
- A) *the permittee shall provide the results of the water quality testing to the private property landowners (Section 1-80(d)(1) of the Act);*
  - B) *the permittee shall retain the results of all water quality testing conducted pursuant subsections (b) and (c) until at least 1 year after completion of all water quality monitoring for review by the Department upon request (Section 1-80(d)(2) of the Act);*
  - C) *the permittee shall not file with the Department the results of the water quality testing, except that under subsection (a)(7)(D) (Section 1-80(d)(3) of the Act); and*
  - D) *the permittee shall notify and provide to the Department and the Agency within 7 calendar days of its receipt of the water quality data any testing under subsection (c) indicating concentrations that exceed the standards or criteria referenced in the definition of "pollution or diminution" under Section 245.110 (Section 1-80(d)(4) of the Act);*
- 9) *documentation that the landowner of the private property declines, expressly and in writing, to provide access or permission for sampling, if applicable. Under these conditions, sampling of private water wells or ponds wholly contained within private property shall not be required (Section 1-80(d) of the Act);*
- 10) *evidence as to the good faith efforts (for example, logs of oral communications and copies of written communication) that were made to secure documentation that the landowner of the private property declines to provide proof of his or her refusal to allow access for the purposes of conducting sampling in writing, if applicable. Permits issued under this Part cannot be denied if the landowner of the private property declines to*

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*provide proof of his or her refusal to allow access in writing and the permittee provides evidence that good faith efforts were made to gain access for the purposes of conducting sampling (Section 1-80(d) of the Act); and*

- 11) *identification of practicable contingency measures, including provision for alternative drinking water supplies, which could be implemented in the event of pollution or diminution of a water source as provided for in Section 245.610 (Section 1-80(a)(7) of the Act).*

b) Baseline Testing

*Before conducting high volume horizontal hydraulic fracturing operations on a well, a permittee shall retain an independent third party, as identified pursuant to subsection (a)(3). The permittee, through its independent third party, shall, after giving the Department 7 calendar days' notice during regular business hours, conduct baseline water quality sampling of all water sources within 1,500 feet of the well site (Section 1-80(b) of the Act) pursuant to the laboratory analysis procedures of subsection (d) and as follows:*

- 1) *If an aquifer to be sampled is inaccessible through groundwater wells within 1,500 feet of the well site, the permittee shall conduct groundwater well sampling of that aquifer at the next closest groundwater well that the permittee has permission to access.*
- 2) *Installation of a groundwater monitoring well is not required to satisfy the sampling requirements of this Section.*
- 3) *Baseline testing results shall be submitted to the Department no later than 3 calendar days before commencing high volume horizontal hydraulic fracturing operations, unless there are non-disclosure agreements with the applicable private property landowners. In the case of non-disclosure agreements, the permittee shall provide a certification to the Department that the baseline testing results have been provided to the applicable private property landowners no later than 3 calendar days before commencing high volume horizontal hydraulic fracturing operations.*
- 4) *The Department shall post the results of the baseline sampling and analysis conducted under this subsection (b) on its website within 7*

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*calendar days after receipt. The posted results shall, at a minimum, include the following:*

- A) the well name, location and permit number;
  - B) *a detailed description of the sampling and testing conducted under this subsection (b), including the results of the sampling and testing;*
  - C) *the chain of custody of the samples;*
  - D) *quality control of the testing. (Section 1-80(b) of the Act)*
- c) Follow-up Monitoring  
*After baseline tests are conducted under subsection (b) and following the completion of high volume horizontal hydraulic fracturing operations, the permittee, through its independent third party, shall perform the following:*
- 1) *Notify the Department during normal business hours at least 7 calendar days prior to taking the samples; and*
  - 2) *Sample and test all water sources that were subjected to sampling under subsection (b) in the same manner following the procedures under subsection (d) 6 months, 18 months, and 30 months after the high volume horizontal hydraulic fracturing operations have been completed, unless the water source was sampled under this subsection (c) or subsection (b) within the previous month. (Section 1-80(c) of the Act)*
- d) Laboratory Analysis Procedures
- 1) *Sampling shall, at a minimum, be consistent with the water quality monitoring work plan and allow for a determination of whether any hydraulic fracturing additive or other oil or gas well contaminant has caused pollution or diminution (Section 1-80(e) of the Act). For each water source required to be sampled and tested under subsections (b) and (c):*
    - A) *a minimum of 3 separate samples shall be collected by the independent third party, under the supervision of a licensed*

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*professional engineer or professional geologist* (Section 1-80(b) of the Act) consistent with the approved water quality monitoring work plan; and

- B) each sample collected *shall be* submitted to and *analyzed by an* Agency-accredited or -certified *independent testing laboratory* (Section 1-80(b) of the Act) for the following:
- i) *pH* (Section 1-80(e)(1) of the Act);
  - ii) *total dissolved solids, dissolved methane, dissolved propane, dissolved ethane, alkalinity, and specific conductance* (Section 1-80(e)(2) of the Act);
  - iii) *chloride, sulfate, arsenic, barium, calcium, chromium, iron, magnesium, selenium, cadmium, lead, manganese, mercury, and silver* (Section 1-80(e)(3) of the Act);
  - iv) *BTEX* (Section 1-80(e)(4) of the Act);
  - v) *gross alpha and beta particles to determine the presence of any naturally occurring radioactive materials* (Section 1-80(e)(5) of the Act);
- 2) The independent third party's laboratory request submitted to the Agency-accredited or -certified independent testing laboratory shall include:
- A) the applicant's name, well name, well location and permit number;
  - B) a detailed description of the sampling methods used to collect the samples, the date and time of the sampling collections, the location where each sample was collected and by whom, and the specific testing requested;
  - C) the chain of custody for the samples up to the point when the samples are relinquished to the laboratory; and
  - D) a specific request to the laboratory that the laboratory's report also include:

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- i) the name and address of the laboratory;
  - ii) the sampling method and testing requested in subsection (d);
  - iii) the analyses being performed;
  - iv) the test methods used to perform the analyses;
  - v) the date and time of the analyses;
  - vi) the identification of any test results performed by a subcontracted laboratory;
  - vii) the name of any subcontracted laboratory used and the applicable accreditation that the subcontracted laboratory holds and maintains for the analyses performed;
  - viii) the complete chain of custody through all the analyses in the laboratory and any subcontracted laboratory used;
  - ix) the test results with the units of measurements used, when appropriate;
  - x) an interpretation of the test results, including the definitions for any data qualifiers applied to the test results;
  - xi) the name, title and signature of the person authorizing the test results; and
  - xii) a summary of the laboratory's quality control results for the analyses performed;
- 3) *The permittee shall, within 7 calendar days after receipt of results of baseline or follow-up monitoring tests conducted under this Section, submit the independent third party's lab request under subsection (d)(2) and the results to the Department for a water source not subject to a non-disclosure agreement or, except as provided by subsection (d)(5), only to*

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*the landowner of the water source pursuant to a non-disclosure agreement under subsection (a)(7) (Section 1-80(b) and (c) of the Act);*

- 4) For a water source subject to a non-disclosure agreement, if the independent third party follow-up monitoring test results indicate that concentrations exceed the standards or criteria referenced in the definition of "pollution or diminution" in Section 245.110, the permittee shall submit the independent third party lab requests and the results of those tests to the Department and the Agency within 7 calendar days after its receipt of the follow-up monitoring test results. The permittee must identify which specific standards or criteria are exceeded.
- e) Upon receipt of the independent third party's lab requests and the results of the laboratory analyses for follow-up monitoring under subsection (c), the Department shall, in consultation with the Agency as the Department deems appropriate, determine *whether any hydraulic fracturing additive or other oil or gas well contaminant has caused pollution or diminution for purposes of Sections 245.610 and 245.620 (Section 1-80(e) of the Act).*
- f) If the Department makes a determination of pollution or diminution under subsection (e), the procedures set forth in Section 245.615 shall be followed.

**Section 245.610 Water Pollution Investigations**

- a) *Any person who has reason to believe he or she has incurred pollution or diminution of a water source as a result of a high volume horizontal hydraulic fracturing treatment of a well may request that an investigation be conducted (Section 1-83(a) of the Act) by:*
  - 1) notifying the Department either in writing or electronically through its website; and
  - 2) providing the following information:
    - A) his or her name, address and contact information; and
    - B) a detailed description of the suspected contamination, including but not limited to, identifying:

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- i) the water source being affected;
  - ii) the suspected source of contamination;
  - iii) dates and times related to observations of the suspected contamination;
  - iv) the names of potential witnesses and their contact information; and
  - v) any documents or photographs in his or her possession that may be useful as evidence of pollution or diminution.
- b) *Within 30 calendar days after the notification required by subsection (a), the Department will notify the Agency and initiate an investigation of the claim. The Department will make a reasonable effort to reach a determination within 180 calendar days after receiving the notification.* (Section 1-83(b) of the Act)
- c) If necessary, *the Agency shall conduct water quality sampling* (Section 1-83(b) of the Act) and the Department shall provide to the Agency all available permit information and other relevant data.
- d) *Any person conducting or who has conducted high volume horizontal hydraulic fracturing operations suspected to be the source of pollution or diminution complained of shall supply any information requested by the Department or Agency to assist with the investigation. The Department, in consultation with the Agency as the Department deems appropriate, shall give due consideration to any information submitted during the course of the investigation.* (Section 1-83(c) of the Act) The requested information may include additional water quality monitoring sampling in accordance with Section 245.600.
- e) The Department, in consultation with the Agency as the Department deems appropriate, shall make a determination of pollution or diminution if *sampling results or other information obtained as part of the investigation or the results of tests conducted under Section 245.600 indicate that hydraulic fracturing additive or other oil or gas well contaminant concentrations in the water are found to exceed the following standards or criteria* (Section 1-83(d) of the Act) and are statistically significantly higher than the base line sampling results obtained under Section 245.600(b):

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- 1) in groundwater, any of the following:
    - A) *detection of benzene or any other carcinogen in any Class I, Class II, or Class III groundwater;*
    - B) *detection of any constituent in 35 Ill. Adm. Code 620.310(a)(3)(A)(i) equal to or above the listed preventive response criteria in any Class I, Class II, or Class III groundwater;*
    - C) *detection of any constituent in 35 Ill. Adm. Code 620.410(a), (b), (c), (d) or (e) equal to or above the listed standard in any Class I, Class II, or Class III groundwater;*
    - D) *detection of any constituent in Class III groundwater equal to or above a standard established under 35 Ill. Adm. Code 620.260; or*
    - E) *detection of any constituent in Class I, Class II, or Class III groundwater equal to or above a cleanup objective listed in 35 Ill. Adm. Code 742.*
  - 2) *in surface water, exceeding any applicable numeric or narrative standard in 35 Ill. Adm. Code 302 or 304. (Section 1-5 of the Act)*
- f) If the Department makes a determination of pollution or diminution under subsection (e), the procedures set forth in Section 245.615 shall be followed.

**Section 245.615 Procedures**

- a) Upon a determination of pollution or diminution by the Department, the Department shall issue a Notice of Violation and proceed with appropriate enforcement pursuant to Subpart K. The enforcement shall, *in addition to any other penalty available under the law*, require the permittee to complete remedial action to temporarily or permanently *restore or replace the affected water supply with an alternative source of water adequate in quantity and quality for the purposes served by the water source. The quality of a restored or replaced water source shall meet or exceed the quality of the original water source based upon the results of the baseline test results under Section 245.600(b) for that water*

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*source, or other available information. Further, as appropriate, the Department may require the permittee to take immediate action, including, but not limited to, repair, replacement, alteration, or prohibition of operation of equipment permitted by the Department. The Department, in consultation with the Agency and/or the Illinois Department of Public Health, may also issue conditions and orders to protect the public health or welfare or the environment. (Section 1-83(d) of the Act)*

- b) *Within 15 calendar days after a determination of pollution or diminution, the Department shall, with assistance from other State and local agencies, provide notice of its Notice of Violation on the Department's website and to all persons that use the water source for domestic, agricultural, industrial, or any other legitimate beneficial uses (Section 1-83(e) of the Act).*
- c) *Upon issuance of a Notice of Violation pursuant to subsection (b), the Department shall contact the Agency and forward all information to the Agency. The Agency shall investigate the potential for violations as designated within Section 1-87 of the Act. (Section 1-83(f) of the Act)*
- d) *The Department shall publish, on its website, lists of confirmed determinations of pollution or diminution that result from high volume horizontal hydraulic fracturing operations and are final administrative decisions. This information shall be searchable by county. (Section 1-83(h) of the Act)*
- e) *The Agency shall have the duty to investigate complaints that activities under the Act or this Part have caused a violation of Section 12 of the Illinois Environmental Protection Act or surface or groundwater rules adopted under the Illinois Environmental Protection Act. Any action taken by the Agency in enforcing these violations shall be taken under and consistent with the Illinois Environmental Protection Act, including, but not limited to, the Agency's authority to seek a civil or criminal cause of action under that Act. (Section 1-87(b) of the Act)*

**Section 245.620 Rebuttable Presumption of Pollution or Diminution**

- a) *This Section establishes a rebuttable presumption for use regarding pollution or diminution under Subpart K (Section 1-85(a) of the Act).*
- b) *Unless rebutted by a defense established in subsection (c), it shall be presumed that any person conducting or who has conducted high volume horizontal*

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*hydraulic fracturing operations shall be liable for pollution or diminution of a water supply if* (Section 1-85(b) of the Act):

- 1) *the water source is within 1,500 feet of the well site* (Section 1-85(b)(1) of the Act) where the high volume horizontal hydraulic fracturing operations occurred;
  - 2) *the baseline water quality data showed no pollution or diminution before the start of high volume horizontal hydraulic fracturing operations* (Section 1-85(b)(2) of the Act);
  - 3) *the pollution or diminution occurred during high volume horizontal hydraulic fracturing operations or no more than 30 months after the completion of the high volume horizontal hydraulic fracturing operations* (Section 1-85(b)(3) of the Act);
  - 4) the laboratory results from the follow-up monitoring indicate pollution or diminution from at least one of the following:
    - A) pH;
    - B) total dissolved solids, dissolved methane, dissolved propane, dissolved ethane, alkalinity and specific conductance;
    - C) chloride, sulfate, arsenic, barium, calcium, chromium, iron, magnesium, selenium, cadmium, lead, manganese, mercury and silver;
    - D) BTEX; or
    - E) gross alpha and beta particles to determine the presence of any naturally occurring radioactive materials.
- c) *To rebut the presumption established under this Section, a person presumed responsible must affirmatively prove by clear and convincing evidence any of the following* (Section 1-85(c) of the Act):
- 1) *the water source is not within 1,500 feet of the well site* (Section 1-85(c)(1) of the Act);

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- 2) *the pollution or diminution occurred before the high volume horizontal hydraulic fracturing operations or more than 30 months after the completion of the high volume horizontal hydraulic fracturing operations (Section 1-85(c)(2) of the Act);*
- 3) *the pollution or diminution occurred as the result of an identifiable cause other than the high volume horizontal hydraulic fracturing operations (Section 1-85(c)(3) of the Act); or*
- 4) the laboratory results from the follow-up monitoring do not indicate pollution or diminution from any of the following:
  - A) pH;
  - B) total dissolved solids, dissolved methane, dissolved propane, dissolved ethane, alkalinity and specific conductance;
  - C) chloride, sulfate, arsenic, barium, calcium, chromium, iron, magnesium, selenium, cadmium, lead, manganese, mercury and silver;
  - D) BTEX; or
  - E) gross alpha and beta particles to determine the presence of any naturally occurring radioactive materials.

**Section 245.630 Prohibitions**

*It is unlawful to inject or discharge hydraulic fracturing fluid, produced water, BTEX, diesel, or petroleum distillates into fresh water (Section 1-25(c) of the Act).*

## SUBPART G: CHEMICAL DISCLOSURE; TRADE SECRETS

**Section 245.700 Chemical Disclosure by Permittee**

- a) *If the chemical disclosure information required by Section 245.210(a)(8) is not submitted at the time of permit application, then the permittee shall submit this information to the Department in electronic format no less than 21 calendar days*

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before performing the high volume horizontal hydraulic fracturing operations (Section 1-77(a) of the Act).

- b) *Nothing in this Section shall prohibit the permittee from adjusting or altering the contents of the fluid during the treatment process to respond to unexpected conditions, as long as the permittee notifies the Department by electronic mail within 24 hours of the departure from the initial treatment design and includes a brief explanation detailing the reason for the departure* (Section 1-77(a) of the Act).
- c) No less than 21 calendar days before performing the first stimulation treatment of high volume horizontal hydraulic fracturing operations, the permittee shall *maintain and disclose to the Department separate and up-to-date master lists of* (Section 1-77(c)(2) of the Act):
  - 1) *the base fluid to be used during any high volume horizontal hydraulic fracturing operations within this State* (Section 1-77(c)(2)(A) of the Act);
  - 2) *all hydraulic fracturing additives to be used during any high volume horizontal hydraulic fracturing operations within this State* (Section 1-77(c)(2)(B) of the Act); and
  - 3) *all chemicals and associated Chemical Abstract Service numbers to be used in any high volume horizontal hydraulic fracturing operations within this State* (Section 1-77(c)(2)(C) of the Act).
- d) If a permittee uses the services of another person to perform high volume horizontal hydraulic fracturing operations, that person shall comply with Section 245.710 (Section 1-77(b) of the Act).

**Section 245.710 Chemical Disclosure by Contractor**

- a) A permittee shall be responsible to ensure that any contractor performing high volume horizontal hydraulic fracturing operations within this State on behalf of the permittee shall (Section 1-77(c) of the Act):
  - 1) *be authorized to do business in this State* (Section 1-77(c)(1) of the Act);
  - 2) provide the Department with the following information:

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- A) the contractor's business name, address, email address and telephone number;
  - B) the well name, permit number and permittee name for the well on which high volume horizontal hydraulic fracturing operations will be conducted; and
  - C) the name, email address and telephone number of the person at the well site responsible for the high volume horizontal hydraulic fracturing operations.
- b) No less than 21 calendar days before performing the first stimulation treatment of high volume horizontal hydraulic fracturing operations, the contractor performing high volume horizontal hydraulic fracturing operations on behalf of the permittee shall *maintain and disclose to the Department separate and up-to-date master lists of* (Section 1-77(c)(2) of the Act):
- 1) *the base fluid to be used during any high volume horizontal hydraulic fracturing operations within this State* (Section 1-77(c)(2)(A) of the Act);
  - 2) *all hydraulic fracturing additives to be used during any high volume horizontal hydraulic fracturing operations within this State* (Section 1-77(c)(2)(B) of the Act); and
  - 3) *all chemicals and associated Chemical Abstract Service numbers to be used in any high volume horizontal hydraulic fracturing operations within this State* (Section 1-77(c)(2)(C) of the Act).

**Section 245.715 Chemical Use Prohibitions**

- a) The permittee performing high volume horizontal hydraulic fracturing operations is *prohibited from using any base fluid, hydraulic fracturing additive, or chemical not listed on their master lists disclosed under Section 245.700.*
- b) Contractors *performing high volume horizontal hydraulic fracturing operations are prohibited from using any base fluid, hydraulic fracturing additive, or chemical not listed on their master lists disclosed under Section 245.710.* (Section 1-77(d) of the Act)

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**Section 245.720 Department Publication of Chemical Disclosures and Claims of Trade Secret**

- a) *The Department shall assemble and post up-to-date copies of the master lists of chemicals it receives under Sections 245.700 and 245.710 on its website within 21 business days after receipt (Section 1-77(e) of the Act).*
- b) *When an applicant, permittee, or person performing high volume horizontal hydraulic fracturing operations furnishes chemical disclosure information to the Department under Section 245.210, 245.700, 245.710 or 245.860 under a claim of trade secret, the applicant, permittee, or person performing high volume horizontal hydraulic fracturing operations shall submit redacted and un-redacted copies of the documents identifying the specific information on the master list of chemicals claimed to be protected as trade secret. The Department shall use the redacted copies when posting the master list of chemicals on its website. (Section 1-77(f) of the Act)*
- c) *Upon submission or within 5 calendar days after submission of the master list of chemicals with chemical disclosure information to the Department under Section 245.210, 245.700, 245.710 or 245.860 under a claim of trade secret, the person that claimed trade secret protection shall provide a justification of the claim containing the following:*
  - 1) *a detailed description of the procedures used by the person to safeguard that portion of the information on the master list of chemicals for which trade secret is claimed from becoming available to persons other than those selected by the person to have access to the information for limited purposes;*
  - 2) *a detailed statement identifying the persons or class of persons to whom that portion of the information on the master list of chemicals for which trade secret is claimed has been disclosed;*
  - 3) *a certification that the person has no knowledge that the portion of the information on the master list of chemicals for which trade secret is claimed has ever been published or disseminated or has otherwise become a matter of general public knowledge;*

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- 4) *a detailed discussion of why the person believes that the portion of the information on the master list of chemicals for which trade secret is claimed is of competitive value; and*
  - 5) *any other information that shall support the claim of trade secret. (Section 1-77(g) of the Act)*
- d) *Chemical disclosure information furnished under Section 245.210, 245.700, 245.710 or 245.860 under a claim of trade secret shall be protected from disclosure as a trade secret if the Department determines that the statement of justification demonstrates that (Section 1-77(h) of the Act):*
- 1) *the information has not been published, disseminated, or otherwise become a matter of general public knowledge (Section 1-77(h)(1) of the Act). There is a rebuttable presumption that the information has not been published, disseminated, or otherwise become a matter of general public knowledge if the person has taken reasonable measures to prevent the information from becoming available to persons other than those selected by the person to have access to the information for limited purposes and the statement of justification contains a certification that the person has no knowledge that the information has ever been published, disseminated, or otherwise become a matter of general public knowledge (Section 1-77(h) of the Act); and*
  - 2) *the information has competitive value (Section 1-77(h)(2) of the Act).*
- e) *Denial of a trade secret request under this Section shall be appealable under the Administrative Review Law (Section 1-77(i) of the Act) and the rules adopted under that Law.*
- f) *A person whose request to inspect or copy a public record is denied, in whole or in part, because of a grant of trade secret protection may file a request for review with the Public Access Counselor under Section 9.5 of the Freedom of Information Act [5 ILCS 140] or for injunctive or declaratory relief under Section 11 of the Freedom of Information Act for the purpose of reviewing whether the Department properly determined that the trade secret protection should be granted (Section 1-77(j) of the Act).*

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- g) *Except as otherwise provided in Section 245.730 of this Part and Section 1-77(m) of the Act, the Department must maintain the confidentiality of chemical disclosure information furnished under Section 245.210, 245.700, 245.710 or 245.860 under a claim of trade secret, until the Department receives official notification of a final order by a reviewing body with proper jurisdiction that is not subject to further appeal rejecting a grant of trade secret protection for that information* (Section 1-77(k) of the Act).

**Section 245.730 Trade Secret Disclosure to Health Professional**

Information about high volume horizontal hydraulic fracturing treatment chemicals *furnished under a claim of trade secret* may be disclosed by the Department to a *health professional* for the limited purpose of determining what health care services are necessary for the treatment of an affected patient pursuant to the requirements of this Section.

- a) A health professional shall complete and submit a request to obtain trade secret chemical information. In the request, the health professional shall:
- 1) *state a need for the information and articulate why the information is needed;*
  - 2) identify whether the affected patient requires *emergency or non-emergency* health care services; and
  - 3) identify the name and profession of the health professional and the name and location of the facility where the affected patient is being treated.
- b) In an emergency health care situation, a health professional shall:
- 1) call the Department during normal business hours and, as soon as circumstances permit without impeding the treatment of the affected patient, submit a completed request for information to the Department online or by fax. The Department shall respond to the health professional as quickly as possible by telephone, fax or other methods determined by the Department to be a secure means of disclosure; or
  - 2) call the trade secret holder at any time (24 hours/7 days a week) and, as soon as circumstances permit without impeding the treatment of the affected patient, submit a completed request for information to the trade

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secret holder directly by fax or email. The trade secret holder shall respond to the health professional as quickly as possible, but in no case more than 2 hours, by telephone, fax or other methods determined by the trade secret holder to be a secure means of disclosure.

- c) In a non-emergency health care situation, a health professional shall:
- 1) call the Department during normal business hours and submit a completed request for information to the Department online or by fax. The Department shall respond to the health professional within 2 business days by fax or other methods determined by the Department to be a secure means of disclosure; or
  - 2) call the trade secret holder at any time (24 hours/7 days a week) and submit a completed request for information to the trade secret holder directly by fax or email. The trade secret holder shall respond to the health professional within the same business day by fax or other methods determined by the trade secret holder to be a secure means of disclosure.
- d) *The health professional may share information disclosed pursuant to this Section with other persons as may be professionally necessary, including, but not limited to, the affected patient, other health professionals involved in the treatment of the affected patient, the affected patient's family members if the affected patient is unconscious, unable to make medical decisions, or is a minor, the Centers for Disease Control and Prevention, and other government public health agencies.*
- e) As soon as circumstances permit, the health professional who submitted the request for information shall inform the holder of the trade secret the names of all other health professionals to whom the information was disclosed.
- f) *As soon as circumstances permit without impeding the treatment of the affected patient, the holder of the trade secret may request a confidentiality agreement consistent with the requirements of this Section from all health professionals to whom the information is disclosed.*
- g) *Any recipient of the information disclosed pursuant to this Section shall not use the information for purposes other than the health needs asserted in the request and shall otherwise maintain the information as confidential. Information so*

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*disclosed to a health professional shall in no way be construed as publicly available.* (Section 1-77(1) of the Act)

SUBPART H: HIGH VOLUME HORIZONTAL HYDRAULIC  
FRACTURING PREPARATIONS AND OPERATIONS

**Section 245.800 General Conditions and Requirements**

- a) *During all phases of high volume horizontal hydraulic fracturing operations, the permittee shall comply with all terms of the permit, the Act and this Part (Section 1-75(a)(1) of the Act).*
- b) *All phases of high volume horizontal hydraulic fracturing operations shall be conducted in a manner that shall not pose a significant risk to public health, life, property, aquatic life, or wildlife (Section 1-75(a)(2) of the Act).*

**Section 245.805 Hydraulic Fracturing String Requirements and Pressure Testing**

*Hydraulic fracturing strings, if used in any wells regulated by this Part, shall be set or reset pursuant to the requirements of this Section.*

- a) *Hydraulic fracturing strings must be either strung into a production liner or run with a packer set at least 100 feet below the deepest cement top.*
- b) *A function-tested relief valve and diversion line must be installed and used to divert flow from the hydraulic fracturing string-casing annulus to a covered watertight steel tank in case of hydraulic fracturing string failure.*
  - 1) *The relief valve must be set to limit the annular pressure to no more than 95% of the working pressure rating of the weakest casings forming the annulus.*
  - 2) *The annulus between the hydraulic fracturing string and the production or immediate casing must be pressurized to at least 250 psi and monitored.*
- c) *Hydraulic fracturing strings must be tested to not less than the maximum anticipated treating pressure minus the annulus pressure applied between the fracturing string and the production or immediate casing. The pressure test shall*

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*be considered successful if the pressure applied has been held for 30 minutes with no more than 5% pressure loss. (Section 1-70(d)(17) of the Act)*

- d) The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail at least 24 hours before conducting a pressure test of the hydraulic fracturing string to enable an inspector to be present when the test is performed.
- e) A record of the pressure test shall be made on a form prescribed by the Department, maintained by the permittee in the well file at the well site, and made available to the Department upon request and included in the high volume horizontal hydraulic fracturing operations completion report pursuant to Section 245.860(d).
- f) If any change to the well involving resetting, repositioning, reconnecting or breaking any pressure connection of the hydraulic fracturing string occurs after a stage of high volume horizontal hydraulic treatment, the pressure test requirements of subsections (c) through (e) must be successfully repeated before initiating any subsequent stage of high volume horizontal hydraulic fracturing treatment.

**Section 245.810 Surface Equipment Pressure Testing**

For all wells regulated by this Part, the final configuration of surface equipment associated with the high volume horizontal hydraulic fracturing treatment, including *the injection lines and manifold, associated valves, fracture head or tree and any other wellhead components or connections, must be pressure tested* pursuant to the requirements of this Section *before any pumping of hydraulic fracturing fluid.*

- a) The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail at least 24 hours before conducting a pressure test of the final configuration of the surface equipment used for the high volume horizontal hydraulic fracturing treatment to enable an inspector to be present when the test is performed.
- b) The final configuration of the surface equipment used for the high volume horizontal hydraulic fracturing treatment *must be pressure tested with fresh water or brine to at least the maximum anticipated treatment pressure for at least 30 minutes with less than a 5% pressure loss.*

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- c) *A record of the pressure test must be made on a form prescribed by the Department, maintained by the permittee in the well file at the well site, and made available to the Department upon request.* (Section 1-75(b)(2) of the Act)
- d) If the configuration of surface equipment used for the high volume horizontal hydraulic fracturing treatment has been reconfigured or changed in any manner that breaks any pressure connection after a stage of high volume horizontal hydraulic fracturing operations treatment, the pressure test requirements of subsections (a) through (c) must be successfully repeated before initiating any subsequent stage of high volume horizontal hydraulic fracturing operations.

**Section 245.815 Notice and Approval Before Commencement of High Volume Horizontal Hydraulic Fracturing Operations**

Before commencement of high volume horizontal hydraulic fracturing operations, the permittee must notify and receive written approval from the Department by U.S. mail or electronic mail. Department approval for high volume horizontal hydraulic fracturing operations shall be based on the permittee's compliance with the following:

- a) *The permittee shall notify the Department's District Office during regular business hours by phone and electronic mail or letter at least 48 hours before the commencement of high volume horizontal hydraulic fracturing operations to enable an inspector to be present* (Section 1-75(a)(3) of the Act). The notification under this subsection shall be notice for all stages of a multiple-stage high volume horizontal hydraulic fracturing treatment.
- b) *Prior to conducting high volume horizontal hydraulic fracturing operations at a well site, the permittee shall cause to be plugged all previously abandoned unplugged or insufficiently plugged well bores within 750 feet of any part of the horizontal well bore that penetrated within 400 vertical feet of the geologic formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations pursuant to the requirements of Section 245.1010* (Section 1-95(b) of the Act).
- c) Baseline water quality sampling of all water sources within 1,500 feet of the well site must be completed pursuant to Section 245.600(b).
- d) All tests required by the following Sections shall be conducted:

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- 1) Section 245.540: well casing internal mechanical integrity tests (see Sections 1-75(b)(1) and 1-70(d)(16) of the Act);
- 2) Section 245.580: formation integrity tests (see Sections 1-75(b)(1) and 1-70(d)(18) of the Act);
- 3) Section 245.805: hydraulic fracturing string pressure tests, if required (see Sections 1-75(b)(1) and 1-70(d)(17) of the Act); and
- 4) Section 245.810: surface equipment pressure tests (see Section 1-75(b)(2) of the Act).

**Section 245.820 Secondary Containment Inspections**

*No more than one hour before initiating any stage of the high volume horizontal hydraulic fracturing operations, all secondary containment required pursuant to Section 245.825(b) must be visually inspected by the permittee or the contractor performing the high volume horizontal hydraulic fracturing operations on behalf of the permittee to ensure that all structures and equipment are in place and in proper working order. The results of this inspection must be recorded and documented by the permittee or the contractor performing the high volume horizontal hydraulic fracturing operations on behalf of the permittee on a form prescribed by the Department, maintained in the well file at the well site, and available to the Department upon request.* (Section 1-75(c)(13) of the Act)

**Section 245.825 General Fluid Storage**

In accordance with the approved hydraulic fracturing fluid and flowback plan required by Section 245.210(a)(11) and the approved containment plan required by Section 245.210(a)(13), and *except as provided in Section 245.830, hydraulic fracturing additives, hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water shall be stored in above-ground tanks pursuant to the requirements of this Section at all times until removed for proper disposal or recycling* (Section 1-75(c)(1) and (c)(2) of the Act).

- a) *Above-ground tanks* must be:
  - 1) *closed, watertight, vented in compliance with Section 245.910, and corrosion-resistant* (Section 1-75(c)(4) of the Act);

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- 2) *constructed of materials compatible with the composition of the hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water* (Section 1-70(b)(3) of the Act);
  - 3) *of sufficient pressure rating* (Section 1-75(c)(6) of the Act);
  - 4) *maintained in a leak-free condition* (Section 1-75(c)(6) of the Act); and
  - 5) *routinely inspected for corrosion* (Section 1-75(c)(4) of the Act).
- b) *Secondary containment is required for all above-ground tanks and additive staging areas.*
- 1) *Secondary containment measures may include one or a combination of the following: dikes, liners, pads, impoundments, curbs, sumps, or other structures or equipment capable of containing the substance within the well site.*
  - 2) *Any secondary containment must be sufficient to contain 150% of the total capacity of the single largest container or tank within a common containment area.* (Section 1-75(c)(13) of the Act)
- c) *Piping, conveyances, valves in contact with hydraulic fracturing fluid, hydraulic fracturing flowback, or produced water must be* (Section 1-70(b)(3) of the Act):
- 1) *constructed of materials compatible with the expected composition of the hydraulic fracturing fluid, hydraulic fracturing flowback, and produced water* (Section 1-70(b)(3) of the Act);
  - 2) *of sufficient pressure rating* (Section 1-75 (c)(6) of the Act);
  - 3) *able to resist corrosion* (Section 1-75(c)(6) of the Act); and
  - 4) *maintained in a leak-free condition.* (Section 1-75(c)(6) of the Act)
- d) Stationary fueling tanks shall meet the requirements of this subsection (d).
- 1) Stationary *fueling tanks* shall have *secondary containment* in accordance with subsection (b) (Section 1-70(c)(2) of the Act);

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- 2) *Stationary fueling tanks shall be subject to the setback requirements of Section 245.400 (Section 1-70(c)(2) of the Act);*
  - 3) *Stationary fueling tank filling operations shall be supervised at the fueling truck and at the tank if the tank is not visible to the fueling operator from the truck (Section 1-70(c)(3) of the Act); and*
  - 4) *Troughs, drip pads, or drip pans are required beneath the fill port of a stationary fueling tank during filling operations if the fill port is not within the secondary containment required by subsection (b) (Section 1-70(c)(4) of the Act).*
- e) *Fresh water may be stored in tanks or pits at the election of the permittee (Section 1-75(c)(3) of the Act).*

**Section 245.830 Reserve Pits**

- a) *In accordance with the hydraulic fracturing fluids and flowback plan required by Section 245.210(a)(11) and the containment plan required pursuant to Section 245.210(a)(13), and as approved by the Department, the use of a reserve pit is allowed for the temporary storage of hydraulic fracturing flowback. The reserve pit shall be used only in the event of a lack of capacity for tank storage due to higher than expected volume or rate of hydraulic fracturing flowback, or other unanticipated flowback occurrence. (Section 1-75(c)(2) of the Act)*
- b) *All reserve pits must comply with the following construction standards and liner specifications (Section 1-75(c)(2) of the Act):*
  - 1) *the synthetic liner material shall have a minimum thickness of 24 mils with high puncture and tear strength and be impervious and resistant to deterioration (Section 1-75(c)(2)(A) of the Act);*
  - 2) *the pit lining system shall be designed to have a capacity at least equivalent to 110% of the maximum volume of hydraulic fracturing flowback anticipated to be recovered (Section 1-75(c)(2)(B) of the Act);*

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- 3) *the lined pit shall be constructed, installed, and maintained in accordance with the manufacturers' specifications and good engineering practices to prevent overflow during any use* (Section 1-75(c)(2)(C) of the Act);
  - 4) *the liner shall have sufficient elongation to cover the bottom and interior sides of the pit with the edges secured with at least a 12 inch deep anchor trench around the pit perimeter to prevent any slippage or destruction of the liner materials* (Section 1-75(c)(2)(D) of the Act); and
  - 5) *the foundation for the liner shall be free of rock and constructed with soil having a minimum thickness of 12 inches after compaction covering the entire bottom and interior sides of the pit* (Section (c)(2)(E) of the Act).
- c) Hydraulic fracturing flowback reserve pit liners shall be disposed of in an Agency-permitted special waste landfill.

**Section 245.835 Mechanical Integrity Monitoring**

- a) *During high volume horizontal hydraulic fracturing operations, all sealed annulus pressures, the injection pressure, and the rate of injection shall be continuously monitored and recorded. The records of the monitoring shall be maintained by the permittee in the well file at the well site and shall be provided to the Department upon request at any time during the period up to and including 5 years after the well is permanently plugged or abandoned.* (Section 1-75(b)(4) of the Act)
- b) *During high volume horizontal hydraulic fracturing operations:*
  - 1) *The pressure test values established for the internal mechanical integrities of the cemented casings pursuant to Section 245.540 and of the hydraulic fracturing string pursuant to Section 245.805 shall not be exceeded. If any of these pressures decline more than 5% or if there are other indications of a leak, corrective action shall be taken before conducting further high volume horizontal hydraulic fracturing operations.* (Section 1-70(d)(16) of the Act)
  - 2) *The pressure exerted on treating equipment, including valves (includes hydraulic fracturing string relief valve; see Section 245.805(b) of this Part and Section 1-70(d)(17) of the Act), lines, manifolds, hydraulic fracturing*

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*head or tree, casing and hydraulic fracturing string, if used, and any other wellhead component or connection, must not exceed 95% of the working pressure rating of the weakest component (Section 1-75(b)(2) and (b)(3) of the Act).*

- 3) The relief valve installed pursuant to Section 245.560(o) should be set so that the pressure exerted on the casing does not exceed the mechanical integrity test pressure of the casing established pursuant to Section 245.240.
- 4) *The actual hydraulic fracturing treatment pressure during high volume horizontal hydraulic fracturing operations must not, at any time, exceed the mechanical integrity test pressures of the casings established pursuant to Section 245.540 (Section 1-70(d)(18) of the Act).*
- c) *High volume horizontal hydraulic fracturing operations must be immediately suspended if the permittee or Department inspector determines that any anomalous pressure or flow condition or any other anticipated pressure or flow condition is occurring in a way that indicates the mechanical integrity of the well has been compromised and continued operations pose a risk to the environment. Remedial action shall be immediately undertaken. (Section 1-75(b)(5) of the Act)*
- d) *The permittee shall notify the Department inspector and the Department's District Office by phone and electronic mail within 1 hour after suspending operations for any matters relating to the mechanical integrity of the well or risk to the environment. (Section 1-75(b)(5) of the Act)*
- e) Operations shall not resume until the appropriate pressure tests referenced in Sections 245.805 and 245.810 have been successfully repeated.

**Section 245.840 Hydraulic Fracturing Fluid and Flowback Confinement**

- a) *Hydraulic fracturing fluid shall be confined to the targeted formation designated in the permit.*
- b) *If the hydraulic fracturing fluid or hydraulic fracturing flowback migrate into a fresh water zone or to the surface from the well in question or from other wells, the permittee shall immediately notify the Department and shut in the well until remedial action that prevents the fluid migration is completed. The permittee*

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*shall obtain the approval of the Department prior to resuming operations.*  
(Section 1-75(d) of the Act)

- c) Permittee shall be responsible for damages caused by the migration of hydraulic fracturing fluid or hydraulic fracturing flowback outside the targeted formation.

**Section 245.845 Management of Gas and Produced Hydrocarbons During Flowback**

For wells regulated by this Part, *permittees shall be responsible for managing natural gas and hydrocarbon fluids produced during the flowback period to ensure no direct release to the atmosphere or environment as follows:*

- a) Except for wells covered by subsection (e), *recovered hydrocarbon fluids* shall be:
  - 1) Routed *to one or more storage vessels*; or
  - 2) *Injected into* a permitted Class II UIC well as described in Section 245.300(c)(7); or
  - 3) Used for another lawful and useful purpose that a purchased fuel or raw material would serve, with no direct release to the environment.
- b) Except for wells covered by subsection (e), *recovered natural gas* shall be:
  - 1) Routed *into a flow line or collection system*; or
  - 2) *Injected into* a permitted Class II UIC well as described in Section 245.300(c)(7); or
  - 3) *Used as an on-site fuel source*; or
  - 4) *Used for another lawful and useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.* (Section 1-75(e)(2) of the Act)
- c) *If it is technically infeasible or economically unreasonable to minimize emissions associated with the venting of hydrocarbon fluids and natural gas during the flowback period using the methods specified in subsections (a) and (b), the*

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Department, in consultation with the Agency as the Department deems appropriate, shall require *the permittee to capture and direct the emissions to a completion combustion device, except:*

- 1) *When conditions may result in a fire hazard or explosion; or*
- 2) *Where high heat emissions from a completion combustion device may negatively impact waterways.*
- d) *In order to establish technical infeasibility or economic unreasonableness under subsection (c), the permittee must demonstrate to the Department's satisfaction, for each well site on an annual basis, that taking the actions listed in subsections (a) and (b) are not cost effective based on a well site-specific analysis. The Department, in consultation with the Agency as the Department deems appropriate, shall provide the permittee with a written decision.*
- e) *Completion combustion devices must be equipped with a reliable continuous ignition source over the duration of the flowback period. (Section 1-75(e)(3) of the Act)*
- f) *For each wildcat well, delineation well, or low pressure well, permittees shall be responsible for minimizing the emissions associated with venting of hydrocarbon fluids and natural gas during the flowback period by capturing and directing the emissions to a completion combustion device during the flowback period, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways. Completion combustion devices shall be equipped with a reliable continuous ignition source over the duration of the flowback period. (Section 1-75(e)(8) of the Act)*

**Section 245.850 Hydraulic Fracturing Fluid and Hydraulic Fracturing Flowback Storage, Disposal or Recycling, Transportation and Reporting Requirements**

The permittee shall notify the Department of the date when high volume horizontal hydraulic fracturing operations are completed and shall dispose of or recycle hydraulic fracturing fluids and hydraulic fracturing flowback pursuant to the requirements of this Section.

- a) Completion of high volume horizontal hydraulic fracturing operations occurs when the flowback period begins after the last stage of high volume horizontal

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hydraulic fracturing operations. The permittee shall notify the Department's District Office by phone and electronic mail within 24 hours after high volume horizontal hydraulic fracturing operations are completed.

- b) *Hydraulic fracturing fluids and hydraulic fracturing flowback must be removed from the well site within 60 days after completion of high volume horizontal fracturing operations, except as provided in subsection (c) (Section 1-75(c)(5) of the Act).*
- c) *Any excess hydraulic fracturing flowback captured for temporary storage in a reserve pit as provided in Section 245.825 must be removed from the well site or transferred to storage in above-ground tanks for later disposal or recycling within 7 days after completion of high volume horizontal hydraulic fracturing operations. Excess hydraulic fracturing flowback cannot be removed from the well site until the hydraulic fracturing flowback is tested and the analytical results are provided pursuant to subsection (d) (Sections 1-75(c)(5) and (c)(8) of the Act).*
- d) Testing of hydraulic fracturing flowback shall be completed as follows:
  - 1) *Hydraulic fracturing flowback must be tested for the presence of volatile organic chemicals, semi-volatile organic chemicals, inorganic chemicals, heavy metals, and naturally occurring radioactive material before removal from the well site, including specifically:*
    - A) pH;
    - B) total dissolved solids, dissolved methane, dissolved propane, dissolved ethane, alkalinity and specific conductance;
    - C) chloride, sulfate, arsenic, barium, calcium, chromium, iron, magnesium, selenium, cadmium, lead, manganese, mercury and silver;
    - D) BTEX; and
    - E) gross alpha and beta particles to determine the presence of any naturally occurring radioactive materials.

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- 2) Testing shall be completed on a composited sample of the hydraulic fracturing flowback.
- 3) *Testing shall occur once per well site at an Agency-accredited or -certified independent laboratory. When no laboratory has been accredited or certified by the Agency to analyze a particular substance requested in this subsection (d), results will be considered only if they have been analyzed by a laboratory accredited or certified by another State agency or an agency of the federal government, if the standards used for the accreditation or certification of that laboratory are substantially equivalent to the accreditation standard under Section 4(o) of the Illinois Environmental Protection Act [415 ILCS 5].*
- 4) *The analytical results shall be filed with the Department and the Agency, and provided to the liquid oilfield waste transportation and disposal operators at or before the time of pickup. (Section 1-75(c)(7) of the Act)*
- e) *Before plugging and site restoration required by Section 245.1030, the ground adjacent to the storage tanks and any hydraulic fracturing flowback reserve pit must be measured for radioactivity (Section 1-75(c)(7) of the Act).*
- f) *Surface discharge of hydraulic fracturing fluids or hydraulic fracturing flowback onto the ground or into any surface water or water drainage way at the well site or any other location is prohibited (Sections 1-75(c)(9) and 1-25(c) of the Act).*
- g) *Except for recycling allowed by subsection (i), hydraulic fracturing flowback may only be disposed of by injection into a Class II injection disposal well that is below interface between fresh water and naturally occurring Class IV groundwater (Sections 1-75(c)(8) and 1-25(c) of the Act). The Class II injection disposal well must be equipped with an electronic flowmeter and approved by the Department.*
- h) *Fluid transfer operations from tanks to tanker trucks for transportation offsite must be supervised at the truck and at the tank if the tank is not visible to the truck operator from the truck. During transfer operations, all interconnecting piping must be supervised if not visible to transfer personnel at the truck and tank. (Section 1-75(c)(6) of the Act)*

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- i) *Hydraulic fracturing flowback may be treated and recycled for use in hydraulic fracturing fluid for high volume horizontal hydraulic fracturing operations.* (Section 1-75(c)(8) of the Act)
- j) *Transport of all hydraulic fracturing fluids and hydraulic fracturing flowback by vehicle for disposal or recycling must be undertaken by a liquid oilfield waste hauler permitted by the Department under Section 8c of the Illinois Oil and Gas Act. The liquid oilfield waste hauler transporting hydraulic fracturing fluids or hydraulic fracturing flowback under this Part shall comply with all laws, rules, and regulations concerning liquid oilfield waste.* (Section 1-75(c)(10) of the Act)
- k) A fluid handling report on the transportation and disposal or recycling of the hydraulic fracturing fluids and hydraulic fracturing flowback shall be prepared by the permittee on a form prescribed by the Department and included in the well file.
  - 1) Each report must include:
    - A) *the amount of hydraulic fracturing fluids or hydraulic fracturing flowback transported;*
    - B) *identification of the company that transported the hydraulic fracturing fluids or hydraulic fracturing flowback;*
    - C) the date the hydraulic fracturing fluids or hydraulic fracturing flowback were picked up from the well site (see Section 1-75(c)(14) of the Act);
    - D) *the destination of the hydraulic fracturing fluids or hydraulic fracturing flowback, including the name, address and type of facility accepting the hydraulic fracturing fluids or hydraulic fracturing flowback;*
    - E) *the method of disposal* (Section 1-75(c)(14) of the Act) or recycling; and
    - F) a copy of the analytical results of the testing required pursuant to subsection (d).

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- 2) The permittee shall prepare 4 copies of each fluid handling report for distribution as follows:
  - A) one copy for the permittee's records;
  - B) two copies for the liquid oilfield waste hauler upon pick-up of the liquids as follows:
    - i) one copy for the waste hauler's records; and
    - ii) one copy to be provided to the permittee of the Class II UIC well, to the operator of the storage location where the liquids will be disposed of, or to the operator of the storage location where liquids will be recycled; and
  - C) one copy for the Department. A set of all fluid handling reports shall be submitted to the Department within 90 days after the completion of all high volume horizontal hydraulic fracturing operations.
- 3) All copies of the fluid handling reports shall be retained for at least 5 years.

**Section 245.855 Spills and Remediation**

- a) *Any release of hydraulic fracturing fluid, hydraulic fracturing additive, hydraulic fracturing flowback, or produced water, used or generated during or after high volume horizontal hydraulic fracturing operation, shall be immediately cleaned up and remediated pursuant to requirements of the Illinois Oil and Gas Act and the administrative rules promulgated under the Act.*
- b) *Any release of hydraulic fracturing fluid or hydraulic fracturing flowback in excess of one barrel, shall be reported to the Department.*
- c) *Any release of produced water in excess of 5 barrels shall be cleaned up, remediated, and reported pursuant to requirements of the Illinois Oil and Gas Act and the administrative rules promulgated under that Act.*

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- d) *Any release of a hydraulic fracturing additive shall be reported to IEMA in accordance with the appropriate reportable quantity thresholds established under the federal Emergency Planning and Community Right-to-Know Act as published at 40 CFR 355, 370, and 372, the federal Comprehensive Environmental Response, Compensation, and Liability Act as published in 40 CFR 302, and Section 112(r) of the Federal Clean Air Act as published at 40 CFR 68. (Section 1-75(c)(12) of the Act)*

**Section 245.860 High Volume Horizontal Hydraulic Fracturing Operations Completion Report**

- a) *Within 60 calendar days after the conclusion of high volume horizontal hydraulic fracturing operations, the permittee shall file a high volume horizontal hydraulic fracturing operations completion report with the Department in hard copy and electronic format (PDF).*
- b) *A copy of each completion report submitted to the Department shall be provided by the Department to the Illinois State Geological Survey in electronic format.*
- c) *Completion reports shall be made available on the Department's website no later than 30 days after receipt by the Department. (Section 1-75(f) of the Act)*
- d) *The high volume horizontal hydraulic fracturing operations completion report shall contain the following information (Section 1-75(f) of the Act):*
- 1) *the permittee's name as listed in the permit application (Section 1-75(f)(1) of the Act);*
  - 2) *the dates of the high volume horizontal hydraulic fracturing operations (Section 1-75(f)(2) of the Act);*
  - 3) *the county where the well is located (Section 1-75(f)(3) of the Act);*
  - 4) *the well name and Department reference number (Section 1-75(f)(4) of the Act);*
  - 5) *the total water volume used in each stage and the total used in the high volume horizontal hydraulic fracturing operations of the well, and the type*

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*and total volume of the base fluid used if something other than water (Section 1-75(f)(5) of the Act);*

- 6) *each source from which the water used in the high volume horizontal hydraulic fracturing operations was drawn, and the specific location of each source, including, but not limited to, the name of the county and latitude and longitude coordinates (Section 1-75(f)(6) of the Act);*
- 7) *the quantity of hydraulic fracturing flowback recovered from the well and the time period for flowback recovery (Section 1-75(f)(7) of the Act);*
- 8) *a description of how hydraulic fracturing flowback recovered from the well was disposed or recycled (Section 1-75(f)(8) of the Act);*
- 9) *a chemical disclosure report identifying each chemical and proppant used in hydraulic fracturing fluid for each stage of the high volume horizontal hydraulic fracturing operations including the following (Section 1-75(f)(9) of the Act):*
  - A) *the total volume of water used in the high volume horizontal hydraulic fracturing treatment of the well or the type and total volume of the base fluid used in the high volume horizontal hydraulic fracturing treatment, if something other than water (Section 1-75(f)(9)(A) of the Act);*
  - B) *each hydraulic fracturing additive used in the hydraulic fracturing fluid, including the trade name, vendor, a brief descriptor of the intended use or function of each hydraulic fracturing additive, and the Material Safety Data Sheet (MSDS), if applicable (Section 1-75(f)(9)(B) of the Act);*
  - C) *each chemical intentionally added to the base fluid, including, for each chemical, the Chemical Abstracts Service number, if applicable (Section 1-75(f)(9)(C) of the Act); and*
  - D) *the actual concentration in the base fluid, in percent by mass, of each chemical intentionally added to the base fluid (Section 1-75(f)(9)(D) of the Act);*

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- 10) a copy of the hydraulic fracturing string pressure test conducted pursuant to Section 245.805(e), if applicable;
  - 11) *all pressures recorded during the high volume horizontal hydraulic fracturing operations* in accordance with Section 245.835 (Section 1-75(f)(10) of the Act);
  - 12) plans for how produced water will be disposed of or recycled as required by Section 245.940 (see Section 1-75(c)(8) of the Act). If produced water is to be disposed of, the names and locations of Class II injection wells to be used. All Class II injection wells to be used for disposal of produced water must be shown to be in compliance with 62 Ill. Adm. Code 240.360 at the time of the issuance of the high volume horizontal hydraulic fracturing permit; and
  - 13) *any other reasonable or pertinent information related to the conduct of the high volume horizontal hydraulic fracturing operations the Department may request or require* (Section 1-75(f)(11) of the Act).
- e) The high volume horizontal hydraulic fracturing operations completion report must be approved and signed and certified by a licensed professional engineer, licensed profession geologist or the permittee.

**Section 245.870 Use of Diesel in High Volume Horizontal Hydraulic Fracturing Operations is Prohibited**

*It is unlawful to perform any high volume horizontal hydraulic fracturing operations by knowingly or recklessly injecting diesel* (Section 1-25(d) of the Act).

SUBPART I: HIGH VOLUME HORIZONTAL  
HYDRAULIC FRACTURING PRODUCTION**Section 245.900 Managing Natural Gas and Hydrocarbon Fluids During Production**

For wells regulated by this Part, *permittees shall be responsible for minimizing the emissions associated with venting of hydrocarbon fluids and natural gas during the production phase to safely maximize resource recovery and minimize releases to the environment* (Section 1-75(e)(4) of the Act).

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- a) Except for wells covered by subsection (i), *sand traps, surge vessels, separators, and tanks* must be employed *as soon as practicable during cleanout operations to safely maximize resource recovery and minimize releases to the environment.* (Section 1-75(e)(4)(B) of the Act)
- b) Except for wells covered by subsection (i), *recovered hydrocarbon fluids* must be routed *into storage vessels.* (Section 1-75(e)(4)(A) of the Act)
- c) Except for wells covered by subsection (i), recovered natural gas must be:
  - 1) *routed into a gas gathering line or collection system, or to a generator for onsite energy generation;*
  - 2) *provided to the surface landowner of the well site for use for heat or energy generation; or*
  - 3) *used for a lawful and useful purpose other than venting or flaring.* (Section 1-75(e)(4)(A))
- d) *If the permittee establishes that it is technically infeasible or economically unreasonable to minimize emissions associated with the venting of hydrocarbon fluids and natural gas during production using the methods specified in subsections (b) and (c), the Department, in consultation with the Agency as the Department deems appropriate, shall require the permittee to capture and direct any natural gas produced during the production phase to a flare.*
- e) *In order to establish technical infeasibility or economic unreasonableness under subsection (d), the permittee must demonstrate to the Department's satisfaction, for each well site on an annual basis, that taking the actions listed in subsections (b) and (c) are not cost effective based on a well site-specific analysis. The Department, in consultation with the Agency as the Department deems appropriate, shall provide the permittee with a written decision.*
- f) *Any flare used pursuant to this Section shall be equipped with a reliable continuous ignition source over the duration of production.*
- g) *Permittees that use a flare during the production phase for operations other than emergency conditions shall file an updated well site-specific analysis annually*

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*with the Department on a form prescribed by the Department in consultation with the Agency. The analysis shall:*

- 1) *be due one year from the date of the previous submission; and*
  - 2) *detail whether any changes have occurred that alter the technical infeasibility or economic unreasonableness of the permittee to reduce emissions in accordance with subsections (b) and (c). (Section 1-75(e)(5) of the Act)*
- h) *On or after July 1, 2015, all flares used under this Section shall:*
- 1) *operate with a combustion efficiency of at least 98% and in accordance with 40 CFR 60.18;*
  - 2) *be certified by the manufacturer of the device; and*
  - 3) *be maintained and operated in accordance with manufacturer specifications. (Section 1-75(e)(9) of the Act)*
- i) *For each wildcat well, delineation well, or low pressure well, permittees shall be responsible for minimizing the emissions associated with venting of hydrocarbon fluids and natural gas during the production phase by capturing and directing the emissions to a flare during the production phase, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a flare may negatively impact waterways. Flares shall be used during the production phase. (Section 1-75(e)(8) of the Act)*

**Section 245.910 Uncontrolled Emissions from Storage Tanks Containing Natural Gas and Hydrocarbon Fluids**

- a) *In addition to the requirements of Section 245.900, uncontrolled emissions exceeding 6 tons per year from storage tanks containing natural gas or hydrocarbon fluids shall be recovered and routed to a flare that is designed in accordance with 40 CFR 60.18 and is certified by the manufacturer of the device.*
- b) *The permittee shall maintain and operate the flare in accordance with the manufacturer's specifications.*

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- c) *Any flare used under this Section must be equipped with a reliable continuous ignition source over the duration of production pursuant to the requirements of Section 245.900(h). (Section 1-75(e)(6) of the Act)*

**Section 245.920 Flaring Waiver**

For wells regulated by this Part:

- a) *The Department, in consultation with the Agency as the Department deems appropriate, may approve an exemption request made in writing that waives the flaring requirements of Sections 245.900 and 245.910 only if the permittee demonstrates to the Department's satisfaction that the use of the flare will pose a significant risk of injury or property damage and that alternative methods of collection will not threaten harm to the environment (Section 1-75(e)(7) of the Act).*
- b) *In determining whether to approve a waiver, the Department, in consultation with the Agency as the Department deems appropriate, shall consider the quantity of casinghead gas produced, the topographical and climatological features at the well site, and the proximity of agricultural structures, crops, inhabited structures, public buildings, and public roads and railways (Section 1-75(e)(7) of the Act).*
- c) The Department, in consultation with the Agency as the Department deems appropriate, shall provide the permittee with a written decision.

**Section 245.930 Annual Flaring Reports**

Pursuant to Sections 245.900 and 245.910, *permittees shall record on an annual basis and report to the Department on an annual basis the amount of gas flared or vented from each high volume horizontal hydraulic fracturing well (Section 1-75(e)(11) of the Act).*

**Section 245.940 Produced Water Disposal or Recycling, Transportation and Reporting Requirements**

The permittee shall dispose of or recycle produced water in accordance with the requirements of this Section:

- a) *Surface discharge of produced water onto the ground or into any surface water or water drainage way is prohibited (Sections 1-75(c)(9) and 1-25(c) of the Act).*

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- b) Except for recycling allowed under subsection (d), produced water *may only be disposed of by injection into a Class II injection well that is below interface between fresh water and naturally occurring Class IV groundwater* (Sections 1-75(c)(8) and 1-25(c) of the Act). Unless used for enhanced oil recovery, the Class II injection well must be equipped with an electronic flowmeter and approved by the Department.
- c) Produced water *transfer operations from tanks to tanker trucks for transportation offsite must be supervised at the truck and at the tank if the tank is not visible to the truck operator from the truck. During transfer operations, all interconnecting piping must be supervised if not visible to transfer personnel at the truck and tank.* (Section 1-75(c)(6) of the Act)
- d) *Produced water may be treated and recycled for use in hydraulic fracturing fluid for high volume horizontal hydraulic fracturing operations* (Section 1-75(c)(8) of the Act).
- e) *Transport of produced water by vehicle for disposal or recycling must be undertaken by a liquid oilfield waste hauler permitted by the Department under Section 8c of the Illinois Oil and Gas Act. The liquid oilfield waste hauler transporting produced water under this Part shall comply with all laws, rules, and regulations concerning liquid oilfield waste.* (Section 1-75(c)(10) of the Act)
- f) Permittees *must submit an annual produced water report to the Department detailing the management of any produced water associated with the permitted well.*
- 1) *The produced water report shall be due to the Department no later than April 30 of each year and shall provide information on the operator's management of any produced water for the prior calendar year and the anticipated management for the next calendar year; and*
  - 2) *The produced water report shall contain information relative to the amount of produced water from the well, the method by which the produced water was transported and disposed of or recycled, the destination where the produced water was disposed of* (Section 1-75(c)(15) of the Act) *or recycled.*

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## SUBPART J: PLUGGING AND RESTORATION

**Section 245.1000 Plugging and Restoration Requirements**

- a) *The permittee shall perform and complete plugging of the well and restoration of the well site in accordance with the Illinois Oil and Gas Act and any and all rules adopted under that Act (62 Ill. Adm. Code 240.Subpart K). The permittee shall bear all costs related to plugging of the well and reclamation of the well site.*
- b) *If the permittee fails to plug the well in accordance with this Section, the owner of the well shall be responsible for complying with this Section. (Section 1-95(a) of the Act)*
- c) **Special Plugging Requirement**  
If the permittee stimulates the geologic formation in accordance with the permit using a high volume horizontal hydraulic fracturing process, then once commercial production ceases from the well and it is time to plug the well, in addition to all the other requirements, the permittee shall initiate the plugging process using a circulation method starting at the top of the geologic formation stimulated installing a cement plug at least 100 feet above the top of the geologic formation.
- d) Upon completion of the requirements of this Subpart J, the Department will release the permit in accordance with Section 245.350.

**Section 245.1010 Plugging Previously Abandoned Unplugged or Insufficiently Plugged Wells**

*Prior to conducting high volume horizontal hydraulic fracturing operations at a well site, the permittee shall cause to be plugged all previously abandoned unplugged or insufficiently plugged well bores within 750 feet of any part of the horizontal well bore that penetrated within 400 vertical feet of the geologic formation that will be stimulated as part of the high volume horizontal hydraulic fracturing operations pursuant to the requirements of this Section (Section 1-95(b) of the Act).*

- a) *Any abandoned unplugged, or insufficiently plugged, well bores within 750 feet of any part of the horizontal well bore that penetrated within 400 vertical feet of the geologic formation that will be stimulated as part of the permittee's proposed high volume horizontal hydraulic fracturing operations (Section 1-95 of the Act)*

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shall be designated for plugging by the Department as a condition of the permit that shall be completed before conducting high volume horizontal hydraulic fracturing operations.

- b) This pre-high volume horizontal hydraulic fracturing operations plugging obligation shall be performed in accordance with 62 Ill. Adm. Code 240.1110 and shall be completed before any high volume horizontal hydraulic fracturing operations may begin.
  - 1) If the permittee does not have authority to plug an abandoned well within the Plugging and Restoration Fund Program, the Department will give the permittee authority to enter upon the land, plug the well, and restore the well site consistent with 62 Ill. Adm. Code 240.1610(e).
  - 2) If the permittee does not have authority to plug an abandoned well that is not within the Plugging and Restoration Fund Program, either:
    - A) the Department will initiate abandoned well proceedings pursuant to Section 19.1 of the Illinois Oil and Gas Act and 62 Ill. Adm. Code 240.1610, in order to grant the permittee authority to plug the abandoned well; or
    - B) the permittee will work with the landowner and the person responsible for the abandoned well to arrange for plugging and restoration.
- c) If the permittee is unable to locate an abandoned unplugged well or insufficiently plugged well identified by the Department for plugging before high volume horizontal hydraulic fracturing operations begin, the permittee may receive a waiver of the plugging requirement from the Department after demonstrating a diligent effort to locate the abandoned unplugged well or insufficiently plugged well in the field.
- d) Before proceeding with any high volume horizontal hydraulic fracturing operations, the permittee shall receive written approval from the Department that all wells under the permit within 750 feet of any part of the horizontal well bore that appear to penetrate within 400 vertical feet of the formation that the permittee intends to stimulate have been plugged, or that the plugging requirements have been met.

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- e) If, during or after performing high volume horizontal hydraulic fracturing operations, there is any evidence of fluids leaking at the surface from abandoned wells, unpermitted wells, or previously plugged wells within 750 feet of any part of the horizontal well bore:
- 1) the permittee shall immediately notify the Department and shut in the well;
  - 2) the permittee shall plug those wells and restore the well sites in accordance with 62 Ill. Adm. Code 240.870, 240.875 and 240.1110; and
  - 3) the permittee shall obtain the approval of the Department prior to resuming operations.
- f) If, during or after performing high volume horizontal hydraulic fracturing operations, there is any evidence of damage from the permittee's high volume horizontal hydraulic fracturing operations to a producing well within 750 feet of any part of the horizontal well bore, the permittee shall be responsible for all repairs to the well construction or the costs of plugging the damaged well.

**Section 245.1020 Restoration of Lands Other than the Well Site and Production Facility**

Unless contractually agreed to the contrary by the permittee and the surface landowner, *the permittee shall restore any lands used by the permittee other than the well site and production facility to a condition as closely approximating the pre-drilling conditions that existed before the land was disturbed for any stage of site preparation activities, drilling, and high volume horizontal hydraulic fracturing operations.*

- a) *Restoration shall be commenced within 6 months after completion of the well site and shall be completed within 12 months.*
- b) *Restoration shall include, but is not limited to:*
  - 1) *repair of tile lines,*
  - 2) *repair of fences and barriers,*
  - 3) *mitigation of soil compaction and rutting,*

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- 4) *application of fertilizer or lime to restore the fertility of disturbed soil, and*
- 5) *repair of soil conservation practices such as terraces and grassed waterways. (Section 1-95(c) of the Act)*

**Section 245.1030 Restoration of the Well Site and Production Facility**

*Unless contractually agreed to the contrary by the permittee and surface landowner, the permittee shall restore the well site and production facility to a condition as closely approximating the pre-drilling conditions that existed before the land was disturbed for any stage of site preparation activities, drilling, and high volume horizontal hydraulic fracturing operations.*

- a) Restoration shall include:
  - 1) all of the requirements set forth in Section 245.1020(b);
  - 2) *removal of all equipment and materials involved in site preparation, drilling, and high volume horizontal hydraulic fracturing operations, including tank batteries, rock and concrete pads, oil field debris, injection and flow lines at or above the surface, electric power lines and poles extending on or above the surface, tanks, fluids, pipes at or above the surface, secondary containment measures, rock or concrete bases, drilling equipment and supplies, and any and all other equipment, facilities, or materials used during any stage of site preparation work, drilling, or high volume horizontal hydraulic fracturing operations at the well site; and*
  - 3) all of the requirements of 62 Ill. Adm. Code 240.1180 and 240.1181;
- b) *Restoration and work on the removal of equipment and materials at the well site shall begin within 6 months after plugging the final well on the well site and be completed no later than 12 months after the last producing well on the well site has been plugged; and*
- c) *Roads installed as part of the oil and gas operation may only be left in place if provided in the lease or pursuant to agreement with the landowner, as applicable. (Section 1-95(d) of the Act)*

## SUBPART K: ENFORCEMENT

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**Section 245.1100 Suspension, Revocation, Remediation and Administrative Penalties**

The Department may, through the enforcement process set forth in this Subpart, suspend or revoke a high volume horizontal hydraulic fracturing permit, order actions to remediate, or issue administrative penalties for one or more of the following causes:

- a) *providing misleading, or materially untrue information in a permit application process or in any document or information provided to the Department (Section 1-60(a)(1) of the Act);*
- b) *violating any condition of the permit (Section 1-60(a)(2) of the Act);*
- c) *violating any provision of or any regulation adopted under the Act or the Illinois Oil and Gas Act (Section 1-60(a)(3) of the Act);*
- d) *using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere (Section 1-60(a)(4) of the Act);*
- e) *having a high volume horizontal hydraulic fracturing permit, or its equivalent, revoked in any other state, province, district, or territory for incurring a material or major violation or using fraudulent or dishonest practices (Section 1-60(a)(5) of the Act);*
- f) *the existence of an emergency condition under which the conduct of high volume horizontal hydraulic fracturing operations would pose a significant hazard to public health, aquatic life, wildlife, or the environment (Section 1-60(a)(6) of the Act); or*
- g) *a determination of pollution or diminution made pursuant to an investigation under Section 245.610 (Section 1-83(d) of the Act).*

**Section 245.1110 Notice of Violation**

- a) When the Department determines to suspend or revoke a permit issued pursuant to this Part, orders actions to remediate, or issues administrative penalties under this Subpart, a Notice of Violation shall be completed and delivered to the Permittee and to the Director or the Director's designee.

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- b) The Notice of Violation shall contain:
- 1) The name and permit number for the well at issue;
  - 2) The provision of Section 245.1100 that applies, a statement specifying the factual nature of the violation and, as applicable, a citation to the specific permit condition alleged to have been violated or to the specific Section of this Part, the Act, the Illinois Oil and Gas Act or the administrative rules promulgated under that Act alleged to have been violated;
  - 3) A statement as to whether the permit is immediately suspended by the Notice of Violation and, if so:
    - A) A factual explanation indicating an emergency condition posing a significant threat to the public health, aquatic life, wildlife or the environment if the permit operation is allowed to continue; and
    - B) The terms of the suspension, including but not limited to whether the suspension is pending a Director's Decision to revoke the permit;
  - 4) A statement as to whether a remedial action is needed to address the violation and, if so, identification of the remedial action and the time within which the remedial action is required to be completed;
  - 5) A statement as to whether probationary or permanent modification or conditions on the permit will be recommended and, if so, the substance of the recommended probationary or permanent modification or conditions; and
  - 6) Any factors known to the person completing the Notice of Violation in aggravation or mitigation of the violation and the existence of any factors indicating that the permit should be conditioned or modified.
- c) The permittee charged with the Notice of Violation may provide the Department, in writing, any information in mitigation of the Notice of Violation within 14 days after the date of receiving the Notice of Violation. The written information may include a proposed alternative to the Department's suggested remedial action

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needed to address the violation.

- d) If a Notice of Violation includes an immediate permit suspension, the suspension *may be stayed*, at any time, by the Department, *if requested by the permittee and evidence is submitted demonstrating that there is no significant threat to the public health, aquatic life, wildlife, or the environment if the operation is allowed to continue* (Section 1-60(d) of the Act). Requests for stay must be made in writing to the Department and shall provide the basis for the requested stay and be accompanied by any supporting documents. All requests for stay shall be delivered to the Department's Office of Oil and Gas Resource Management located in Springfield, Illinois or mailed to the Department at Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management, One Natural Resources Way, Springfield IL 62702. A request for stay shall be decided by the Director or the Director's designee within 5 business days after its receipt.

**Section 245.1120 Director's Decision**

- a) Upon receipt of a Notice of Violation, the Director or Director's designee shall conduct an investigation and may affirm, vacate or modify the Notice of Violation. In determining whether to affirm, vacate or modify the Notice of Violation, the Director shall consider:
- 1) whether the facts support the violation set forth in the Notice of Violation;
  - 2) the seriousness of the violation, including any harm to public health, aquatic life, wildlife, the environment or damage to property;
  - 3) the permittee's history of previous violations, including violations at other locations and under other permits.
- A) A violation shall not be counted if the Notice of Violation or Director's Decision is the subject of pending administrative review by the Department under Section 245.1130, or judicial review under the Administrative Review Law and the rules adopted under that Law, or if the time to request a review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision.

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- B) No violation for which the Notice of Violation or Director's Decision has been vacated shall be counted;
  - 4) the degree of culpability of the permittee;
  - 5) whether the remedial action to address the violation set forth in the Notice of Violation is completed within the time set forth in the Notice of Violation; and
  - 6) the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by any person or by the permittee.
- b) Modification to the Notice of Violation may include:
- 1) any different or additional remedial actions required to address the violation and the time within which the remedial actions must be completed;
  - 2) assessment of administrative penalties not to exceed \$1,000 a day for each and every act of violation;
  - 3) probationary or permanent modification or conditions on the permit, which may include special monitoring or reporting requirements;
  - 4) suspension of the permit; and
  - 5) revocation of the permit.
- c) The Director shall determine whether to assess administrative penalties based on the factors set forth in subsection (a). Administrative penalties shall not be assessed for a violation of Section 245.1100(g). If an administrative penalty is assessed by the Department, the administrative penalty shall be computed as follows, but shall not exceed \$1,000 per day for each and every act of violation:
- 1) Administrative violations are violations of any submission, reporting or notification requirements of this Part, including, but not limited to, providing incorrect, misleading, incomplete or materially untrue

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information regarding permittee registration, permit application, permit modification, permit transfer, or permit bonding, and failing to properly comply with the reporting and Department notification requirements set forth in the construction, operation, monitoring, disclosure or production requirements of this Part or of the permit, and shall be assessed on a permittee-specific basis. The Department may assess a penalty for an administrative violation as follows:

- A) No previous violation of the same rule: \$50.
  - B) One previous violation of the same rule: \$100.
  - C) Two previous violations of the same rule: \$150.
  - D) Three previous violations of the same rule: \$200.
  - E) Four or more previous violations of the same rule: \$500.
- 2) Operating violations are violations of all other requirements of this Part not covered by subsection (c)(1), including, but not limited to, operating a well required to be permitted under the Act without first obtaining a proper permit from the Department, constructing or operating a well in violation of the construction, operation, monitoring, disclosure or production requirements of this Part or of the permit. The Department may assess a penalty for an operating violation by considering elements of subsections (c)(2)(A), (B) and (C) as follows:
- A) History of Violations:
    - i) No previous violation of the same rule: \$100.
    - ii) One previous violation of the same rule: \$250.
    - iii) Two previous violations of the same rule: \$500.
    - iv) Three previous violations of the same rule: \$750.
    - v) Four previous violations of the same rule: \$1,000.

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- vi) Five or more previous violations of the same rule: \$2,500.
- B) Seriousness:
- i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$100; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$250; or, if the violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$1,000.
  - ii) If the violation created a hazard to the safety of any person: add \$2,000.
- C) Permittee's Actions:
- i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 245.1110 or correspondence from the Department and failed to comply: add \$500.
  - ii) If the violation occurred as a result of the permittee's lack of reasonable care: add \$250; or, if the violation occurred as a result of the permittee's deliberate conduct, including lack of reasonable maintenance of equipment: add \$500.
- d) The Director or Director's designee shall serve the permittee with his or her decision at the conclusion of the investigation. The Director's Decision shall be served either *personally or by certified mail, receipt return requested, to the permittee* (Section 1-60(b) of the Act). The Director's Decision shall provide that the permittee has the right to request a hearing to contest the Director's Decision in accordance with Section 245.1130.
- e) The Director's Decision shall take effect upon issuance.

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- f) The permittee may contest the Director's Decision by submitting *a request, in writing, within 30 days after the date of receiving the Director's Decision, for a hearing in accordance with Section 245.1130. Except as provided under Section 245.1130(d)(2), in the event a hearing is requested, the Director's Decision shall remain in effect until a final order is entered pursuant to the hearing.* (Section 1-60(c) of the Act)
- g) Failure of the permittee to timely request a hearing, or if a civil penalty has been assessed, to timely tender the assessed civil penalty, shall constitute a failure to exhaust all administrative remedies and a waiver of all legal rights to contest the Director's Decision, including the amount of the civil penalty.
- h) The permittee may, within 30 days from the date of receiving the Director's Decision, submit to the Department, in writing, any mitigating factors that permittee believes to be relevant to the violation cited in the Director's Decision.
- i) Upon further investigation, the Director may enter into a settlement agreement, issue an amended Director's Decision, or issue a replacement Director's Decision.
- 1) A settlement agreement shall be issued to:
    - A) extend the amount of time provided to complete remedial action necessary to address a violation set forth in the Director's Decision;  
or
    - B) reduce the civil penalty assessed in the Director's Decision; or
    - C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.
  - 2) An amended Director's Decision shall be issued to:
    - A) extend the amount of time provided to complete remedial action necessary to address a violation set forth in the Director's Decision;  
or
    - B) reduce the civil penalty assessed in the Director's Decision.
  - 3) A replacement Director's Decision shall be issued to correct an

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administrative error contained in the Director's Decision or the Notice of Violation.

- 4) The permittee shall have no right to administrative hearing associated with the issuance of a settlement agreement or an amended Director's Decision.
- j) If the Director's Decision includes the assessment of an administrative penalty and the permittee named in the Director's Decision does not request a hearing in accordance with Section 245.1130, the administrative penalty assessed shall be paid to the Department in full within 30 days after receiving the Director's Decision.
- k) *All administrative penalties assessed and paid to the Department shall be deposited in the Mines and Minerals Regulatory Fund (Section 1-35(e) of the Act).*

**Section 245.1130 Director's Decision Hearings**

- a) A permittee shall have 30 days from the date of receiving the Director's Decision to submit a written request for hearing to contest the Director's Decision. The written request for hearing shall provide the basis for contesting the Director's Decision and be accompanied by any documents evidencing the basis for contesting the Director's Decision. A permittee seeking to contest any Director's Decision in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashier's check or money order, together with a timely written request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount, or applicable portion thereof, shall be ordered refunded to the permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be delivered to the Department's Office of Oil and Gas Resource Management located in Springfield, Illinois or mailed to the Department at Illinois Department of Natural Resources, Attention: Office of Oil and Gas Resource Management, One Natural Resources Way, Springfield IL 62702.
- b) Upon receipt of a request for hearing submitted in accordance with all requirements of subsection (a), the Department shall provide an opportunity for a formal hearing upon not less than 5 days' written notice mailed to the permittee or person submitting the hearing request. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.

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- c) The hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall have all powers necessary to conduct the hearing, including, but not limited to, *the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that he or she considers relevant or material* (Section 1-60(e) of the Act).
- d) The hearing shall be conducted in accordance with the following procedures:
- 1) Pre-Hearing Conference
    - A) A pre-hearing conference shall be scheduled within 60 days after the request for hearing:
      - i) to define the factual and legal issues to be litigated at the administrative hearing;
      - ii) to determine the timing and scope of discovery available to the parties;
      - iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each witness;
      - iv) to schedule a date for the administrative hearing; and
      - v) to arrive at an equitable settlement of the hearing request, if possible.
    - B) Pre-hearing conferences under this Section may be conducted via telephone conference if that procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at the Department's offices located in Springfield, Illinois, or a place designated by the Hearing Officer.

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- 2) Stays of Suspension or Revocation. *The order of suspension or revocation of a permit based on Section 245.1000(f) may be stayed, at any time, by the Hearing Officer, if requested by the permittee by appropriate motion and evidence is submitted demonstrating that there is no significant threat to the public health, aquatic life, wildlife, or the environment if the operation is allowed to continue* (Section 1-60(d) of the Act). The Hearing Officer shall issue an order granting or denying a motion to stay within 5 business days after it is heard.
- 3) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Hearing Officer shall issue an order granting or denying motions filed within 15 days after service or, if applicable, after hearing. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the matter being contested.
- 4) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or administrative penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the Hearing Officer and shall constitute the Department's final administrative decision as to the matter being contested.
- 5) All hearings, under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].
- 6) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the notice of violation at issue. The amount of any administrative penalty assessed shall be presumed to be proper; however, the permittee may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The permittee shall have the right to challenge the Hearing Officer if the person or permittee believes the Hearing Officer is prejudiced against him or her or has a conflict of interest. If the Hearing Officer disqualifies himself or

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herself, the Director shall designate a new Hearing Officer. The Hearing Officer shall conduct the hearing and hear the evidence. The Hearing Officer, at the conclusion of the hearing, shall have 30 days to issue recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.

- 7) The Director or the Director's designee shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. Within 15 days after receiving the Hearing Officer's recommendations, the Department shall issue a final administrative decision.
- e) All Department final administrative decisions set forth in this Section are subject to judicial review under the Administrative Review Law and the rules adopted under that Law.
- f) *The costs associated with the administrative hearing shall be borne by the permittee* (Section 1-60(f) of the Act). Foreseeable costs are the costs of transcription services: court reporters attendance at the hearings and transcribing the hearing record into paper and electronic format for all parties as required. All parties shall be responsible for their own attorneys' fees, and the Department shall provide the Hearing Officer and the Hearing room at IDNR Headquarters. The Hearing Officer shall have the discretion to order the permittee to pay additional costs as appropriate.

**Section 245.1140 Alternative Enforcement**

- a) All persons, owners and permittees regulated under the Act and this Part are also subject to, and required to comply with, the Illinois Oil and Gas Act and 62 Ill. Adm. Code 240.
- b) Any violation of this Part may also include violations of the permittee's Oil and Gas permit related to the same well, the Illinois Oil and Gas Act, and regulations adopted under that Act.
- c) All violations related to the same well may be brought as one case at the discretion of the Department.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED RULES

- d) Failure to meet the burden of proof required for revocation or suspension of a permit under the Act, this Part, the Illinois Oil and Gas Act, or the regulations promulgated under that Act, does not mean that the Department necessarily failed to prove other violations under the Act, this Part, the Illinois Oil and Gas Act, or the regulations promulgated under that Act.
- e) Knowing violations of this Part may be a criminal offense as defined in Section 1-100 of the Act, which will be, in addition to any administrative action taken by the Department, referred to the State's Attorney in the county where the violation occurred or the Attorney General's Office.
- f) Any person who violates this Part may also be liable for a civil penalty as defined in Section 1-101 of the Act, which will be in addition to any administrative action taken by the Department.

SUBPART L: MEDIUM VOLUME HORIZONTAL HYDRAULIC FRACTURING  
OPERATIONS COMPLETION REPORTS**Section 245.1200 Medium Volume Horizontal Hydraulic Fracturing Completion Reports**

- a) *For any horizontal hydraulic fracturing operations where all combined stages of a stimulation treatment of a horizontal well are by the pressurized application of more than 80,000 gallons but less than 300,001 gallons of hydraulic fracturing fluid and proppant to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas, reporting under subsection (c) is required (Section 1-98(a) of the Act).*
- b) Permittees with a high volume horizontal hydraulic fracturing permit are not required to report under subsection (c).
- c) *Within 60 calendar days after the conclusion of horizontal hydraulic fracturing operations identified in subsection (a), the permittee shall file a medium volume horizontal hydraulic fracturing operations completion report with the Department. The medium volume horizontal hydraulic fracturing operations completion report shall contain the following information (Section 1-98(b) of the Act):*
  - 1) *the name and location of the well (Section 1-98(b)(1) of the Act). The well location shall be surveyed by an Illinois licensed land surveyor or Illinois*

## DEPARTMENT OF NATURAL RESOURCES

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registered professional engineer and the description of the surveyed well location shall also include the legal description, the GPS latitude and longitude location, and ground elevation of the well. The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement;

- 2) the permittee number and well reference number issued pursuant to the Illinois Oil and Gas Act;
- 3) *the total and per-stage gallons of hydraulic fracturing fluid used at the well* (Section 1-98(b)(2) of the Act), the quantity recovered during the flowback period, and what the permittee did to dispose of, reuse or recycle the flowback;
- 4) *depth of the wellbore (including both total vertical depth and total measured depth)* (Section 1-98(b)(3) of the Act);
- 5) *length of horizontal wellbore* (Section 1-98(b)(4) of the Act);
- 6) *the maximum surface treating pressure used* (Section 1-98(b)(5) of the Act);
- 7) *the formation targeted* (Section 1-98(b)(6) of the Act);
- 8) *the number of hydraulic fracturing stages* (Section 1-98(b)(7) of the Act);  
*and*
- 9) *total perforated interval and individual perforation intervals* (Section 1-98(b)(8) of the Act).

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Fire Sprinkler Contractor Licensing Rules
- 2) Code Citation: 41 Ill. Adm. Code 109
- 3) Section Number: 109.100                      Proposed Action:  
Amend
- 4) Statutory Authority: Implementing and authorized by Section 50 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317/50]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends the Part to require a fee for a duplicate license. Per a recent audit finding, such a fee is statutorily required under Section 35 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317/35].
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandate affecting units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Kevin Switzer  
Director, Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62703

## OFFICE OF THE STATE FIRE MARSHAL

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217/558-0639

Fax: 217/558-4992

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This administrative rulemaking is applicable to all persons engaged in the business of installing or repairing fire sprinkler systems in the State.
  - B) Reporting, bookkeeping or other procedures required for compliance: Licensed entities and persons must keep the records required under Part 109.
  - C) Types of professional skills necessary for compliance: The licensed contractor's Designated Certified Person must have an Illinois Professional Engineer's license or NICET certification.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking is required by a recent audit finding and was not contemplated when the last regulatory agenda was published.

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

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

TITLE 41: FIRE PROTECTION  
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 109  
FIRE SPRINKLER CONTRACTOR LICENSING RULES

Section	
109.10	Purpose
109.20	Applicability of Rules
109.30	Definitions
109.40	Application for License
109.50	Communications by Business
109.60	Required Notifications to the Office
109.70	Termination of License
109.80	Display of License and Retention of Sprinkler System Plans
109.90	Availability of Books, Records, Forms and Stationery
109.100	Renewal of License
109.110	Compliance Standards
109.120	Administrative Actions
109.130	Administrative Fines
109.140	Appeal of an Administrative Action

**AUTHORITY:** Implementing and authorized by Section 50 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317].

**SOURCE:** Adopted at 28 Ill. Reg. 9239, effective June 28, 2004; amended at 30 Ill. Reg. 16994, effective October 11, 2006; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 109.100 Renewal of License**

- a) Each license issued under the Act shall be issued for a period of two years. A renewal notice, along with the renewal forms, will be sent to the licensee 90 days prior to the expiration date. Upon receipt of the completed renewal forms and the \$1,500 fee, the Office will issue the new license.
- b) Failure to receive a renewal form from the Office shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

- c) In addition to the renewal fee, a reinstatement fee of \$100 shall be assessed for each business failing to renew within 60 days after the end of the license period. The Office may waive the renewal fee and any reinstatement fee for a sole proprietorship if the owner was on active duty in the military during the time the renewal was due.
- d) Each designated certified person or responsible managing employee must provide proof that he or she attended at least 8 hours of continuing education for each year of the current license.
- e) For each duplicate license requested, the fee shall be \$50.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Fire Equipment Administrative Procedures
- 2) Code Citation: 41 Ill. Adm. Code 280
- 3) Section Number: 280.50                      Proposed Action:  
Amend
- 4) Statutory Authority: Implementing and authorized by Section 30 of the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217/30]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends the Part to require the correct statutory fee for reinstating a license that has lapsed more than 60 days. See Sections 60 and 65 of the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217/60 & 65].
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandate affecting units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Kevin Switzer  
Director, Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62703

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

217/558-0639

Fax: 217/558-4992

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This administrative rulemaking is applicable to all persons engaged in the business of installing, repairing, altering, servicing, recharging, maintaining, inspecting, testing or replacing fire suppression devices or systems that are other than automatic water sprinkler systems in the State.
  - B) Reporting, bookkeeping or other procedures required for compliance: Licensed entities and persons must keep the records required under Part 280.
  - C) Types of professional skills necessary for compliance: The licensed contractor's employees engaged in the activity cited in paragraph 13(A) above must have a NAFED certification.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking is required by a recent audit finding and was not contemplated when the last regulatory agenda was published.

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

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

TITLE 41: FIRE PROTECTION  
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 280  
FIRE EQUIPMENT ADMINISTRATIVE PROCEDURES

Section	
280.10	Definitions
280.15	Incorporations by Reference
280.20	Fire Equipment Distributor License
280.30	Fire Equipment Distributor Employee License
280.40	Examinations
280.50	Miscellaneous Fees
280.55	Continuing Education
280.60	Complaints, Investigation and Formal Charges
280.65	Administrative Hearing
280.70	Grounds for Revocation, Suspension or Refusal to Issue a License
280.75	Sanctions to be Imposed for Violators
280.80	Exemptions to Licensing

AUTHORITY: Implementing and authorized by the Fire Equipment Distributor and Employee Regulation Act of 2000 [225 ILCS 216].

SOURCE: Adopted at 17 Ill. Reg. 7214, effective May 11, 1993; amended at 32 Ill. Reg. 4191, effective March 5, 2008; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 280.50 Miscellaneous Fees**

- a) Branch Office Fee. If a Fire Equipment Distributor has more than one office in this State, a branch office license is required. A fee of \$50 will be assessed for each branch office license.
- b) Office Processing Fees
  - 1) A fee of \$50 is required if a check or other order is returned by a financial institution twice because of insufficient funds. An additional fee of \$100 shall be imposed for practicing without a current license, if the failure of the check to clear results in lapse of the license.

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

- 2) A fee of \$20 shall be assessed for replacing a lost license, change of name or address, or the addition of classifications or employees to a distributorship.
- 3) A reinstatement fee of \$50 shall be assessed for any license that has lapsed~~A fee of \$100 per classification shall be assessed to distributors whose licenses have lapsed and \$20 for each employee license that has lapsed.~~

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2200.110	New
2200.120	New
2200.130	New
2200.140	New
2200.150	New
2200.210	New
2200.220	New
2200.230	New
2200.240	New
2200.250	New
2200.310	New
2200.320	New
2200.330	New
2200.410	New
2200.510	New
2200.520	New
2200.530	New
2200.540	New
2200.550	New
2200.560	New
- 4) Statutory Authority: Authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375]
- 5) Effective Date of Rulemaking: October 31, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 11832; July 26, 2013
- 10) Has JCAR issued a Statement of Objection to the Rulemaking? No
- 11) Differences between the Proposal and Final Version: In Section 210(c), inserted "in accordance with Subpart E of this Part" after "Survivor" In Section 530(b), replaced "95" with "91".
- 12) Have all of the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes. 37 Ill. Reg. 10725; 7/12/13
- 12) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This new Part will bring CMS into compliance with changes made to the State Employees Group Insurance Act, pursuant to PA 97-695.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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

217/557-5404

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE BENEFITS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2200

STATE EMPLOYEES GROUP INSURANCE PROGRAM

RETIREE PREMIUM CONTRIBUTIONS

SUBPART A: PURPOSE AND DEFINITIONS

Section

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

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section

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

SUBPART C: RESPONSIBILITIES OF THE APPROPRIATE RETIREMENT SYSTEM

Section

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

SUBPART D: VALUE OF ANNUITY

Section

- 2200.410 Calculation

SUBPART E: PREMIUMS

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

## Section

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

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

**SOURCE:** Adopted by emergency rulemaking at 37 Ill. Reg. 10725, effective June 28, 2013, for a maximum of 150 days; adopted at 37 Ill. Reg. 18244, effective October 31, 2013.

## SUBPART A: GENERAL

**Section 2200.110 Governing Authority**

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

**Section 2200.120 Purpose**

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

**Section 2200.130 Definitions**

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

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

"Annuitant" means:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

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

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

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

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

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

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

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

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

"GARS" means the General Assembly Retirement System.

"JRS" means the Judges Retirement System.

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

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

"SERS" means the State Employees' Retirement System.

"SURS" means the State Universities Retirement System.

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

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

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

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

"TRS" means the Teachers' Retirement System.

**Section 2200.140 Records and Certifications**

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

**Section 2200.150 Severability**

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

## SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

**Section 2200.210 CMS Responsibility**

CMS shall:

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

**Section 2200.220 Determining Benefits**

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

**Section 2200.230 Provision for Benefits**

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

**Section 2200.240 Health Insurance Portability and Accountability Act (HIPAA)**

CMS will comply with the uses and disclosures of protected health information, permitted by the Health Insurance Portability and Accountability Act (HIPAA) (PL 104-191).

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

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

CMS shall be responsible for compliance with the continuation of benefits requirements of COBRA (PL 99-272). All premiums must be collected and transmitted to CMS by the respective retirement system.

## SUBPART C: RESPONSIBILITIES OF THE APPROPRIATE RETIREMENT SYSTEM

**Section 2200.310 Annuity**

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

**Section 2200.320 Enrollments and Terminations**

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

**Section 2200.330 Premium Collection and Payment**

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

## SUBPART D: VALUE OF ANNUITY

**Section 2200.410 Calculation**

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

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

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

## SUBPART E: PREMIUMS

**Section 2200.510 Calculation**

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

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

**Section 2200.520 Percentage of Annuity**

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

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

**Section 2200.530 Percentage of Cost**

- a) In addition to the percentage of annuity outlined in Section 2200.420, any SERS, SURS or TRS Annuitant who retired on or after January 1, 1998 with less than 20 years of State service, or any SERS, SURS or TRS Survivor whose annuity is based upon the work of an individual who retired on or after January 1, 1998 with less than 20 years of State service, shall pay 5% of the cost of the elected coverage for each year less than 20 upon which the annuity is based.
- b) SURS Annuitants who retired under PA 91-0395, or SURS Survivors whose annuity is based upon the work of an individual who retired under PA 91-0395, shall not be required to pay the additional amounts outlined in subsection (a)(1).

**Section 2200.540 Dependent Premiums**

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

**Section 2200.550 Optional Coverage Premiums**

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED RULES

**Section 220.560 Exempt from Premiums**

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

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3000.100	Amend
3000.600	Amend
3000.640	Amend
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3), (6), (7), and (8) of this Act [230 ILCS 10/5 (c) (2), (3), (6), (7) and (8)]
- 5) Effective Date of Rulemaking: November 1, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 9855; July 12, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Deletion of a comma (Second Notice change).
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u><i>Illinois Register</i> Citation</u>
3000.241	Amendment	37 Ill. Reg. 14378, September 13, 2013
3000.840	Amendment	37 Ill. Reg. 14378, September 13, 2013
- 15) Summary and purpose of rulemaking: The rulemaking makes the following changes to the riverboat gambling rules (86 Ill. Admin. Code 3000):

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***Inclusion of unredeemed vouchers as part of adjusted gross receipts.***

The proposed rulemaking adds a definition of "adjusted gross receipts" to Section 100 of the riverboat gambling rules (86 Ill. Admin. Code 3000.100 ("Definitions")). Under the new definition, "adjusted gross receipts" are defined as gross receipts less winnings paid to wagerers. The definition further provides that the value of expired vouchers shall be included in computing adjusted gross receipts. Including the value of expired vouchers as part of adjusted gross receipts conforms with standard accounting practice in the gaming industry.

***Printing of vouchers at a cashier cage.***

Sections 100 and 640 of the riverboat gambling rules (86 Ill. Admin. Code 3000.100 ("Definitions") and 3000.640 ("Exchange of Chips, Tokens, and Vouchers")) currently authorize the issuance of vouchers solely by means of a voucher printer connected to an electronic gaming device. In keeping with the practice at some casinos, the proposed rule change will amend these sections to allow vouchers also to be printed at a cashier cage.

***Use of promotional coupons.***

This proposed change to Section 600 of the riverboat gambling rules (86 Ill. Admin. Code 3000.600 ("Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards")) authorizes the use of promotional coupons in connection with table games and deletes current language allowing the use of match play coupons. The difference between a match play coupon and a promotional coupon is that a match play coupon must be used in conjunction of the play of a chip, whereas a promotional coupon may be used in place of a chip. Under the proposed rulemaking, promotional coupons may only be used as wagers as set forth in an owner licensee's Internal Control System.

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

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

312/874-7137  
Fax: 312/814-7253

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

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TITLE 86: REVENUE  
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000  
RIVERBOAT GAMBLING

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AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967,

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effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 34 Ill. Reg. 3285, effective February 26, 2010; amended at 34 Ill. Reg. 3748, effective March 11, 2010; amended at 34 Ill. Reg. 4768, effective March 16, 2010; amended at 34 Ill. Reg. 5200, effective March 24, 2010; amended at 34 Ill. Reg. 15386, effective September 23, 2010; amended at 36 Ill. Reg. 13199, effective July 31, 2012; amended at 37 Ill. Reg. 12050, effective July 9, 2013; amended at 37 Ill. Reg. 18255, effective November 1, 2013.

## SUBPART A: GENERAL PROVISIONS

**Section 3000.100 Definitions**

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

"Act": The Riverboat Gambling Act [230 ILCS 10].

"Adjusted Gross Receipts": The gross receipts less winnings paid to wagerers. The value of expired vouchers shall be included in computing adjusted gross receipts.

"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.

"Alcoholic Liquors": Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being.

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

"Bill Validator": Any electro-mechanical device attached either on or into an Electronic Gaming Device which accepts and analyzes the legitimacy of United States currency and/or Vouchers, validates the currency and/or Vouchers, stores

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the currency and/or Vouchers, and issues Electronic Credits equal to the value of currency and/or Vouchers inserted into the device.

"Board": The Illinois Gaming Board.

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

"Chip": A non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a holder of an Owner's license for use in Gaming other than in Electronic Gaming Devices on such holder's Riverboat or Riverboats.

"Chip Float": The difference between the total face value of Chips received from vendors and the total face value of Chips accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Computer Monitoring System": The gaming related system used to provide on-line, real-time monitoring of Electronic Gaming Devices and data acquisition capability in the format and media approved by the Administrator.

"Dependent": Any individual who received over half of his support in a calendar year from any other individual.

"Electronic Card": A card purchased from a holder of an Owner's license for use on that holder's Riverboat Gaming Operation as a substitute for Tokens in the conduct of gaming on an Electronic Gaming Device.

"Electronic Credit": A value owed to a patron on an Electronic Gaming Device.

"Electronic Gaming Device": Includes as approved Games under Section 3000.605 Single- and Multiple-Position Reel-Type, Single- and Multiple-Position Single-Game Video and Single- and Multiple-Position Multi-Game Video Electronic Gaming Devices.

"Electronic Gaming Device Drop": The total face value of Tokens or representations of Tokens (including without limitation foreign Tokens and slugs) collected from the drop bucket and United States currency and/or Vouchers collected from the Bill Validator drop box.

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"Electronic Gaming Device Win": The Electronic Gaming Device Drop minus hand-paid jackpots minus hopper fills minus Vouchers issued.

"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 an Electronic Gaming Device.

"Excluded Person": Any person whose name appears on any Exclusion List, or any person whose name does not appear on an Exclusion List but who is excluded or ejected pursuant to Section 5(c)(12) of the Act or as a result of meeting one or more of the criteria in Section 3000.720 of this Part.

"Exclusion List": A list or lists which contain the identities of persons who are to be excluded or ejected from any licensed Gaming operation in any jurisdiction. The list may include any person whose reputation or conduct is such that his presence within a Riverboat Gaming Operation may, in the opinion of the Board or the Administrator, call into question the honesty or integrity of the Gaming operation or pose a threat to the interests of the State of Illinois.

"Expiration Date": The one-year period, starting on the day of issuance, during which Vouchers may be redeemed for United States currency at a ~~cashier~~ ~~cashier's~~ cage of a Riverboat Gaming Operation.

"Game": A gambling activity which is played for money, property, or anything of value, including without limitation those played with cards, Chips, Tokens, 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 Equipment/Supplies": A machine, mechanism, device, or implement which is integral to the operation of a Game or affects the result of a Game by determining win or loss, including without limitation: electronic, electrical, or mechanical devices or machines; cards or dice; layouts for Live Gaming Devices; any representative of value used with any Game, including without limitation Chips, Tokens, or Electronic Cards; Voucher Systems; Voucher Printers; Voucher Validation Terminals; Computer Monitoring Systems; and hardware and software

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related to any item described herein.

"Gaming Operations Manager": A person or business entity other than the holder of an Owner's license who has the ultimate responsibility to manage, direct or administer the conducting of Gaming.

"Hand": Either one Game in a series, one deal in a card Game, or the cards held by a player.

"Indirect Interest": An interest in a Business Entity that is deemed to be held by the holder of an Owner's license not through the holder's actual holdings in the business entity but through the holder's holdings in other business entities.

"Institutional Investor": A "qualified institutional buyer" as defined by Securities and Exchange Commission Rule 144A (17 CFR 230.144A) under the Securities Act of 1933, as amended.

"Internal Control System": Proprietary internal procedures and administration and accounting controls designed by the holder of an Owner's license for the purpose of exercising control over the Riverboat Gaming Operation.

"Junketeer": A person or entity that facilitates a patron's participation in gaming at a Riverboat Gaming Operation and is compensated, not as an employee but as an independent contractor, by that Operation based upon how much the patron actually wagers or loses.

"Key Person": A Person identified by the Board under Section 3000.222 as subject to regulatory approval as a Person able to control, or exercise significant influence over, the management, assets, or operating policies of an owner or supplier licensee.

"Live Gaming Device": Any apparatus, other than an Electronic Gaming Device, upon which Gaming is conducted or which determines an outcome which is the object of a wager. This definition includes but is not limited to roulette wheels, keno machines, punchboard tickets and tables with layouts utilized in Games approved by the Board.

"Marketing Agent": A person or entity, other than a junketeer or an employee of a Riverboat Gaming Operation, who is compensated by the Riverboat Gaming

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Operation in excess of \$100 per patron per trip for identifying and recruiting patrons.

"Non-Alterable Storage Media": An electronic storage medium that contains the program files that operate the game, which medium cannot be altered through the use of the circuitry or programming of the gaming device.

"Non-Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation, but bearing no value designation.

"Notice of Board Action": A Notice of Denial, Restriction, Suspension, Revocation, Nonrenewal, Fine, Exclusion or other action issued by the Board.

"Parent Company": A "parent company" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

"Payout": Winnings earned on a wager.

"Person": "Person" includes both individuals and Business Entities.

"Petitioner": An applicant, licensee, or Excluded Person who requests a hearing upon issuance of a Notice of Board Action.

"Progressive Controller": The hardware and software that controls all communications among the machines within a progressive Electronic Gaming Device link and its associated progressive meter.

"Progressive Jackpot": An award for winning play in a Game, the value of which is determined by the contribution of a portion of each Wager placed into play or the combined amount of several wagers linked to a common jackpot award.

"Redemption Period": The 120-day period during which a Voucher may be used to acquire electronic credits from an Electronic Gaming Device or to obtain United States currency from a Voucher Validation Terminal. After their Redemption dates and prior to their Expiration dates, Vouchers may be redeemed for United States currency only at a cashier cage of a Riverboat Gaming Operation.

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"Relative": Spouse, parents, grandparents, children, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship, and Dependents.

"Remote Access": Communication with an electronic information system from a remote location or facility through a data link.

"Riverboat": A navigable vessel or a permanently moored vessel comprised of one or more barges that are permanently attached to operate as one barge.

"Riverboat Gaming Operation": The owner licensee, Gaming Operations Manager, or, as the context requires, the conducting of Gaming and all related activities, including without limitation the purveying of food, beverages, retail goods and services, and transportation, on a Riverboat and at its Support Facilities.

"Signature": The definitive identity of an individual specific EPROM chip or other non-alterable storage media, determined by electronic analysis and reflective of the EPROM chip's game behavior capability.

"Substantial Owner": A person who has an ownership interest of 25% or more in a Business Entity.

"Supplier": A provider of Gaming Equipment/Supplies, Gaming Equipment maintenance or repair services, security services or a lessor of a Riverboat or dock facility.

"Support Facility": A place of business which is part of, or operates in conjunction with, a Riverboat Gaming Operation and is owned in whole or in part by a holder of an Owner's or Supplier's license or any of their Key Persons, including without limitation Riverboats, offices, docking facilities, parking facilities, and land-based hotels or restaurants.

"Table Drop": The total amount of cash or cash equivalents contained in the drop box for Chips purchased at a Live Gaming Device.

"Table Win": The dollar amount won by the holder of an Owner's license through play at a live Game which is the total of the Table Drop plus ending Chip

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inventory plus credits minus opening Chip inventory minus fills.

"Theoretical Payout Percentage": The percentage of Tokens or Electronic Credits from amounts wagered that will be returned to players by an Electronic Gaming Device.

"Token": A metal representative of value, redeemable for cash only at the issuing Riverboat Gaming Operation, and issued and sold by a holder of an Owner's license for use in Gaming.

"Token Dispenser": Any mechanical or electrical device designed for the purpose of dispensing an amount of Tokens equal to the amount of currency inserted into the device.

"Token Float": The difference between the total face value of Tokens received from vendors and the total face value of Tokens accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Tournament EPROM": A specially designed EPROM with a mode of play that provides for a mathematically demonstrable payout of more than 100 percent.

"Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation and the specific value of the Chip.

"Voucher": A printed paper scrip representing the value in United States currency stated on the face of the scrip that is issued by a Voucher Printer connected to an Electronic Gaming Device [or at a cashier cage](#) at a Riverboat Gaming Operation and which scrip is redeemable for electronic credits or United States currency and is not a coupon or other promotional item.

"Voucher Float": The difference between the total face value of unexpired Vouchers issued by a Riverboat Gaming Operation and the total face value of Vouchers accounted for by the Riverboat Gaming Operation as redeemed or expired.

"Voucher Printer": A device designed for the purpose of issuing Vouchers at Electronic Gaming Devices [or at a cashier cage](#) at a Riverboat Gaming Operation.

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"Voucher System": The hardware and software used to issue and validate Vouchers, record redemptions and account for Vouchers.

"Voucher Validation Terminal": A hard-wired and interfaced device that accepts Vouchers and communicates the Voucher information to the Voucher System for the System to validate the information. If the System confirms that the Voucher is valid, the terminal then stores the Voucher and issues United States currency equal to the value of the Voucher.

"Wager": A sum of money or thing of value risked.

(Source: Amended at 37 Ill. Reg. 18255, effective November 1, 2013)

## SUBPART F: CONDUCT OF GAMING

**Section 3000.600 Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards**

- a) Except as provided in subsections (b) and (c) of this Section, Riverboat Gaming Wagers may be made only with Electronic Credits, Tokens, ~~or~~ Chips or promotional coupons issued by the holder of an Owner's license and approved by the Administrator. All Chips, Tokens and Electronic Cards must be approved by the Administrator and purchased from the holder of an Owner's license. Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System. Promotional coupons may only be used as wagers as set forth in the Owner's licensee's Internal Control System. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn only in the form of Tokens and/or a Voucher issued from the Electronic Gaming Device.
- b) Riverboat Gaming Wagers may be made with Electronic Credits downloaded from an owner licensee's computer management system or acquired through the insertion of a Voucher issued by an Electronic Gaming Device authorized for wagering at a holder of an Owner's license or acquired through insertion of a coupon redeemable for complimentary electronic credits, as set forth in the Owner licensee's Internal Control System.
  - 1) Prior to the Redemption Period, Vouchers may, at the patron's option, be:

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- A) used to obtain electronic credits to place a wager in Electronic Gaming Devices registered with the Board;
  - B) withdrawn only in the form of Tokens or Vouchers from the Electronic Gaming Device; or
  - C) redeemed only for United States currency at a Voucher Validation Terminal or at the cage of a holder of an Owner's license.
- 2) At any time prior to the Expiration Date, Vouchers may be redeemed for United States currency at the cage of a holder of an Owner's license.
- e) ~~Riverboat Gaming Wagers may be made with match play coupons issued by the holder of an Owner's license and approved by the Administrator. Match play coupons may only be used in conjunction with the Wager of a Chip as set forth in the owner licensee's Internal Control System.~~

(Source: Amended at 37 Ill. Reg. 18255, effective November 1, 2013)

**Section 3000.640 Exchange of Chips, Tokens, and Vouchers**

- a) Chips shall be issued to a person only at the request of such person and shall not be given as change in any other transaction. Chips shall only be issued to Riverboat patrons at ~~cashier~~ ~~cashier's~~ cages or at the Live Gaming Devices and shall be redeemed only at a ~~cashier~~ ~~cashier's~~ cage.
  - b) Tokens shall only be issued upon the request of a patron from a ~~cashier~~ ~~cashier's~~ cage, Token Dispenser or from employees of the holder of an Owner's license at the Electronic Gaming Device area. Tokens shall be redeemed only at a ~~cashier~~ ~~cashier's~~ cage.
  - c) Vouchers shall only be issued by approved Voucher Printers in Electronic Gaming Devices or at a cashier cage.
- 1) Prior to their Redemption Dates, Vouchers may be redeemed for:
- A) Electronic Credit at Electronic Gaming Devices, which Credit may then be redeemed as a new Voucher or in Tokens, for EGDs equipped for Tokens; and

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- B) United States currency at Voucher Validation Terminals and a cashier cage at the holder of an Owner's license.
- 2) After their Redemption Dates and prior to their Expiration Dates, Vouchers may be redeemed for United States currency only at a cashier cage of the holder of an Owner's license.
- d) Chips, Tokens, or Vouchers shall only be redeemed by a holder of an Owner's license from its patrons and shall not be knowingly redeemed from any non-patron source, except where:
- 1) employees of the holder present for redemption Chips or Tokens as provided in the approved Internal Control System of the holder;
  - 2) another holder of an Owner's License presents for redemption Tokens which have been lawfully received by that holder;
  - 3) subject to approval by the Administrator, a person licensed to conduct Gaming in another jurisdiction presents for redemption Tokens which have been lawfully received by that person; or
  - 4) the prior written approval for the redemption of the Chips or Tokens is obtained in each instance from the Administrator.
- e) Each Riverboat shall promptly redeem its own Chips, Tokens and Vouchers by cash or by check dated the day of such redemption on an account of the Riverboat, as requested by the patron, except when the Chips, Tokens and Vouchers were obtained or used unlawfully.
- f) Each Riverboat may demand the redemption of its Chips, Tokens or Vouchers from any person in possession of them and that person shall redeem the Chips, Tokens or Vouchers upon presentation by the Riverboat Gaming Operation of an equivalent amount of cash or check dated the same day on an account of the Riverboat.
- g) Each Riverboat shall cause to be posted and remain posted in a prominent place:
- 1) On the front of a ~~cashier~~ cashier's-cage a sign that reads as follows:

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"Gaming Chips, Tokens or Vouchers issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat";

- 2) On Electronic Gaming Device Token redemption booths a sign that reads as follows: "Tokens or Vouchers issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat"; and
- 3) On Voucher Validation Terminals a sign that reads as follows: "Vouchers issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat".

(Source: Amended at 37 Ill. Reg. 18255, effective November 1, 2013)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.481                      Adopted Action:  
Amend
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 97-0689
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: April 26, 2013; 37 Ill. Reg. 5243
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between the Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Rulemaking:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.24	Amendment	37 Ill. Reg. 3362; March 22, 2013
140.28	Amendment	37 Ill. Reg. 3362; March 22, 2013
140.55	Amendment	37 Ill. Reg. 7078; May 24, 2013
140.492	Amendment	37 Ill. Reg. 12317; August 2, 2013
140.493	Amendment	37 Ill. Reg. 12317; August 2, 2013
140.462	Amendment	37 Ill. Reg. 12637; August 9, 2013

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140.539	Amendment	37 Ill. Reg. 13853; August 30, 2013
140.523	Amendment	37 Ill. Reg. 13998; September 6, 2013

- 15) Summary and Purpose of Rulemaking: The rulemaking clarifies the definition of wholesale price, in accordance with SMART, as the actual acquisition cost including all discounts.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED 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 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion 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, Suspension, Exclusion or Revocation on Persons

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion 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
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 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

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	Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
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)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 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 Non-Institutional Rate Reductions
- 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.441	Pharmacy Services Not Covered
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140.452	Mental Health Services
140.453	Definitions
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
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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
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140.470	Eligible Home Health Care, Nursing and Public Health Providers
140.471	Description of Home Health Care Services
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140.473	Prior Approval for Home Health Care Services
140.474	Payment for Home Health Care Services
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140.477	Limitations on Equipment, Prosthetic Devices and Orthotic Devices

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
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- 140.487 Healthy Kids Program Timeliness Standards
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- 140.490 Medical Transportation
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- 140.494 Record Requirements for Medical Transportation Services
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- 140.496 Payment for Psychological Services
- 140.497 Hearing Aids
- 140.498 Fingerprint-Based Criminal Background Checks

## SUBPART E: GROUP CARE

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- 140.502 Cessation of Payment at Federal Direction
- 140.503 Cessation of Payment for Improper Level of Care
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- 140.511 Long Term Care Services Covered By Department Payment
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140.565	Kosher Kitchen Reimbursement
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140.643	In-Home Care Program
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140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
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140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND  
LOCAL GOVERNMENTAL ENTITIES

## Section

140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
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140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
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140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

## Section

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140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
140.932	Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND  
REIMBURSEMENT EQUITY (ICARE) PROGRAM

## Section

140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)
140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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## Section

140.990	Primary Care Case Management Program
140.991	Primary Care Provider Participation Requirements
140.992	Populations Eligible to Participate in the Primary Care Case Management Program
140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
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## SUBPART J: ALTERNATE PAYEE PARTICIPATION

## Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
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## SUBPART K: MANDATORY MCO ENROLLMENT

140.1010	Mandatory Enrollment in MCOs
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## SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

## Section

140.1300	Definitions
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140.TABLE A	Criteria for Non-Emergency Ambulance Transportation
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140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule (Repealed)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

**AUTHORITY:** Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and 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; preemptory 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; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory 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

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 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

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thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; 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;

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amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. 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

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suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective 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

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September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, 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

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November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 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;

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emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; 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; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 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; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August

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20, 2013 for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids**

- a) Notwithstanding the provisions set forth in this Section, beginning July 1, 2002, the reimbursement rates paid for medical equipment, supplies, prosthetic devices and hearing aids shall be the lesser of the provider's usual and customary charge to the general public or 94 percent of the fiscal year 2002 rate otherwise determined by the Department under this Section.
- b) Payment for Medical Equipment. Medical equipment is durable, reusable equipment such as wheelchairs, hospital beds, canes, walkers, etc. Payment for medical equipment is made for covered items or services at the lesser of the provider's charge or the maximum allowable rate established by the Department. The maximum allowable rate established by the Department for each item of medical equipment is to be based on pricing for widely accepted quality items. The Department shall review and update the maximum allowable rate at least annually. Widely accepted quality items are items which are not below average quality for like medical equipment and which are available statewide. The maximum allowable rate established for each item or service shall be the rate on the Department's fee schedule. If there is no rate established on the Department's fee schedule, the maximum allowable rate established for each item or service shall be the least of:
  - 1) The average suggested retail price derived from available medical supply catalogs and/or providers' price lists; or
  - 2) The wholesale price, defined effective July 1, 2013 as actual acquisition cost including all discounts, derived from available medical supply catalogs and/or providers' price lists for each item plus 50 percent; or
  - 3) The Medicare allowable rate for covered Medicare items or services.
- c) Medical supplies are medical items which are not durable or reusable such as surgical dressings, disposable syringes, catheters, urinary bags, etc. Payment for

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medical supplies is made for covered items at the lesser of the provider's charge or the maximum allowable rate established by the Department. The maximum allowable rate for each item of medical supplies shall be based on pricing for widely accepted quality items as defined in subsection (b) ~~of this Section~~. The Department shall review and update the maximum allowable rate at least annually. The maximum allowable rate established for each item shall be the least of:

- 1) The average suggested retail price derived from available medical supply catalogs and/or providers' price lists; or
  - 2) The wholesale price derived from available medical supply catalogs and/or providers' price lists for each item plus 50 percent; or
  - 3) The Medicare allowable rate for covered Medicare items or services.
- d) Payment for Prosthetic and Orthotic Devices. Prosthetic and orthotic devices include corrective or supportive devices prescribed to artificially replace a missing portion of the body, or to prevent or correct physical deformity or malfunction, or to support a weak or deformed portion of the body. Payment for prosthetic and orthotic devices is made for covered items or services at the lesser of the provider's charge or the maximum allowable rate established by the Department. The maximum allowable rate for each item of prosthetic and orthotic devices shall be based on pricing for widely accepted quality items as defined in subsection (b) ~~of this Section~~. The Department shall review and update the maximum allowable rate at least annually. The maximum allowable rate established for each item shall be the least of:
- 1) The average suggested retail price derived from available medical supply catalogs and/or providers' price lists; or
  - 2) The wholesale price derived from available medical supply catalogs and/or providers' price lists for each item plus 50 percent; or
  - 3) The Medicare allowable rate for covered Medicare items or services.
- e) Payment for hearing aids shall be made at the lesser of the provider's charge or the maximum allowable rate established by the Department. The hearing aid shall be priced by the Department at the vendor's actual acquisition cost, without

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exceeding the Department's upper limits of reimbursement for the item. Acquisition cost is defined as the actual amount the supplying provider pays for the hearing [aidsaid\(s\)](#). Any discounts, rebates or bonuses shall be subtracted when calculating the acquisition cost. The amount of any rebates or bonuses shall be prorated on all purchases for which the rebate or bonus was earned. The prorated share shall be subtracted when calculating the acquisition cost of the item. Verification of the vendor's acquisition cost must be attached to the request for reimbursement. In addition to payment for the acquisition costs, the Department will pay a dispensing fee. Payment for a dispensing fee shall include reimbursement for fitting, follow-up visits, shipping and retail markup. The Department shall review and update the maximum allowable rate at least annually.

- 1) To establish the maximum limit for the acquisition cost of the hearing aid, the Department shall review wholesale prices from available supply catalogs and provider price lists for the most widely accepted brands and types of technology.
- 2) To establish the maximum allowable rate for the dispensing fee, the Department shall use an average of available rates charged by audiologists for three hearing aid follow-up visits, not to exceed the Department's maximum allowable rate for a physician visit of low complexity for an established patient, plus the average of available shipping fees charged by the wholesaler for hearing aid shipping and an amount for the retail markup, determined by taking 50 percent of the average wholesale price of the hearing aids reviewed.

(Source: Amended at 37 Ill. Reg. 18275, effective November 4, 2013)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Procedures For Transportation Workplace Drug and Alcohol Testing Programs
- 2) Code Citation: 92 Ill. Adm. Code 340
- 3) Section Number: 340.1010      Adopted Action: Amend
- 4) Statutory Authority: Implementing, and authorized by, Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12711
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between the Proposal and Final Version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department updated the edition date of 49 CFR 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, to October 1, 2012, the most recent edition of 49 CFR and, also, incorporated by reference the federal rulemaking adopted at 77 FR 60318, October 1, 2012. Additionally,

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the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(77 FR 60318, October 3, 2012) Amends 49 CFR 40 so that laboratories and Medical Review Officers are no longer required to consult with one another regarding the testing for the presence of morphine when the laboratory confirms the presence of 6-acetylmorphine (6-AM). Laboratories are no longer required to report 6-AM results to the Office of Drug and Alcohol Policy Compliance.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 340  
PROCEDURES FOR TRANSPORTATION WORKPLACE  
DRUG AND ALCOHOL TESTING PROGRAMS

## Section

- 340.1000 Purpose  
340.1010 Incorporation by Reference of 49 CFR 40

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 32 Ill. Reg. 10356, effective June 25, 2008; amended at 37 Ill. Reg. 18299, effective November 4, 2013.

**Section 340.1010 Incorporation by Reference of 49 CFR 40**

- a) The Department incorporates by reference 49 CFR 40 as that part was in effect on October 1, ~~2012, as amended by 77 FR 60318, October 3, 2012~~<sup>2006</sup>. No later amendments to or editions of 49 CFR 40 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, ~~1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702 or by calling 217/785-1181~~<sup>3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181</sup>. The Federal Motor Carrier Safety Regulations are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at ~~<http://www.dot.il.gov/safety.html>~~<sup><http://www.dot.il.gov/safety.html></sup>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

(Source: Amended at 37 Ill. Reg. 18299, effective November 4, 2013)

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- 1) Heading of the Part: Special Training Requirements
- 2) Code Citation: 92 Ill. Adm. Code 380
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
380.1010	Amend
380.1020	Amend
- 4) Statutory Authority: Implementing, and authorized by, Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemakings, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12715
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: At Section 380.1020, the Department updated the edition date of 49 CFR 380, Special Training Requirements, to October 1, 2012, the most recent edition of 49 CFR. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the materials incorporated by reference.

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At Section 380.1010, the Department amended existing definitions and added new definitions pursuant to corresponding federal definitions. The Department also deleted "October 1, 2006" throughout this Section.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 380  
SPECIAL TRAINING REQUIREMENTS

## Section

380.1000	Purpose
380.1010	Definitions
380.1020	Incorporation by Reference of 49 CFR 380

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 29 Ill. Reg. 19208, effective November 10, 2005; amended at 32 Ill. Reg. 10359, effective June 25, 2008; amended at 37 Ill. Reg. 18302, effective November 4, 2013.

**Section 380.1010 Definitions**

As used in this Part:

"Alcohol or alcoholic beverage" means:

Beer as defined in 26 USC 5052(a) (Internal Revenue Code of 1954);

Wine of not less than one-half of one per centum of alcohol by volume; or

Distilled spirits as defined in section 5002(a)(8) (~~of the~~ Internal Revenue Code of 1954). (49 CFR 383.5, ~~October 1, 2006~~)

"Classroom instructor" means a qualified longer combination vehicle (LCV) driver-instructor who provides knowledge ~~and~~ instruction that does not involve the actual operation of an LCV or its components. Instruction may take place in a parking lot, garage, or any other facility suitable for instruction. (49 CFR 380.105, ~~October 1, 2006~~)

"Commercial driver's license" or "CDL" means a license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards

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contained in 49 CFR 383, ~~to an individual~~ that authorizes the individual to operate a class of a commercial motor vehicle. (49 CFR 383.5, ~~October 1, 2006~~)

"Commercial learner's permit" or "CLP" means a permit issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383, that, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of a commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a CLP serves as authorization for accompanied behind-the-wheel training in a CMV for which the holder's current CDL is not valid. (49 CFR 383.5)

"Commercial motor vehicle" or "CMV" means, for purposes of this Part and 92 Ill. Adm. Code 382 and 383, a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:—

Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit or units~~unit(s)~~ with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or

Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or

Is designed to transport 16 or more passengers, including the driver; or

Is of any size and is used in the transportation of hazardous materials as defined in this Section. (49 CFR 383.5, ~~October 1, 2006~~)

"Controlled substance" has the same meaning ascribed under 21 USC 802(6) and includes all substances listed on schedules I through V of 21 CFR 1308.11 through 1308.15, as they may be amended by the United States Department of Justice. (49 CFR 383.5)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of

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guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated. (49 CFR 383.5, ~~October 1, 2006~~)

"Disqualification" means any of the following three actions:

The suspension, revocation, or cancellation of a CLP or CDL by the state or jurisdiction of issuance.

Any withdrawal of a person's privileges to drive a CMV by a state or other jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

A determination by the Federal Motor Carrier Safety Administration ~~FMCSA~~ that a person is not qualified to operate a CMV under 49 CFR 391. (49 CFR 383.5, ~~October 1, 2006~~)

"Driver's license" means a license issued by a state or other jurisdiction to an individual that authorizes the individual to operate a motor vehicle on the highways. (49 ~~CFR~~ 383.5, ~~October 1, 2006~~)

"Employee" means any operator of a CMV, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors (while in the course of operating a CMV) who are either directly employed by or under lease to an employer. (49 CFR 383.5, ~~October 1, 2006~~)

"Employer" means any person (including the United States, a state, District of Columbia or a political subdivision of a state) ~~who~~ ~~that~~ owns or leases a CMV or assigns employees to operate such a vehicle. (49 CFR 383.5, ~~October 1, 2006~~)

"Endorsement" means an authorization to an individual's CLP or CDL required to permit the individual to operate certain types of CMVs. (49 CFR 383.5, ~~October 1, 2006~~)

"Entry-level driver" means a driver with less than one year of experience operating a CMV with a CDL in interstate or intrastate commerce.

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"Entry-level driver training" means training the CDL driver receives in driver qualification requirements, hours of service of drivers, driver wellness, and whistle blower protection as appropriate to the entry-level driver's current position in addition to passing the CDL test. (49 CFR 380.502, ~~October 1, 2006~~)

"Hazardous materials" means any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 or any quantity of a material listed as a select agent or toxin in 42 CFR 73. (49 CFR 383.5, ~~October 1, 2006~~)

"Longer combination vehicle" or "LCV" means any combination of a truck-tractor and two trailers or semi-trailers that operates on the highways of Illinois with a gross vehicle weight (GVW) greater than 36,288 kilograms (80,000 pounds).

"LCV double" means an LCV consisting of a truck-tractor in combination with two trailers and/or semi-trailers. (49 CFR 380.105, ~~October 1, 2006~~)

"LCV triple" means an LCV consisting of a truck-tractor in combination with three trailers and/or semi-trailers. (49 CFR 380.105, ~~October 1, 2006~~)

"Motor vehicle" means a vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power used on highways, except that this term does not include a vehicle, machine, tractor, trailer, or semi-trailer operated exclusively on a rail. (49 CFR 383.5, ~~October 1, 2006~~)

"Qualified LCV driver-instructor" means an instructor meeting the requirements contained in 49 CFR 380, subpart C. There are two types of qualified LCV driver-instructors: classroom instructor and skills instructor. (49 CFR 380.105, ~~October 1, 2006~~)

"Skills instructor" means a qualified LCV driver-instructor ~~who~~that provides behind-the-wheel instruction involving the actual operation of an LCV or its components outside a classroom. (49 CFR 380.105, ~~October 1, 2006~~)

"State" (lower case) means a state of the United States and the District of Columbia. (49 CFR 383.5, ~~October 1, 2006~~)

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"Tank vehicle" means any CMV that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons. (49 CFR 383.5, ~~October 1, 2006~~)

"Training institution" means any technical or vocational school accredited by an accrediting institution recognized by the U.S. Department of Education. A motor carrier's training program for its drivers or an entity that exclusively offers services to a single motor carrier is not a training institution. (49 CFR 380.105; ~~October 1, 2006~~)

"Vehicle" means a motor vehicle unless otherwise specified. (49 CFR 383.5; ~~October 1, 2006~~)

(Source: Amended at 37 Ill. Reg. 18302, effective November 4, 2013)

**Section 380.1020 Incorporation by Reference of 49 CFR 380**

- a) The Department incorporates by reference 49 CFR 380 as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012~~2006, subject only to the exceptions in subsection (c) of this Section. No later amendments to or editions of 49 CFR 380 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702 or by calling 217/785-1181~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

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c) The following interpretations of, additions to and deletions from 49 CFR 380 shall apply for purposes of this Part.

- 1) 49 CFR 380.103 is not incorporated and the following is substituted therefor:

This Part applies to all operators of LCVs in interstate or intrastate commerce, employers of LCV operators, and LCV driver-instructors.

- 2) 49 CFR 380.105 is deleted and not incorporated.

- 3) 49 CFR 380.501 is not incorporated and the following is substituted therefor:

All entry-level drivers who drive in interstate or intrastate commerce and are subject to the CDL requirements of 49 CFR 383 must comply with subpart E of 49 CFR 380, except drivers who are subject to the jurisdiction of the Federal Transit Administration or who are otherwise exempt under 49 CFR 390.3(f).

- 4) 49 CFR 380.502 is deleted and not incorporated.

- 5) 49 CFR 380.509(a) is not incorporated and the following is substituted therefor:

Each employer must ensure that each entry-level driver that began operating a CMV requiring a CDL in interstate or intrastate commerce after July 20, 2003 receives the training required by 49 CFR 380.503.

(Source: Amended at 37 Ill. Reg. 18302, effective November 4, 2013)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Safety Fitness Procedures
- 2) Code Citation: 92 Ill. Adm. Code 385
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
385.1010	Amend
385.2000	Amend
- 4) Statutory Authority: Implementing, and authorized by, Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12729
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: At Section 385.2000, the Department updated the edition date of 49 CFR 385, subpart E, Hazardous Materials Safety Permits, to October 1, 2012, the most recent edition of 49 CFR. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

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NOTICE OF ADOPTED AMENDMENTS

At Section 385.1010, the Department deleted "October 1, 2006" throughout this Section.

At Section 385.2000, the incorporation by reference of 49 CFR 385, subpart F, required a revision to the Subpart B heading in this Part, as well as the Section heading.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

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## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 385  
SAFETY FITNESS PROCEDURES

## SUBPART A: GENERAL REQUIREMENTS

## Section

385.1000	Purpose
385.1010	Definitions
385.1020	Unsatisfactory Rated Motor Carriers

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS  
AND INTERMODAL EQUIPMENT PROVIDERS

## Section

385.2000	Incorporation by Reference of 49 CFR 385, subpart E <u>and subpart F</u>
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AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 25 Ill. Reg. 2131, effective January 17, 2001; amended at 26 Ill. Reg. 8966, effective June 5, 2002; amended at 29 Ill. Reg. 19216, effective November 10, 2005; amended at 32 Ill. Reg. 10374, effective June 25, 2008; amended at 37 Ill. Reg. 18310, effective November 4, 2013.

## SUBPART A: GENERAL REQUIREMENTS

**Section 385.1010 Definitions**

As used in this Part:

"Applicable Safety Regulations or Requirements" means 49 CFR chapter III, subchapter B – Federal Motor Carrier Safety Regulations or, if the carrier is an intrastate motor carrier subject to the hazardous materials safety permit requirements in subpart E of 49 CFR 385, 92 Ill. Adm. Code Subchapter d:

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Motor Carrier Safety Regulations and 49 CFR chapter I, subchapter C – Hazardous Materials Regulations.

"Commercial Motor Vehicle" means the same as the meaning ascribed to it in 92 Ill. Adm. Code 390.1020, except that Subpart B of this Part applies to intrastate motor carriers that transport those hazardous materials listed in 49 CFR 385.403 and incorporated by reference at Section 385.2000(a) of this Part.

"Compliance Review" means an on-site examination of a motor carrier's operations, such as the drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by a motor carrier, or to investigate complaints; or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action. (49 CFR 385.3, ~~October 1, 2006~~)

"Department" means the Illinois Department of Transportation.

"Federal Motor Carrier Safety Administration" or "FMCSA" means an agency within the United States Department of Transportation.

"Out-of-Service Order" means a prohibition against operating a commercial motor vehicle.

"Pipeline and Hazardous Materials Safety Administration" or "PHMSA" means the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. (49 CFR 171.8, ~~October 1, 2006~~)

"Safety Management Controls" means the ~~system~~system, policies, programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations, that ensure the safe movement of products and passengers through the transportation system, and ~~to that~~ reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (49 CFR 385.3, ~~October 1, 2006~~)

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"Safety Permit" means a document issued by the FMCSA that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR 385.403. (49 CFR 385.402, ~~October 1, 2006~~)

"Safety Ratings" means:

A satisfactory safety rating means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standards prescribed in 49 CFR 385.5. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.

A conditional safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in 49 CFR 385.5(a) through (k).

An unsatisfactory safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that has resulted in occurrences listed in 49 CFR 385.5(a) through (k).

An unrated carrier means that a safety rating has not been assigned to the motor carrier by the FMCSA. (49 CFR 385.3, ~~October 1, 2006~~)

(Source: Amended at 37 Ill. Reg. 18310, effective November 4, 2013)

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS  
AND INTERMODAL EQUIPMENT PROVIDERS

**Section 385.2000 Incorporation by Reference of 49 CFR 385, subpart E and subpart F**

- a) The Department incorporates by reference 49 CFR 385, subpart E and subpart F, as ~~those subparts that subpart~~ of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) ~~were~~ in effect on October 1, ~~2012~~~~2006~~, subject only to the exceptions in subsection (b) ~~of this Section~~. No later amendments to or additions of 49 CFR 385, subpart E and subpart F, are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9<sup>th</sup>

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~~Street, Springfield, Illinois 62702 or by calling 217/785-1181 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181.~~

The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

- b) The following interpretations of 49 CFR 385, subpart E and subpart F, shall apply for purposes of this Subpart:
- 1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 385.
  - 2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
  - 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Motor Carrier Safety Regulations.

(Source: Amended at 37 Ill. Reg. 18310, effective November 4, 2013)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures and Enforcement
- 2) Code Citation: 92 Ill. Adm. Code 386
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
386.1010	Amend
386.1035	Amend
386.1050	Amend
386.1110	Amend
386.1300	Amend
386.1320	Amend
386.1330	Amend
- 4) Statutory Authority: Implementing, and authorized by, Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] and Section 3-704(b) of the Illinois Vehicle Code [625 ILCS 5/3-704(b)]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does these rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12735
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between the Proposal and Final Version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: At Section 386.1035, the Department updated the edition date of 49 CFR 386, appendix B, Penalty Schedule; Violations and Monetary Penalties, to October 1, 2012, the most recent edition of 49 CFR.

At Sections 386.1035 and 386.1110, the Department updated the title of appendix B pursuant to the revised title in 49 CFR 386, appendix B.

At Section 386.1050, the Department added references to the Parts of the Illinois Motor Carrier Safety Regulations that were inadvertently omitted during the last rulemaking.

At Section 386.1300, the Department deleted references to the Congressional Act of 2005 because referencing the Congressional Act is no longer necessary.

Additionally, throughout this Part, the Department updated the Division of Traffic Safety's contact information.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 386  
PROCEDURES AND ENFORCEMENT

## SUBPART A: GENERAL PROVISIONS

Section	
386.1000	Scope
386.1010	Definitions
386.1020	Service
386.1030	Subpoenas
386.1035	Incorporation by Reference

## SUBPART B: ENFORCEMENT

Section	
386.1040	Responsibility for Enforcement
386.1050	Investigations
386.1060	Inspection of Records and Motor Vehicles
386.1070	Out of Service
386.1080	Record of Inspection
386.1090	Warning Letter
386.1110	Maximum Penalties
386.1120	Commencement of Civil Penalty Proceeding
386.1130	Reply
386.1140	Payment of Penalty
386.1150	Request for Hearing
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386.1170	Presiding Officer's Decision
386.1180	Assessment Considerations
386.1190	Appeal
386.1200	Willful Violations
386.1210	Failure to Pay Civil Penalty

## SUBPART C: PUBLIC UTILITY EXEMPTIONS

## DEPARTMENT OF TRANSPORTATION

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## Section

386.1300	Purpose and Scope
386.1310	Exemptions for a Public Utility
386.1320	Initial Exemptions: Application and Review
386.1330	Renewals
386.1340	Expiration and Termination of an Exemption
386.1350	Appeal

**AUTHORITY:** Implementing, and authorized by, Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] and Section 3-704(b) of the Illinois Vehicle Code [625 ILCS 5/3-704(b)].

**SOURCE:** Adopted at 14 Ill. Reg. 15542, effective September 10, 1990; amended at 18 Ill. Reg. 778, effective January 11, 1994; amended at 19 Ill. Reg. 13073, effective August 30, 1995; amended at 23 Ill. Reg. 5128, effective March 31, 1999; amended at 24 Ill. Reg. 1980, effective January 19, 2000; amended at 25 Ill. Reg. 2121, effective January 17, 2001; amended at 26 Ill. Reg. 8972, effective June 5, 2002; amended at 32 Ill. Reg. 10382, effective June 25, 2008; amended at 37 Ill. Reg. 18316, effective November 4, 2013.

## SUBPART A: GENERAL PROVISIONS

**Section 386.1010 Definitions**

As used in this Part:

"Applicant" means a public utility that submits an application.

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety whose office is located at:

Illinois Department of Transportation  
P.O. Box 19212  
[1340 N. 9<sup>th</sup> St. 3215 Executive Park Drive](#)  
Springfield, Illinois 62794-9212

"Division" means the Division of Traffic Safety of the Illinois Department of Transportation.

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"Exemption" means a document issued under the authority of the Division that authorizes a person to perform a function that is not otherwise authorized under the Illinois Motor Carrier Safety Regulations ([IMCSR](#)).

"Illinois State Police" means any individual officer of the Illinois State Police.

~~"Materially"~~ or "[Materially](#)" means anything ~~that~~[which](#) relates to any substantive issue that is of consequence to the determination of a proceeding.

"Officer" means an authorized employee of the Illinois Department of Transportation.

"Public Utility" means a firm lawfully licensed and engaged in any of the following: telephone, and television cable or community antenna service; the production, storage, transmission, distribution, sale, delivery; or furnishing of heat, cold, light, power, electricity, gas, water; or sanitary sewer; or the installation or repair of facilities for any of these activities.

"Relevant" means having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without that information.

"Respondent" means a person upon whom the Department has served a Notice of Intent to Assess Civil Monetary Penalty or a Notice of Probable Violation.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Undue Delay" means delay ~~that~~[which](#) is unwarranted, unjustified, or improper.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

**Section 386.1035 Incorporation by Reference**

- a) The Department incorporates by reference 49 CFR 386, appendix B,— Penalty Schedule; Violations and ~~Maximum~~ Monetary Penalties, as that appendix ~~to 49 CFR 386~~ was in effect on October 1, ~~2012~~[2006](#), subject only to the exceptions in subsection (b) ~~of this Section~~. No later amendments to or additions of 49 CFR 386, appendix B are incorporated. Copies of the appropriate material are

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available from the Division of Traffic Safety, [1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702](#) or by calling [217/785-1181](#) ~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The Federal Motor Carrier Safety Regulations (FMCSR) are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

- b) The following interpretations of 49 CFR 386, appendix B shall apply for purposes of this Part:
- 1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 386.
  - 2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
  - 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the ~~Illinois Motor Carrier Safety Regulations (IMCSR)~~.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

## SUBPART B: ENFORCEMENT

**Section 386.1050 Investigations**

- a) General  
*The Department may conduct investigations* (Section 18b-102(b) of the Law) relating to compliance by any person with any provision of ~~the IMCSR~~ ~~these Motor Carrier Safety Regulations (MCSR)~~ (92 Ill. Adm. Code ~~340, 380, 382, 385, 386, 387, 390, 391, 392, 393, 395, 396, and 397~~) and any order issued ~~under~~ ~~thereunder~~, or any court decree relating ~~to, those regulation~~ ~~thereto~~.
- b) Confidentiality  
Information received in an investigation under this Section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential, but only to the extent that disclosure would:

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- 1) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency;
- 2) interfere with pending administrative enforcement proceedings conducted by the Department;
- 3) deprive a person of a fair trial or an impartial hearing;
- 4) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
- 5) disclose unique or specialized investigative techniques other than those generally used and known;
- 6) endanger the life or physical safety of law enforcement personnel or any other person; or
- 7) obstruct an ongoing criminal investigation.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

**Section 386.1110 Maximum Penalties**

A person who commits an act that is a violation of any of the IMCSR is liable for a civil penalty as prescribed by 49 CFR 386, appendix B, — Penalty Schedule; Violations and [Maximum Monetary Penalties](#), [and incorporated by reference in Section 386.1035](#). (See Section 18b-107 of the Law.) When the violation is a continuing one, each day of the violation constitutes a separate offense.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

## SUBPART C: PUBLIC UTILITY EXEMPTIONS

**Section 386.1300 Purpose and Scope**

- a) This Subpart C applies to vehicles that are not subject to 92 Ill. Adm. Code 383 (i.e., operators required to obtain a commercial driver's license cannot qualify for this public utility exemption).

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- b) ~~Drivers who~~ Pursuant to the ~~Motor Carrier Safety Reauthorization Act of 2005,~~ ~~drivers that~~ operate utility service vehicles, as defined in 92 Ill. Adm. Code 390.1020, are exempt from the provisions of 92 Ill. Adm. Code 395. (See 92 Ill. Adm. Code 395.1000(b).) (~~See 49 CFR 395.1(n).~~) Drivers of utility service vehicles seeking relief from the hours of service requirements in 92 Ill. Adm. Code 395 are not required to follow the procedures contained in this Subpart C. (~~See the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Title IV – Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59).~~)
- c) This Subpart C prescribes procedures by which a public utility, as defined in Section 386.1010 and that is not subject to the ~~FMCSR~~ ~~federal Motor Carrier Safety Regulations~~, may obtain administrative relief from 92 Ill. Adm. Code 390, 392, 393, 396 and 397 in the form of an exemption. Exemptions provided for in this Subpart C will be granted only when they insure levels of safety consistent with the public interest, with the ~~IMCSR~~ ~~Illinois Motor Carrier Safety Regulations~~, and with the tolerance guidelines established in 49 CFR 350, appendix C.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

**Section 386.1320 Initial Exemptions: Application and Review**

- a) A public utility may apply to the Director for an exemption from the IMCSR as described in Section 386.1310(b) and (c).
- b) Each application filed under this Section for an exemption must:
- 1) Be submitted to:  
  
Director, Division of Traffic Safety  
Illinois Department of Transportation  
~~3215 Executive Park Drive~~, P.O. Box 19212  
1340 N. 9<sup>th</sup> St.  
Springfield, Illinois 62794-9212;
  - 2) Reference the exemption being sought under Section 386.1310;

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- 3) State the name, address, and telephone number of the applicant;
- 4) Certify that the vehicles for which an exemption is sought are used for the delivery of essential utility services to the public;
- 5) Certify that the public utility systematically inspects, repairs and maintains all commercial motor vehicles operating under the exemption as incorporated by reference in 92 Ill. Adm. Code 396. Parts and accessories shall be in safe and proper operating condition at all times. This Subpart C does not provide for exemption from the semi-annual inspection required by the Illinois Vehicle Inspection Law [625 ILCS 5/13-101 and 13-109];
- 6) For vehicles controlled by the public utility for 30 consecutive days or more, the utility must maintain or cause to be maintained records as incorporated by reference in 92 Ill. Adm. Code 396. If requested, the public utility must make these records available for inspection by an officer of the Department;
- 7) Certify that the firm's drivers of the commercial motor vehicles fully comply with the driver qualification standards outlined in 92 Ill. Adm. Code 391;
- 8) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR of 26,000 pounds or less for which an exemption is requested;
- 9) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR greater than 26,000 pounds for which hours of service relief is requested;
- 10) Make available for inspection by an officer of the Department comprehensive fleet accident information for the previous two years and annual total fleet mileage (See 92 Ill. Adm. Code 390.1020 for definition of accident.);
- 11) Identify any increased risks that are likely to result if an exemption is granted, and specify the safety control measures that the applicant considers necessary or appropriate to compensate for those increased risks;

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- 12) State the reasons why the applicant believes the requested exemption, including any safety control measures specified by the applicant, will achieve a level of safety that:
    - A) Is at least equal to that specified in the IMCSR from which the exemption is sought; or
    - B) If the IMCSR do not contain a specified level of safety, will be consistent with the public interest and will protect against the risks of life and property;
  - 13) Certify that the transportation described in the requested exemption is not governed by the ~~FMCSR~~[federal Motor Carrier Safety Regulations](#).
- c) If the applicant seeks to have the application processed on a priority basis, the applicant must set forth the supporting facts and reasons. If the Director, or his/her designated officer, determines that the request warrants priority consideration because of an emergency as defined in 92 Ill. Adm. Code 390.1020, the application will be processed as timely as practicable.
  - d) To permit timely consideration, an application should be submitted at least 60 days before the requested effective date.
  - e) If the applicant states that the information contained in the application constitutes trade secrets or commercial or financial information, the applicant must include a statement as to why the information is privileged or confidential.
  - f) Upon receipt by the Division, the application will be date and time-stamped. The Division will determine whether the application is complete and in conformance with this Subpart C. Incomplete applications will be returned along with a letter containing the reasons the application is incomplete. In that case, the applicant will be requested to supply additional information or documentation. An applicant that does not supply such additional information or documentation will not be approved.
  - g) When the Division determines that the application is complete, an on-site visit will be conducted within 60 calendar days after receipt of that determination to verify that, for example, driver qualification requirements are being met and that

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the required vehicle repair, inspection and maintenance records are being maintained.

- h) A decision regarding the granting of an exemption will be based upon the application and record assembled by the Division.
- i) A letter of approval will be mailed by the Director, or his/her designated officer, to the applicant granting the exemption. The exemption is effective for a two year period from the date of the approval letter.
- j) A letter of denial containing a statement of the reasons why the applicant has not been granted an exemption and the provisions of Subpart C that support the denial will be mailed to applicants denied exemptions. Applicants denied an exemption may:
  - 1) Correct deficiencies listed in the letter of denial and reapply if the application can be modified to meet the Department's objections as specified in the letter of denial; or
  - 2) Appeal the decision (see Section 386.1350 for appeal procedures).
- k) At any time there is a material change in the application or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

**Section 386.1330 Renewals**

- a) Each application for the renewal of an exemption issued under this Subpart C must be filed prior to the expiration of the exemption. To permit timely consideration, an application for renewal should be submitted at least 60 calendar days before the expiration of the exemption. An exemption that is allowed to lapse will not be considered a renewal. Initial application procedures as outlined in Section 386.1320 will apply in the case of lapsed exemptions. The exemption of an applicant that has timely filed an application for renewal will continue pending the consideration of the renewal.
- b) Each application for the renewal of an exemption issued under this Subpart C

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must:

- 1) Be submitted to:

Director, Division of Traffic Safety  
Illinois Department of Transportation  
~~3215 Executive Park Drive~~, P.O. Box 19212  
1340 N. 9<sup>th</sup> St.  
Springfield, Illinois 62794-9212;
  - 2) Identify the exemption for which a renewal is requested;
  - 3) State the name, address, and telephone number of the applicant;
  - 4) Include:
    - A) A certification by the applicant that the information submitted in the original application, or as may have been updated by any subsequent application for renewal, is accurate and correct; or
    - B) Such amendments to the previously submitted information as is necessary to update it and assure its accuracy and correctness;
  - 5) Include a statement describing all accident experience that has occurred in connection with the exemption since its issuance or most recent renewal, or, if no accidents have occurred, a certification to that effect. (See 92 Ill. Adm. Code 390.1020 for the definition of accident.)
- c) Upon receipt by the Division, the Division will date and time-stamp the application for renewal. The Division will determine whether the application is complete and in conformance with this Subpart C. The applicant will be requested to supply missing information or attachments.
  - d) When the Division determines that the application for renewal is complete, an on-site visit will be conducted within 60 calendar days after the determination to verify that, for example, driver qualification requirements are being met and that the required vehicle repair, inspection and maintenance records are being maintained.

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- e) A decision regarding the renewal of an exemption will be based upon the application and record assembled by the Division. Exemptions will not be renewed unless the record establishes that the applicant meets the requirements of this Subpart C.
- f) A letter of approval will be mailed by the Director granting the renewal of the exemption. The renewal is effective for a two year period from the date of the approval letter.
- g) A letter of denial containing a statement of the reasons why the exemption has not been renewed and the provisions of Subpart C that support the denial will be mailed to an applicant denied renewal.
- h) Applicants denied a renewal may correct deficiencies listed in the letter of denial and reapply if the application for renewal can be modified to meet the Department's objections as specified in the letter of denial, or applicants may appeal the decision as provided for in Section 386.1350 ~~of this Subpart C~~.
- i) At any time there is a material change in the application for renewal or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)

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## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Minimum Levels of Financial Responsibility for Motor Carriers
- 2) Code Citation: 92 Ill. Adm. Code 387
- 3) Section Number: 387.2000                      Adopted Action: Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: August 9, 2013; 37 Ill. Reg. 12749
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department updated the edition date of 49 CFR 387, Minimum Levels of Financial Responsibility for Motor Carriers, to October 1, 2012, the most recent edition of 49 CFR. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

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NOTICE OF ADOPTED AMENDMENT

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 387

## MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

## Section

387.1000	Purpose
387.1050	Applicability
387.2000	Incorporation by Reference of 49 CFR 387

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 29 Ill. Reg. 19222, effective November 10, 2005; amended at 32 Ill. Reg. 10392, effective June 25, 2008; amended at 37 Ill. Reg. 18329, effective November 4, 2013.

**Section 387.2000 Incorporation by Reference of 49 CFR 387**

- a) The Department incorporates by reference 49 CFR 387 as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012~~~~2006~~. No later amendments to or editions of 49 CFR 387 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, [1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702](#) or by calling [217/785-1181](#)~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

(Source: Amended at 37 Ill. Reg. 18329, effective November 4, 2013)

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- 1) Heading of the Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Number: 391.2000      Adopted Action: Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12787
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department updated the edition date of 49 CFR 391, Qualification of Drivers, to October 1, 2012, the most recent edition of 49 CFR and, also, incorporated by reference the federal rulemaking adopted at 78 FR 16189, March 14, 2013. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

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This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32934 of Subtitle I - Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21).

The following changes were made to Section 391.2000, Incorporation by Reference of 49 CFR 391:

At subsection (c)(1), drivers of covered farm vehicles (as defined in 92 Ill. Adm. Code 390.1020) cannot be placed out-of-service pursuant to the North American Uniform Out-of-Service Criteria for violations to this Part. This exemption is being provided pursuant to MAP-21 and 78 FR 16189, March 14, 2013.

At subsection (c)(2), the Department deleted this subsection and, instead, incorporated 49 CFR 391.2 by reference at Section 391.2000(a).

At subsection (c)(8), the Department is exempting drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, from 49 CFR 391, subpart E. This exemption is provided pursuant to the Congressional Act of 2012 (MAP-21) and the federal rulemaking of 78 FR 16189, March 14, 2013.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 391  
QUALIFICATION OF DRIVERS

## Section

391.1000	General
391.2000	Incorporation by Reference of 49 CFR 391

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 14 Ill. Reg. 15560, effective September 10, 1990; amended at 15 Ill. Reg. 13189, effective August 21, 1991; amended at 16 Ill. Reg. 5362, effective March 23, 1992; amended at 16 Ill. Reg. 14715, effective September 14, 1992; amended at 18 Ill. Reg. 783, effective January 11, 1994; amended at 19 Ill. Reg. 13077, effective August 30, 1995; amended at 20 Ill. Reg. 15365, effective November 18, 1996; amended at 23 Ill. Reg. 5133, effective March 31, 1999; amended at 24 Ill. Reg. 1991, effective January 19, 2000; amended at 25 Ill. Reg. 2126, effective January 17, 2001; amended at 26 Ill. Reg. 8997, effective June 5, 2002; amended at 27 Ill. Reg. 9238, effective June 2, 2003; amended at 29 Ill. Reg. 19251, effective November 10, 2005; amended at 32 Ill. Reg. 10420, effective June 25, 2008; amended at 36 Ill. Reg. 13242, effective August 3, 2012; amended at 37 Ill. Reg. 18332, effective November 4, 2013.

**Section 391.2000 Incorporation by Reference of 49 CFR 391**

- a) The Department hereby incorporates 49 CFR 391 by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2012, as amended by 78 FR 16189, March 14, 2013, 2006, as amended by 76 FR 75470, December 2, 2011 and 77 FR 1889, January 12, 2012 subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702 or by calling 217/785-1181 ~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The

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Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.
- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.
  - 1) Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020. Drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020 cannot be placed out-of-service for violations of 49 CFR 391, subpart E.
  - 2) ~~49 CFR 391.2 is not incorporated and the following substituted therefor:~~
    - A) ~~Farm custom operation. The rules in 49 CFR 391.15, except for 49 CFR 391.15(f), do not apply to a driver who drives a commercial motor vehicle controlled and operated by a person engaged in custom harvesting operations, if the commercial motor vehicle is used to:~~
      - i) ~~Transport farm machinery, supplies, or both, to or from a farm for custom harvesting operations on a farm; or~~
      - ii) ~~Transport custom harvested crops to storage or market.~~
    - B) ~~Apiarian industries. The rules in 49 CFR 391.15, except for 49 CFR 391.15(f), do not apply to a driver who is operating a commercial motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.~~
    - C) ~~Certain farm vehicle drivers. The rules in 49 CFR 391.15, except for 49 CFR 391.15(f), do not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) commercial motor vehicle, as defined in 49 CFR 390.5. For limited~~

## DEPARTMENT OF TRANSPORTATION

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~~exemptions for farm vehicle drivers of articulated commercial motor vehicles, see 49 CFR 391.67.~~

- ~~23~~) 49 CFR 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
- ~~34~~) *Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle with a gross vehicle weight rating or gross combination weight of over 12,000 lbs., used in the intrastate transportation of property who immediately prior to July 29, 1986 was eligible and licensed to operate a motor vehicle subject to the Illinois Motor Carrier Safety Regulations (IMCSR) and was engaged in operating such vehicles, and who was disqualified on July 29, 1986 by the adoption of 49 CFR 391 by reason of the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner. (Section 18b-105 of the Law)*
- ~~45~~) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle that either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or that is designed to transport more than 15 passengers, including the driver; or that has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act [\[430 ILCS 30\]](#). The vehicle must be used in intrastate transportation. The driver must have been eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating that vehicle immediately prior to January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 that made the IMCSR applicable to vehicles described in this subsection (c)(~~45~~). The reason for disqualification must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents that would indicate a lack of ability to operate a motor vehicle in a safe manner.

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- 56) 49 CFR 391.43(a) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b), the medical examination shall be performed by a licensed medical examiner as defined in 92 Ill. Adm. Code 390.1020.

- 67) If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of subsection (c)(3) or (c)(4), the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

- 78) 49 CFR 391.49(a) is not incorporated and the following substituted therefor:

A person who is not physically qualified to drive under 49 CFR 391, and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle in interstate or intrastate transportation if the Division Administrator, FMCSA, has granted a Skill Performance Evaluation (SPE) Certificate to that person.

- 8) [49 CFR 391, subpart E, Physical Qualifications and Examinations, does not apply to drivers of covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.](#)

(Source: Amended at 37 Ill. Reg. 18332, effective November 4, 2013)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Driving of Commercial Motor Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 392
- 3) Section Number: 392.2000      Adopted Action: Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013; 37 Ill. Reg. 12794
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department updated the edition date of 49 CFR 393, Parts and Accessories Necessary for Safe Operation, to October 1, 2012, the most recent edition of 49 CFR. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 392  
DRIVING OF COMMERCIAL MOTOR VEHICLES

## Section

392.1000	General
392.2000	Incorporation by Reference of 49 CFR 392

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 14 Ill. Reg. 15503, effective September 10, 1990; amended at 15 Ill. Reg. 13155, effective August 21, 1991; amended at 18 Ill. Reg. 740, effective January 11, 1994; amended at 18 Ill. Reg. 10359, effective June 15, 1994; amended at 19 Ill. Reg. 13038, effective August 30, 1995; amended at 20 Ill. Reg. 15330, effective November 18, 1996; amended at 23 Ill. Reg. 5093, effective March 31, 1999; amended at 24 Ill. Reg. 1942, effective January 19, 2000; amended at 25 Ill. Reg. 2090, effective January 17, 2001; amended at 26 Ill. Reg. 9002, effective June 5, 2002; amended at 27 Ill. Reg. 9243, effective June 2, 2003; amended at 29 Ill. Reg. 19256, effective November 10, 2005; amended at 32 Ill. Reg. 10425, effective June 25, 2008; amended at 36 Ill. Reg. 13249, effective August 3, 2012; amended at 37 Ill. Reg. 18338, effective November 4, 2013.

**Section 392.2000 Incorporation by Reference of 49 CFR 392**

- a) "Driving of Commercial Motor Vehicles" (49 CFR 392) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012~~~~2006, as amended by 76 FR 75470, December 2, 2011.~~ No later amendments to or editions of 49 CFR 392 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702 or by calling 217/785-1181~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

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- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.
- c) The following addition to 49 CFR 392 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

~~d) 49 CFR 392.80(d) is not incorporated.~~

de) 49 CFR 392.9a (Operating authority) is not incorporated and the following is substituted therefor:

- 1) Registration required. A motor vehicle providing transportation requiring registration under 49 USC 13902 may not be operated without the required registration or operated beyond the scope of its registration.
- 2) Penalties. Every motor vehicle providing transportation requiring registration under 49 USC 13902 shall be ordered out-of-service if determined to be operating without registration or beyond the scope of its registration. In addition, the motor carrier may be subject to penalties in accordance with 49 USC 14901.
- 3) Driver compliance. Upon the issuance of the out-of-service order under subsection ~~(d)(2) of this Section~~, the driver shall comply immediately with ~~the~~ order.

(Source: Amended at 37 Ill. Reg. 18338, effective November 4, 2013)

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## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Parts and Accessories Necessary for Safe Operation
- 2) Code Citation: 92 Ill. Adm. Code 393
- 3) Section Number: 393.2000      Adopted Action: Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013; 37 Ill. Reg. 12798
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department updated the edition date of 49 CFR 393, Parts and Accessories Necessary for Safe Operation, to October 1, 2012, the most recent edition of 49 CFR. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 393  
PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

## Section

393.1000 General  
393.2000 Incorporation by Reference of 49 CFR 393

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 14 Ill. Reg. 15537, effective September 10, 1990; amended at 15 Ill. Reg. 13185, effective August 21, 1991; amended at 18 Ill. Reg. 774, effective January 11, 1994; amended at 19 Ill. Reg. 13070, effective August 30, 1995; amended at 20 Ill. Reg. 15362, effective November 18, 1996; amended at 23 Ill. Reg. 5124, effective March 31, 1999; amended at 24 Ill. Reg. 1974, effective January 19, 2000; amended at 25 Ill. Reg. 2117, effective January 17, 2001; amended at 26 Ill. Reg. 9005, effective June 5, 2002; amended at 27 Ill. Reg. 9247, effective June 2, 2003; amended at 28 Ill. Reg. 1157, effective January 4, 2004; amended at 29 Ill. Reg. 19260, effective November 10, 2005; amended at 32 Ill. Reg. 10429, effective June 25, 2008; amended at 37 Ill. Reg. 18342, effective November 4, 2013.

**Section 393.2000 Incorporation by Reference of 49 CFR 393**

- a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012~~<sup>2006</sup>, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, [1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702](#) or by ~~calling 217/785-1181~~<sup>calling 217/785-1181</sup> ~~Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

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- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.
- 1) 49 CFR 393.86 shall not apply for those vehicles registered as farm trucks under Section 3-815(c) of the Illinois Vehicle Code [625 ILCS 5/3-815(c)] and utilized in intrastate commerce (Section 18b-105(c)(2) of the [Illinois Motor Carrier Safety Law \(the Law\)](#) [625 ILCS 5/18b-105(c)(2)]~~Law~~).
  - 2) 49 CFR 393.93 shall not apply to those commercial motor vehicles engaged in intrastate commerce that were manufactured before June 30, 1972 (Section 18b-105(c)(1) of the [Illinois Motor Carrier Safety Law \(the Law\)](#) [625 ILCS 5/18b-105(c)(1)]~~Law~~).
  - 3) Authorized Illinois State Police shall place vehicles out-of-service for any violation of the [Illinois Motor Carrier Safety Law](#) [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the vehicle out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 37 Ill. Reg. 18342, effective November 4, 2013)

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- 1) Heading of the Part: Hours-of-Service of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 395
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
395.1000	Amend
395.2000	Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9; 2013, 37 Ill. Reg. 12802
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: At Section 395.2000, the Department updated the edition date of 49 CFR 395, Hours-of-Service of Drivers, to October 1, 2012, the most recent edition of 49 CFR and, also, incorporated by reference the federal rulemaking adopted at 78 FR 16189, March 14, 2013. Additionally, the Department

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updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32101(d) of Subtitle A and Section 32934 of Subtitle I - Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21).

At Section 395.1000, pursuant to MAP-21 and 78 FR 16189, March 14, 2013, the Department amended the Section heading and added a new subsection (c) that exempts drivers of covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, from this Part. In subsection (b) of this Section, the Department removed a reference to the Motor Carrier Safety Reauthorization Act of 2005. This reference is no longer necessary since the language is now in the CFR.

The following changes were made to Section 395.2000, Incorporation by Reference of 49 CFR 395:

At subsection (c)(3), the Department deleted a subsection that was prescribed in the Motor Carrier Safety Reauthorization Act of 2005. This language is now located in the CFR and is incorporated by reference in subsection (a) of this Section.

At subsection (c)(3)(A), the Department added two new categories, or levels, of the North American Uniform Out of Service Criteria to the Part. These new levels were established after the last amendment to this Part and are currently being enforced by certified Illinois State Police officers.

At newly added subsection (c)(3)(E), the Department clarified that drivers of covered farm vehicles cannot be placed out-of-service pursuant to the North American Uniform Out-of-Service Criteria for violations to this Part. This exemption is provided pursuant to MAP-21 and 78 FR 16189, March 14, 2013.

At newly added subsection (c)(4)(A), (B) and (C), the Department added new provisions to replace the existing provisions of Section 395.2000(c)(5) that provide exemptions to this Part as prescribed in Section 32101(d) of MAP-21 and

## DEPARTMENT OF TRANSPORTATION

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78 FR 16189, March 14, 2013. These exemptions provide relief from the hours-of-service requirements for certain carriers transporting agricultural commodities and farm supplies for agricultural purposes, as defined in Section 18b-101 of the Law and 92 Ill. Adm. Code 390.1020.

At subsection (d), the Department added a provision to clarify statutory language regarding the hours-of-service requirements for contract carriers.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 395  
HOURS-OF-SERVICE OF DRIVERS

## Section

- 395.1000 [Purpose and Applicability](#)~~General~~  
395.2000 Incorporation by Reference of 49 CFR 395

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15507, effective September 10, 1990; amended at 15 Ill. Reg. 13161, effective August 21, 1991; amended at 16 Ill. Reg. 14425, effective September 8, 1992; amended at 18 Ill. Reg. 743, effective January 11, 1994; amended at 19 Ill. Reg. 13041, effective August 30, 1995; amended at 20 Ill. Reg. 15335, effective November 18, 1996; amended at 23 Ill. Reg. 5096, effective March 31, 1999; amended at 24 Ill. Reg. 1944, effective January 19, 2000; amended at 25 Ill. Reg. 2092, effective January 17, 2001; amended at 26 Ill. Reg. 9009, effective June 5, 2002; amended at 26 Ill. Reg. 12766, effective August 12, 2002; amended at 27 Ill. Reg. 9251, effective June 2, 2003; amended at 28 Ill. Reg. 1161, effective January 4, 2004; emergency amendment at 28 Ill. Reg. 6654, effective April 14, 2004, for a maximum of 150 days; emergency expired September 10, 2004; amended at 29 Ill. Reg. 19264, effective November 10, 2005; amended at 30 Ill. Reg. 5642, effective March 8, 2006; amended at 32 Ill. Reg. 10433, effective June 25, 2008; amended at 37 Ill. Reg. 18346, effective November 4, 2013.

**Section 395.1000** [Purpose and Applicability](#)~~General~~

- a) This Part prescribes the hours-of-service requirements for drivers of commercial motor vehicles in Illinois.
- b) This Part does not apply to drivers of utility service vehicles as defined in 92 Ill. Adm. Code 390.1020. ~~(See Section 4132 of the Motor Carrier Safety Reauthorization Act of 2005 (P.L. 109-59).)~~
- c) This Part does not apply to drivers of covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.

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## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 18346, effective November 4, 2013)

**Section 395.2000 Incorporation by Reference of 49 CFR 395**

- a) "Hours-of-Service of Drivers" (49 CFR 395) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2012, as amended by 78 FR 16189, March 14, 2013, 2006 subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N 9<sup>th</sup> Street, Springfield, Illinois 62702 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling 217/(217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
  - 1) 49 CFR 395.1(h) and 395.1(i) are deleted and not incorporated.
  - 2) 49 CFR 395.1(e)(1) as it applies to intrastate carriers is amended to establish that *drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status.* (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(d)])
  - 3) ~~49 CFR 395.5 shall apply to any operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of the operator. (See Section 4133 of the Motor Carrier Safety Reauthorization Act of 2005.)~~
  - 34) 49 CFR 395.13 is not incorporated and the following substituted therefor:

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- A) Authority to declare drivers out-of-service due to any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, 3, 4, ~~or 5, 6 or 7~~ (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(~~34~~)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that declaring the driver out-of-service is warranted. Notification to the motor carrier is accomplished when the Illinois State Police officer presents the Illinois Commercial Driver/Vehicle Inspection Report (Form ISP 5-238) to the driver.
- B) Out-of-Service Criteria
- i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.
  - ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior ~~7~~ seven consecutive days.
  - iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.
- C) Responsibilities of Motor Carriers~~motor carriers~~
- i) No motor carrier shall:
    - Require or permit a driver who has been declared out-of-service to operate a commercial motor vehicle until that driver may lawfully do so under

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

the requirements in 49 CFR 395.

- Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section. The appropriate consecutive hours off duty period may include sleeper berth time.

- ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver/Vehicle Inspection Report) and deliver the copy of the form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

D) Responsibilities of the Driver:

- i) No driver who has been declared out-of-service shall operate a commercial motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395.
- ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section.
- iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.
- iv) This Section does not alter the hazardous materials

## DEPARTMENT OF TRANSPORTATION

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requirements prescribed in 92 Ill. Adm. Code 397  
pertaining to attendance and surveillance of commercial  
motor vehicles.

- E) Subsection (c)(3) does not apply to drivers of covered farm vehicles as defined in 92 Ill. Adm. Code 390.1020.
- 4) This Part shall not apply to drivers engaged in agricultural operations, as defined in Section 18b-101 of the Law, that:
- A) Are transporting agricultural commodities, as defined in Section 18b-101 of the Law, to a location within a 150 air-mile radius from the source; or
- B) Are transporting farm supplies for agricultural purposes, as defined in Section 18b-101 of the Law, from a wholesale or retail distribution point, as defined in 92 Ill. Adm. Code 390.1020, of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or
- C) Are transporting farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.
- 5) ~~Part 395 shall not apply to agricultural operations as defined in 92 Ill. Adm. Code 390.1020 that are engaged in intrastate commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity or the distribution point (see definitions in 92 Ill. Adm. Code 390.1020) for farm supplies used for agricultural purposes (also defined in 92 Ill. Adm. Code 390.1020). (See Section 18b-105(c)(6) of the Law and Section 4130 of the Motor Carrier Safety Reauthorization Act of 2005.)~~
- 56) *Part 395 shall not apply to all farm to market agricultural transportation as defined in 92 Ill. Adm. Code 390.1020 that is engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)*
- 67) *Part 395 shall not apply to any grain hauling operations that are engaged*

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

in intrastate commerce *within a radius of 200 air miles of the normal work reporting location.* (Section 18b-105(c)(6) of the Law)

- d) *A contract carrier shall limit the hours-of-service by a driver transporting employees in the course of their employment on a road or highway of this State in a vehicle designed to carry 15 or fewer passengers to 12 hours of vehicle operation per day, 15 hours of on-duty service per day, and 70 hours of on-duty service in 7 consecutive days. The contract carrier shall require a driver who has 12 hours of vehicle operation per day or 15 hours of on-duty service per day to have at least 8 consecutive hours off duty before operating a vehicle again.* (Section 18b-106.1 of the Law) If the driver drives over 12 hours per day or performs more than 15 hours of on-duty service per day, the driver must complete a log book for that day.

AGENCY NOTE:~~Agency Note:~~ See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from 92 Ill. Adm. Code 390, 392, 393, 396 and 397 for applicable intrastate public utility commercial motor vehicles.

(Source: Amended at 37 Ill. Reg. 18346, effective November 4, 2013)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3) Section Numbers:      Adopted Action:  
396.1000                  Amend  
396.2000                  Amend  
396.2010                  Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12811
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: At Section 396.2000, the Department updated the edition date of 49 CFR 396, Inspection, Repair and Maintenance, to October 1, 2012, the most recent edition of 49 CFR and, also, incorporated by reference the federal

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

rulemaking adopted at 78 FR 16189, March 14, 2013. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

This rulemaking incorporates by reference changes made in the following Docket:

(78 FR 16189, March 14, 2013) Provides exemptions for the transportation of agricultural commodities and farm supplies and for covered farm vehicles and their drivers pursuant to the Commercial Motor Vehicle Safety Enhancement Act of 2012, Section 32934 of Subtitle I - Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21).

Pursuant to MAP-21 and the federal rulemaking of March 14, 2013 [78 FR 16189], at Section 396.1000, Purpose and Applicability, the Department amended the Section heading and added a new subsection (b) that exempts covered farm vehicles, as defined in 92 Ill. Adm. Code 390.1020, and used in interstate commerce, from this Part. Covered farm vehicles used in intrastate commerce that, prior to MAP-21 were subject to the Illinois Vehicle Inspection Law (the Law) [625 ILCS 5/13], remain subject to the inspection requirements of the Law.

A new subsection (e) was added at Section 396.2010 to clarify that covered farm vehicles used in interstate commerce cannot be placed out-of-service pursuant to the North American Uniform Out-of-Service Criteria for violations to this Part. This exemption is provided pursuant to MAP-21 and 78 FR 16189, March 14, 2013.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 396  
INSPECTION, REPAIR AND MAINTENANCE

## Section

396.1000	<a href="#">Purpose and Applicability</a> <del>General</del>
396.2000	Incorporation by Reference of 49 CFR 396
396.2010	Inspection of Vehicles in Operation

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 14 Ill. Reg. 15512, effective September 10, 1990; amended at 15 Ill. Reg. 13167, effective August 21, 1991; amended at 16 Ill. Reg. 14431, effective September 8, 1992; amended at 18 Ill. Reg. 749, effective January 11, 1994; amended at 19 Ill. Reg. 13046, effective August 30, 1995; amended at 20 Ill. Reg. 15340, effective November 18, 1996; amended at 23 Ill. Reg. 5101, effective March 31, 1999; amended at 24 Ill. Reg. 1949, effective January 19, 2000; amended at 25 Ill. Reg. 2097, effective January 17, 2001; amended at 26 Ill. Reg. 9014, effective June 5, 2002; amended at 27 Ill. Reg. 9257, effective June 2, 2003; amended at 29 Ill. Reg. 19271, effective November 10, 2005; amended at 32 Ill. Reg. 10440, effective June 25, 2008; amended at 37 Ill. Reg. 18355, effective November 4, 2013.

**Section 396.1000** [Purpose and Applicability](#)~~General~~

- a) This Part prescribes the requirements for the inspection, repair and maintenance of commercial motor vehicles in Illinois.
- b) [This Part does not apply to covered farm vehicles \(as defined in 92 Ill. Adm. Code 390.1020\) that are used in interstate commerce.](#)

(Source: Amended at 37 Ill. Reg. 18355, effective November 4, 2013)

**Section 396.2000** Incorporation by Reference of 49 CFR 396

- a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

(FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2012, as amended by 78 FR 16189, March 14, 2013~~2006~~, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling 217/(217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.
  - 1) 49 CFR 396.9 is deleted and not incorporated.
  - 2) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) [625 ILCS 5/13-109] has complied with the periodic inspection procedures required by 49 CFR 396.17.

(Source: Amended at 37 Ill. Reg. 18355, effective November 4, 2013)

**Section 396.2010 Inspection of Vehicles in Operation**

- a) Personnel ~~Authorized~~authorized to ~~Perform Inspections~~perform inspections. The Illinois State Police are authorized to enter upon and perform commercial vehicle inspections (as defined in 92 Ill. Adm. Code 390.1020) of motor carrier vehicles in operation.
- b) Prescribed ~~Inspection Report~~inspection report ~~The~~the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) shall be used to record results of motor vehicle inspections conducted by Illinois State Police personnel.
- c) Motor Vehicles ~~Declared~~declared "Out-of-Service."

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Authorized Illinois State Police personnel shall declare and mark "out-of-service" any motor vehicle which meets the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020. An "out-of-service" vehicle sticker shall be used to mark vehicles "out-of-service-".
  - 2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term "operate" as used in this subsection [\(c\)\(2\)](#) shall include towing the vehicle, except that vehicles marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out-of-service" vehicle shall not be operated until [thesuch](#) combination meets the performance requirements of the [Illinois Motor Carrier Safety Regulations \(IMCSR\)MCSR \(92 Ill. Adm. Code: Chapter I, Subchapter d\)](#) except for those conditions noted on the [Illinois Commercial Driver/Vehicle Inspection Report \(ISP 5-238\)](#).
  - 3) No person shall remove the "out-of-service vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out-of-service notice."
- d) Motor Carrier's [Disposition](#)~~disposition~~.
- 1) The driver of any motor vehicle receiving an [ISP 5-238inspection report](#) shall deliver it to the motor carrier operating the vehicle upon his/her arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
  - 2) Motor carriers shall examine the report. Violations or defects noted [on the reportthereon](#) shall be corrected.
  - 3) Within 15 days following the date of the inspection, motor carriers shall certify that all violations noted have been corrected by completing the reverse side of the [Illinois Commercial Driver/Vehicle Inspection Report \(ISP 5-238\)](#) and returning it to the Illinois State Police Commercial

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

Vehicle Enforcement Bureau's address indicated on the report.

- 4) The motor carrier shall retain a copy of the ISP 5-238 at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.

e) [This Section does not apply to covered farm vehicles \(as defined in 92 Ill. Adm. Code 390.1020\) or to the drivers of those vehicles when the vehicles are used in interstate commerce.](#)

(Source: Amended at 37 Ill. Reg. 18355, effective November 4, 2013)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Transportation of Hazardous Materials; Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Number: 397.1020      Adopted Action: Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rulemaking: November 4, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 9, 2013, 37 Ill. Reg. 12818
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between the Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department updated the edition date of 49 CFR 397, Transportation of Hazardous Materials; Driving and Parking, to October 1, 2012, the most recent edition of 49 CFR. Additionally, the Department updated the Division of Traffic Safety's contact information for copies of the material incorporated by reference.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 397  
TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING

## Section

397.1000	General
397.1010	Application
397.1020	Incorporation By Reference of 49 CFR 397

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397.Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990; amended at 15 Ill. Reg. 13158, effective August 21, 1991; amended at 18 Ill. Reg. 736, effective January 11, 1994; amended at 19 Ill. Reg. 13035, effective August 30, 1995; amended at 20 Ill. Reg. 15327, effective November 18, 1996; amended at 23 Ill. Reg. 5090, effective March 31, 1999; amended at 24 Ill. Reg. 1938, effective January 19, 2000; amended at 25 Ill. Reg. 2137, effective January 17, 2001; amended at 26 Ill. Reg. 9017, effective June 5, 2002; amended at 27 Ill. Reg. 9261, effective June 2, 2003; amended at 29 Ill. Reg. 19275, effective November 10, 2005; amended at 32 Ill. Reg. 10444, effective June 25, 2008; amended at 37 Ill. Reg. 18361, effective November 4, 2013.

**Section 397.1020 Incorporation By Reference of 49 CFR 397**

- a) The Department incorporates "Transportation of Hazardous Materials; Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, ~~2012~~<sup>2006</sup>, subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, [1340 N. 9<sup>th</sup> Street, Springfield, Illinois 62702](#) or by calling [217/785-1181](#) ~~3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703~~ or by calling ~~(217)785-1181~~. The FMCSR are available on the National Archives and Records Administration's website at

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

<http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.

- b) 49 CFR 397.1 is deleted and not incorporated.
- c) 49 CFR 397.2 is deleted and not incorporated.
- d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- e) The following addition to 49 CFR 397 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 37 Ill. Reg. 18361, effective November 4, 2013)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

SCHEDULED MEETING:

MICHAEL A. BILANDIC BUILDING  
ROOM 600C  
CHICAGO, ILLINOIS  
NOVEMBER 19, 2013  
11:00 A.M.

**NOTICES:** The scheduled date and time for the JCAR meeting are subject to change. Due to *Illinois Register* submittal deadlines, the agenda below may be incomplete. Other items not contained in this published agenda may be considered by the Committee at the meeting, and items from the list may be postponed to future meetings.

**RULEMAKINGS CURRENTLY BEFORE JCAR**

**NOTICE:** *It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: [jcar@ilga.gov](mailto:jcar@ilga.gov)  
Phone: 217/785-2254*

**PROPOSED RULEMAKINGS**

Aging

1. Community Care Program (89 Ill. Adm. Code 240)
  - First Notice Published: 37 Ill. Reg. 10738 – 7/19/13
  - Expiration of Second Notice: 11/21/13

Central Management Services

2. Service-Disabled and Veteran-Owned Small Businesses (44 Ill. Adm. Code 20)
  - First Notice Published: 37 Ill. Reg. 7820 – 6/14/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

-Expiration of Second Notice: 11/24/13

Children and Family Services

3. Department of Children and Family Services Scholarship Program (89 Ill. Adm. Code 312)
  - First Notice Published: 37 Ill. Reg. 5233 – 4/26/13
  - Expiration of Second Notice: 12/31/13

Emergency Management Agency

4. School and Campus Safety Grants (29 Ill. Adm. Code 310)
  - First Notice Published: 37 Ill. Reg. 13963 – 9/6/13
  - Expiration of Second Notice: 12/8/13
5. Standards for Protection Against Laser Radiation (32 Ill. Adm. Code 315)
  - First Notice Published: 37 Ill. Reg. 13013 – 8/16/13
  - Expiration of Second Notice: 12/8/13
6. Fees for Radioactive Material Licensees and Registrants (32 Ill. Adm. Code 331)
  - First Notice Published: 37 Ill. Reg. 13677 – 8/23/13
  - Expiration of Second Notice: 12/8/13
7. Certification of Individuals to Perform Industrial Radiography (32 Ill. Adm. Code 405)
  - First Notice Published: 37 Ill. Reg. 13038 – 8/16/13
  - Expiration of Second Notice: 12/8/13
8. Regulations for Radon Service Providers (32 Ill. Adm. Code 422)
  - First Notice Published: 37 Ill. Reg. 6987 – 5/24/13
  - Expiration of Second Notice: 12/8/13

Executive Ethics Commission

9. Organization, Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620)
  - First Notice Published: 37 Ill. Reg. 6008 – 5/10/13
  - Expiration of Second Notice: 12/15/13

Financial and Professional Regulation

10. Sex Offender Evaluation and Treatment Provider Act (68 Ill. Adm. Code 1280)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

- First Notice Published: 37 Ill. Reg. 13970 – 9/6/13
- Expiration of Second Notice: 12/8/13

Gaming Board

11. Video Gaming (General) (11 Ill. Adm. Code 1800)
  - First Notice Published: 37 Ill. Reg. 14368 – 9/13/13
  - Expiration of Second Notice: 12/15/13

Healthcare and Family Services

12. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 37 Ill. Reg. 12317 – 8/2/13
  - Expiration of Second Notice: 12/6/13

Health Facilities and Services Review Board

13. Narrative and Planning Policies (77 Ill. Adm. Code 1100)
  - First Notice Published: 37 Ill. Reg. 3934 – 4/5/13
  - Expiration of Second Notice: 11/23/13
14. Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)
  - First Notice Published: 37 Ill. Reg. 3982 – 4/5/13
  - Expiration of Second Notice: 11/23/13
15. Health Facilities and Services Review Operational Rules (77 Ill. Adm. Code 1130)
  - First Notice Published: 37 Ill. Reg. 7198 – 5/31/13
  - Expiration of Second Notice: 11/20/13

Labor Relations Board

16. General Procedures (80 Ill. Adm. Code 1200)
  - First Notice Published: 37 Ill. Reg. 13757 – 8/23/13
  - Expiration of Second Notice: 11/24/13

Natural Resources

17. Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)
  - First Notice Published: 37 Ill. Reg. 11010 – 7/19/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

-Expiration of Second Notice: 11/24/13

18. Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)
  - First Notice Published: 37 Ill. Reg. 13133 – 8/16/13
  - Expiration of Second Notice: 11/24/13
19. Squirrel Hunting (17 Ill. Adm. Code 690)
  - First Notice Published: 37 Ill. Reg. 13226 – 8/16/13
  - Expiration of Second Notice: 11/24/13
20. The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)
  - First Notice Published: 37 Ill. Reg. 13240 – 8/16/13
  - Expiration of Second Notice: 11/24/13
21. Dove Hunting (17 Ill. Adm. Code 730)
  - First Notice Published: 37 Ill. Reg. 13304 – 8/16/13
  - Expiration of Second Notice: 11/24/13
22. Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)
  - First Notice Published: 37 Ill. Reg. 13322 – 8/16/13
  - Expiration of Second Notice: 11/24/13
23. Construction in Floodways of Rivers, Lakes and Streams (17 Ill. Adm. Code 3700)
  - First Notice Published: 37 Ill. Reg. 4156 – 4/5/13
  - Expiration of Second Notice: 12/29/13
24. Regulation of Public Waters (17 Ill. Adm. Code 3704)
  - First Notice Published: 37 Ill. Reg. 4168 – 4/5/13
  - Expiration of Second Notice: 12/29/13
25. Floodway Construction in Northeastern Illinois (17 Ill. Adm. Code 3708)
  - First Notice Published: 37 Ill. Reg. 4183 – 4/5/13
  - Expiration of Second Notice: 12/29/13
26. Rules Establishing Horizontal and Vertical Clearances for Bridges Over the Fox River (17 Ill. Adm. Code 3720)
  - First Notice Published: 37 Ill. Reg. 4199 – 4/5/13
  - Expiration of Second Notice: 12/29/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

Racing Board

27. Hearings and Enforcement Proceedings (11 Ill. Adm. Code 204)  
-First Notice Published: 37 Ill. Reg. 11971 – 7/26/13  
-Expiration of Second Notice: 11/20/13
28. Race Track Operators and Their Duties (11 Ill. Adm. Code 1305)  
-First Notice Published: 37 Ill. Reg. 11976 – 7/26/13  
-Expiration of Second Notice: 11/20/13
29. Security and Admissions (11 Ill. Adm. Code 1325)  
-First Notice Published: 37 Ill. Reg. 11981 – 7/26/13  
-Expiration of Second Notice: 11/20/13

Revenue

30. Income Tax (86 Ill. Adm. Code 100)  
First Notice Published: 37 Ill. Reg. 13887 – 8/30/13  
-Expiration of Second Notice: 12/8/13

Secretary of State

31. Rules of the Road – Handicapped Parking (92 Ill. Adm. Code 1100)  
-First Notice Published: 37 Ill. Reg. 14609 – 9/13/13  
-Expiration of Second Notice: 12/13/13
32. Parking Agreements at Secretary of State Facilities (92 Ill. Adm. Code 1150)  
-First Notice Published: 37 Ill. Reg. 14000 – 9/6/13  
-Expiration of Second Notice: 12/8/13

Student Assistance Commission

33. John R. Justice Student Loan Repayment Program (23 Ill. Adm. Code 2754)  
-First Notice Published: 37 Ill. Reg. 11272 – 7/19/13  
-Expiration of Second Notice: 12/18/13

Transportation

34. Motor Carrier Safety Regulations: General (92 Ill. Adm. Code 390)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

- First Notice Published: 37 Ill. Reg. 12752 – 8/9/13
- Expiration of Second Notice: 1/1/14

**EMERGENCY RULEMAKINGS**Human Services

- 35. General Administrative Provisions (89 Ill. Adm. Code 10)
  - First Notice Published: 37 Ill. Reg. 16838 – 10/18/13
- 36. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
  - First Notice Published: 37 Ill. Reg. 16845 – 10/18/13

**PEREMPTORY RULEMAKING**Central Management Services

- 37. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 37 Ill. Reg. 17164 – 11/1/13

**EXEMPT RULEMAKINGS**Pollution Control Board

- 38. RCRA Permit Program (35 Ill. Adm. Code 703)
  - Notice Published: 37 Ill. Reg. 9138 – 7/5/13
  - Adopted Date: 11/8/13
- 39. UIC Permit Program (35 Ill. Adm. Code 704)
  - Notice Published: 37 Ill. Reg. 9187 – 7/5/13
  - Adopted Date: 11/8/13
- 40. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
  - Notice Published: 37 Ill. Reg. 9205 – 7/5/13
  - Adopted Date: 11/8/13
- 41. Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
  - Notice Published: 37 Ill. Reg. 9242 – 7/5/13
  - Adopted Date: 11/8/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

42. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
  - Notice Published: 37 Ill. Reg. 9252 – 7/5/13
  - Adopted Date: 11/8/13
43. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
  - Notice Published: 37 Ill. Reg. 9290 – 7/5/13
  - Adopted Date: 11/8/13
44. Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
  - Notice Published: 37 Ill. Reg. 9367 – 7/5/13
  - Adopted Date: 11/8/13
45. Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a RCRA Standardized Permit (35 Ill. Adm. Code 727)
  - Notice Published: 37 Ill. Reg. 9388 – 7/5/13
  - Adopted Date: 11/8/13
46. Land Disposal Restrictions (35 Ill. Adm. Code 728)
  - Notice Published: 37 Ill. Reg. 9430 – 7/5/13
  - Adopted Date: 11/8/13
47. Standards for the Management of Used Oil (35 Ill. Adm. Code 739)
  - Notice Published: 37 Ill. Reg. 9442 – 7/5/13
  - Adopted Date: 11/8/13

## **AGENCY RESPONSES**

### Financial and Professional Regulation

48. Interior Design Profession Title Act (68 Ill. Adm. Code 1255; 37 Ill. Reg. 8089)
49. The Illinois Landscape Architecture Act of 1989 (68 Ill. Adm. Code 1275; 37 Ill. Reg. 8103)

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 October 29, 2013 through November 4, 2013. The rulemakings are scheduled for review at the Committee's November 19, 2013 meeting or the December 17, 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>
12/13/13	<u>Secretary of State</u> , Rules of the Road – Handicapped Parking (92 Ill. Adm. Code 1100)	9/13/13 37 Ill. Reg. 14609	11/19/13
12/15/13	<u>Executive Ethics Commission</u> , Organization, Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620)	5/10/13 37 Ill. Reg. 6008	11/19/13
12/15/13	<u>Illinois Gaming Board</u> , Video Gaming (General) (11 Ill. Adm. Code 1800)	9/13/13 37 Ill. Reg. 14368	11/19/13
12/18/13	<u>Department of Insurance</u> , Advertising of Accident and Sickness Insurance (50 Ill. Adm. Code 2002)	9/13/13 37 Ill. Reg. 14494	12/17/13
12/18/13	<u>Department of Insurance</u> , Pre-Existing Illness (50 Ill. Adm. Code 2005)	9/13/13 37 Ill. Reg. 14502	12/17/13
12/18/13	<u>Department of Insurance</u> , Small Employer Group Health Insurance (Repealer) (50 Ill. Adm. Code 2014)	9/13/13 37 Ill. Reg. 14509	12/17/13

## CHIEF PROCUREMENT OFFICER FOR THE CAPITAL DEVELOPMENT BOARD

## NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Procurement Practices
- 2) Code Citation: 44 Ill. Adm. Code 8
- 3) The Notice of Proposed Rulemaking being corrected appeared at: 37 Ill. Reg. 12120; August 2, 2013
- 4) The information being corrected is as follows: In response to Question #10 of the Repealer, Section 3130 was listed twice and should have been listed only once.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES  
STATEMENT OF RECOMMENDATION TO PROPOSED AMENDMENTS

- 1) Heading of the Part: Interior Design Profession Title Act
- 2) Code Citation: 68 Ill. Adm. Code 1255
- 3) 

<u>Section Numbers</u> :	<u>Action</u> :
1255.10	Amend
1255.20	Amend
1255.30	Amend
1255.40	Amend
1255.50	Amend
1255.60	Amend
1255.65	Amend
1255.70	Amend
1255.80	Amend
1255.90	Amend
- 4) Date Notice of Proposed Amendments published in the *Illinois Register*: June 21, 2013;  
37 Ill. Reg. 8089
- 5) Date JCAR Statement of Recommendation published in the *Illinois Register*: October 4,  
2013; 37 Ill. Reg. 15750
- 6) Agency Response to Joint Committee Recommendation: At its meeting on September  
17, 2013, JCAR recommended that the Department of Financial and Professional  
Regulation be timelier in proposing rules implementing statute.

The Department will strive to be timelier in the adoption of rules that are implementing new Public Acts.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES  
STATEMENT OF RECOMMENDATION TO PROPOSED AMENDMENTS

- 1) Heading of the Part: The Illinois Landscape Architecture Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1275
- 3) 

<u>Section Numbers:</u>	<u>Action:</u>
1275.30	Amend
1275.40	Amend
1275.50	Amend
1275.60	Amend
1275.65	New
1275.70	Amend
1275.75	Amend
1275.80	Amend
1275.ILLUSTRATION A	New
- 4) Date Notice of Proposed Amendments published in the *Illinois Register*: June 21, 2013; 37 Ill. Reg. 8103
- 5) Date JCAR Statement of Recommendation published in the *Illinois Register*: October 4, 2013; 37 Ill. Reg. 15751
- 6) Agency Response to Joint Committee Recommendation: At its meeting on September 17, 2013, JCAR recommended that the Department of Financial and Professional Regulation be timelier in proposing rules implementing statute.

The Department will strive to be timelier in the adoption of rules that are implementing new Public Acts.

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CHIEF PROCUREMENT OFFICER FOR THE CAPITAL DEVELOPMENT BOARD

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Procurement Practices
- 2) Code Citation: 44 Ill. Adm. Code 8
- 3) The Notice of Proposed Rulemaking being corrected appeared at: 37 Ill. Reg. 12143; August 2, 2013
- 4) The information being corrected is as follows: In response to Question #3 of the New Part, Section 3130 was listed twice and should have been listed only once.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 THIRD QUARTER SALES &amp; 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 2515/1

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2013. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Central of Registration  
Computer Software  
Construction Contractors  
Exempt Organizations  
Food  
Governmental Bodies  
Gross Receipts  
Hotel Operators' Tax

Medical Appliances  
Miscellaneous  
Motor Fuel Tax  
Municipalities  
Occasional Sale  
Rolling Stock Exemption  
Sale of Service  
Service Occupation Tax

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 THIRD QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

## Telecommunications Excise 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 the ruling letters may be downloaded free of charge from the Department's World Wide Web site at [www.tax.illinois.gov/](http://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:

Lisa Marcure  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson Street  
Springfield, Illinois 62794

217/.0782-2844

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 THIRD QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

## CERTIFICATE OF REGISTRATION

ST 13-0052-GIL 09/11/2013 Section 2a of the Retailers' Occupation Tax requires that a corporate applicant must submit the name, title and social security number of each corporate officer in order to obtain registration for sales taxes. See 35 ILCS 120/2a.

## COMPUTER SOFTWARE

ST 13-0049-GIL 09/11/2013 This letter concerns the taxation of computer software transactions. See 86 Ill. Adm. Code 130.1935.

ST 13-0051-GIL 09/13/2013 This letter concerns the taxation of computer software. See 86 Ill. Adm. Code 130.1935.

ST 13-0054-GIL 09/19/2013 This letter discusses the taxability of computer software licenses and maintenance fees and the filing of quarterly returns. See 86 Ill. Adm. Code 130.502. See also 86 Ill. Adm. Code 130.1935 and 86 Ill. Adm. Code 140.301.

## CONSTRUCTION CONTRACTORS

ST 13-0002-PLR 07/31/2013 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.2075.

## EXEMPT ORGANIZATIONS

ST 13-0047-GIL 09/10/2013 The State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such government body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 THIRD QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

the performance of a governmental function. See 86 Ill. Adm. Code 130.2055.

## FOOD

ST 13-0040-GIL 08/23/2013 This letter discusses the State tax rate applicable to sales of food, soft drinks and candy. See 86 Ill. Adm. Code 130.310.

## GOVERNMENTAL BODIES

ST 13-0001-PLR 07/31/2013 Generally, a government contractor who purchases items to fulfill his obligations under a contract with a governmental unit purchases those items for use. See, U.S. v. New Mexico, 455 U.S. 720, 102 S. Ct. 1373 (1982). However, if the contract with the governmental unit explicitly requires the contractor to sell those items to the governmental unit, the purchase of those items by the contractor can be structured as purchases for the purpose of resale to the governmental unit. See 86 Ill. Adm. Code 130.2076.

## GROSS RECEIPTS

ST 13-0037-GIL 08/02/2013 This letter discusses sales of prescription drugs by service men. See 86 Ill. Adm. Code Part 140.101.

## HOTEL OPERATORS' TAX

ST 13-0043-GIL 08/23/2013 Redemption of a hotel chain's "rewards points" for stay at one of its hotels is not subject to Hotel Operators' Tax liability. See 35 ILCS 145/1 *et seq.*

## MEDICAL APPLIANCES

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 THIRD QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

ST 13-0038-GIL 08/08/2013 This letter discusses the State tax rates applicable to sales of medical appliances. See 86 Ill. Adm. Code 130.311.

## MISCELLANEOUS

ST 13-0036-GIL 07/31/2013 This letter responds to an annual survey. See 86 Ill. Adm. Code, Parts 120, 130, 140, and 160.

ST 13-0046-GIL 09/10/2013 This letter responds to a survey on series LLCs. See 86 Ill. Adm. Code Parts 130 and 150.

ST 13-0053-GIL 09/11/2013 This letter discusses “prepaid telephone calling arrangements” and prepaid calling plans. See 35 ILCS 120/2-7.

## MOTOR FUEL TAX

ST 13-0045-GIL 08/23/2013 Motor Fuel Tax is imposed “on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State.” 86 Ill. Adm. Code 500.200(a). This letter discusses taxes applicable to a specific type of dual-fuel vehicle.

## MUNICIPALITIES

ST 13-0055-GIL 09/19/2013 This letter discusses collections of Retailer's Occupation Tax in business districts created by municipalities. See 65 ILCS 5/11.

## OCCASIONAL SALE

ST 13-0033-GIL 07/30/2013 When persons sell tangible personal property which they are not otherwise engaged in the business of selling, such transactions may be occasional sales not subject to ROT. See 86 Ill. Adm. Code 130.110.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 THIRD QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

## ROLLING STOCK EXEMPTION

ST 13-0044-GIL 08/23/2013 This letter concerns the rolling stock exemption. See 86 Ill. Adm. Code Section 130.340.

## SALE FOR RESALE

ST 13-0042-GIL 08/23/2013 This letter describes the standard drop-shipment scenario and certificates of resale. See 86 Ill. Adm. Code 130.225. See 86 Ill. Adm. Code.

## SALE OF SERVICE

ST 13-0034-GIL 07/31/2013 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101.

ST 13-0050-GIL 09/11/2013 This letter addresses sales for resale. See 86 Ill. Adm. Code 130.1405.

## SERVICE OCCUPATION TAX

ST 13-0035-GIL 07/31/2013 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

ST 13-0039-GIL 08/23/2013 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2013 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

TELECOMMUNICATIONS EXCISE TAX

ST 13-0041-GIL 08/23/2013 Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 35 ILCS 630/1 *et seq.*

ST 13-0048-GIL 09/11/2013 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 35 ILCS 630/1 *et seq.*

## PROCLAMATIONS

**2013-314 (Revised)**  
**The First Baptist Church of Chicago Day**

WHEREAS, on October 19, 1883, fifteen believers organized the First Baptist Church of Chicago; and,

WHEREAS, the First Baptist Church of Chicago is the mother church of ministries throughout the Chicagoland area. Many churches were created out of its membership and efforts, including the Calvary Baptist Church in the South Shore community; and,

WHEREAS, the First Baptist Church of Chicago played an instrumental role in the resettlement of Japanese Americans in the Hyde Park-Kenwood neighborhood after World War II had ended; and,

WHEREAS, the First Baptist Church of Chicago has been repeatedly recognized for its commitment to children and youth ministries through being involved with numerous programs including the Guild Girls, Scouting, Summer Music Camp, Vacation Bible School, the Children's Choir, and Youth Bible Studies; and,

WHEREAS, the First Baptist Church of Chicago holds an annual mission trip that has gone to locations such as Charleston, West Virginia, Fairbanks, Alaska, Estes Park, Colorado, Santiago Cuba, and Junction, Jamaica; and,

WHEREAS, over the years the First Baptist Church of Chicago has provided the community with innumerable services and keen guidance; and,

WHEREAS, the First Baptist Church of Chicago's unwavering commitment to the members of its ministry, and the surrounding neighborhood has undoubtedly touched numerous lives and provided a source of inspiration to many people throughout the Chicagoland area; and,

WHEREAS, a celebration will be held on October 13<sup>th</sup> commemorating the 180<sup>th</sup> anniversary of the First Baptist Church of Chicago; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 13, 2013 as **THE FIRST BAPTIST CHURCH OF CHICAGO DAY** in Illinois, and encourage all citizens to join in celebrating the accomplishments of this remarkable church.

Issued by the Governor August 15, 2013

Filed by the Secretary of State November 1, 2013

**2013-397**

## PROCLAMATIONS

**Mitch Daniels Day**

WHEREAS, Americans are served every single day by public servants at the federal, state, county, and city levels of government. These unsung heroes do the work that keeps our nation running; and,

WHEREAS, one such individual is Mitch Daniels, who most recently worked for the Illinois Department of Employment Security (IDES) in the position of Manager of Workforce Analysis & Dissemination; and,

WHEREAS, prior to working at IDES, Mitch Daniels worked for the Illinois General Assembly's Legislative Research Unit and the Illinois Occupational Information Coordinating Committee; and,

WHEREAS, while working at IDES, Mitch Daniels' duties included being the primary analyst on the supply/demand study for nursing, operating the labor market information portion of the Workforce Innovation Fund Grant, and being responsible for the ETA grant; and,

WHEREAS, throughout his time as a public servant, Mitch Daniels positively impacted many people, enabling them to achieve their fullest potential; and,

WHEREAS, Mitch Daniels was very passionate about promoting labor market information for making career choices; and,

WHEREAS, Mitch Daniels graduated from Sangamon State University with a B.A. in Economics; and,

WHEREAS, Mitch Daniels was a smart, hard-working, funny, personable, and caring man who loved to cook, watch his children participate in sports, and cheer on his favorite sports teams – the Saint Louis Cardinals, Chicago Bears, Chicago Bulls, and Chicago Blackhawks; and,

WHEREAS, Mitch Daniels tragically passed away on Monday, October 14<sup>th</sup>, at the age of 53; and,

WHEREAS, Mitch Daniels' efforts have undoubtedly created a lasting impact and his professionalism has earned him the respect of his colleagues. The mark that he leaves behind will serve as a foundation for the future of IDES; and,

WHEREAS, Mitch Daniels' commitment to public service has helped to make our state stronger and has served as an inspiration to the people of the Land of Lincoln; and,

## PROCLAMATIONS

WHEREAS, Mitch Daniels' work ethic has exemplified the dedication to service the people of the State of Illinois have come to expect and deserve; and,

WHEREAS, perhaps most importantly, Mitch Daniels was a dedicated husband to wife Carla, and loving father to their three children, Nathan, Zachary, and Bethany; and,

WHEREAS, a funeral service will be held for Mitch Daniels on Friday, October 18<sup>th</sup>, at 11 am at Buffalo Hart Presbyterian Church in Williamsville, Illinois; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 18, 2013, as **MITCH DANIELS DAY** in Illinois, in recognition of his commitment to public service and the people of the State of Illinois.

Issued by the Governor October 16, 2013

Filed by the Secretary of State November 1, 2013

**2013-398****American Pharmacists Month**

WHEREAS, pharmacy is one of the oldest health care professions dedicated to the health and well-being of all people; and,

WHEREAS, today, there are over 300,000 pharmacists licensed in the United States and nearly 18,000 pharmacists in Illinois providing service and health care counseling to assure the rational and safe use of all medications. These pharmacists are helped by approximately 38,000 pharmacy technicians (including student pharmacists); and,

WHEREAS, the effective and safe use of medication when monitored by a licensed pharmacist is a cost-effective alternative to more expensive medical procedures, and is becoming a major force in moderating overall health care costs; and,

WHEREAS, today's powerful medications require greater attention to the manner in which they are used by different patient population groups—both clinically and demographically; and,

WHEREAS, it is important that all users of prescription and nonprescription medications, or their caregivers, be knowledgeable about and share responsibility for their own drug therapy; and,

WHEREAS, pharmacists, as health care providers, are specifically educated with a focus and level of expertise on medication therapy and are ideally suited to work collaboratively with other health care providers and patients to improve medication use and outcomes by providing services through medication therapy management; and,

## PROCLAMATIONS

WHEREAS, pharmacists provide both expertise and accessibility, which are crucial to patients fully optimizing access to medications that are not self-administered such as, but not limited to, immunizations; and,

WHEREAS, pharmacists provide patient care that ensures optimal medication therapy outcomes; and,

WHEREAS, pharmacists ensure the integrative safety of drug use; diligently working to reduce medication abuse, discontinuing medications with no indication, and advocating for the safe use of all medications; and,

WHEREAS, the American Pharmacists Association and the Illinois Pharmacists Association have declared October as American Pharmacists Month with the theme "Know Your Medicines – Know Your Pharmacist"; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2013 as **AMERICAN PHARMACISTS MONTH** in Illinois, in recognition of the vital contributions made by pharmacists to health care in our state.

Issued by the Governor October 17, 2013

Filed by the Secretary of State November 1, 2013

**2013-399****Douglas Holland Day**

WHEREAS, Americans are served every single day by public servants at the federal, state, county, and city levels of government. These unsung heroes do the work that keeps our nation running; and,

WHEREAS, one such individual is Douglas Holland, who served as a commissioner with the Illinois Workers' Compensation Commission from 1986 to 1989 and an arbitrator from 1989 until his passing in 2013; and,

WHEREAS, while serving as a commissioner and arbitrator with the Illinois Workers' Compensation Commission, Douglas Holland was committed to ensuring that workers' compensation cases were handled fairly and efficiently; and,

WHEREAS, prior to becoming a commissioner with the Illinois Workers' Compensation Commission, Douglas Holland was self-employed as a grain farmer in Oglesby, Illinois; and,

## PROCLAMATIONS

WHEREAS, a native of Oglesby, Illinois, Douglas Holland positively impacted many people in his community, enabling them to achieve their fullest potential; and,

WHEREAS, Douglas Holland graduated from Sangamon State University with a B.A. in Political Science in 1978; and,

WHEREAS, Douglas Holland tragically passed away on Thursday, October 17<sup>th</sup>, at the age of 57; and,

WHEREAS, Douglas Holland's efforts have undoubtedly created a lasting impact and his professionalism has earned him the respect of his colleagues. The mark that he leaves behind will serve as a foundation for the future of the Illinois Workers' Compensation Commission; and,

WHEREAS, Douglas Holland's commitment to public service has helped to make our state stronger and has served as an inspiration to the people of the Land of Lincoln; and,

WHEREAS, Douglas Holland's work ethic has exemplified the dedication to service the people of the State of Illinois have come to expect and deserve; and,

WHEREAS, perhaps most importantly, Douglas Holland was a dedicated husband to wife Mary, and loving father to their three children, Nathan, Amanda, and Michael; and,

WHEREAS, a funeral service will be held for Douglas Holland on October 20, 2013; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 20, 2013, as **DOUGLAS HOLLAND DAY** in Illinois, in recognition of his commitment to public service and the people of the State of Illinois.

Issued by the Governor October 17, 2013

Filed by the Secretary of State November 1, 2013

**2013-400****Philadelphia Romanian Church of God Day**

WHEREAS, the Philadelphia Romanian Church of God and its Senior Pastor – Bishop Florin T. Cimpean – is located at 1713 West Sunnyside Avenue in Chicago, Illinois; and,

WHEREAS, freedom-seeking Romanians first arrived in Illinois a century ago and have contributed to our rich social fabric ever since. About 5,000 people fleeing ethnic persecution settled in Aurora and Chicago's North Side between 1906 and 1913; and,

## PROCLAMATIONS

WHEREAS, on October 21, 1973, a small group of Romanian immigrants started Philadelphia Church on Chicago's northside; and,

WHEREAS, the members of the Philadelphia Romanian Church of God have undoubtedly touched numerous lives over the years and provided a source of inspiration to many people throughout the Chicago area; and,

WHEREAS, there are almost 100,000 Romanians living in Chicago and the nearby suburbs, and Philadelphia Church serves as a spiritual haven for them and a cultural, educational and social center; and,

WHEREAS, Philadelphia Church has become one of the largest and most reputable Romanian churches outside of Romania, and has served its community by helping the needy in Chicago, opening an orphanage in India, starting schools in Africa, and drilling wells in the Amazon jungle; and,

WHEREAS, the Philadelphia Romanian Church of God's years of service to the community are truly a wonderful blessing; and,

WHEREAS, the Philadelphia Romanian Church of God is celebrating its 40<sup>th</sup> anniversary with a huge celebration on Sunday, October 27, featuring 1,000 church members and friends as well as thousands more watching on the Internet and TV; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby declare October 27, 2013, as **PHILADELPHIA ROMANIAN CHURCH OF GOD DAY** in Illinois, in recognition of this church's 40<sup>th</sup> anniversary.

Issued by the Governor October 17, 2013

Filed by the Secretary of State November 1, 2013

**2013-401**  
**COPD Awareness Month**

WHEREAS, Chronic Obstructive Pulmonary Disease (COPD) is a term used to refer to a group of diseases that cause airflow obstruction and breathing related problems, includes emphysema, chronic bronchitis, and in some cases, asthma and severe bronchiectasis; and,

WHEREAS, in 2008 COPD became the third leading cause of death in the US, 12 years earlier than predicted, and the only top 5 cause of death that is not declining; and,

## PROCLAMATIONS

WHEREAS, COPD is a chronic and progressive disease that affects over 24 million persons nationwide, half of whom have not been properly diagnosed, and 70% of whom are under age 65; and,

WHEREAS, in Illinois, 6.1 percent of adults overall and 7.1 percent of women have been diagnosed with COPD; and,

WHEREAS, COPD is considered to be the 2nd leading causes of disability in the US; and,

WHEREAS, smoking is the primary risk factor for COPD and other risk factors include environmental and exposure to air pollution, second hand smoke, and genetics; and,

WHEREAS, a genetic condition called Alpha-1 Antitrypsin Deficiency tends to cause individuals to develop COPD; and,

WHEREAS, COPD kills more women than breast cancer and diabetes combined, and women who smoke are 13 times more likely to die from COPD than non-smokers; and,

WHEREAS, nationwide the cost of COPD in 2010 was \$49.9 billion including healthcare services, indirect costs through loss of productivity, and the deterioration of personal health; and,

WHEREAS, concerted public outreach efforts such as DRIVE4COPD, the nation's largest public awareness and screening campaign for COPD, and the NHLBI's COPD: Learn More Breathe Better Campaign, can dramatically improve public awareness of COPD, and,

WHEREAS, there is no cure for COPD, but increased awareness, early detection and proper health management can slow the progression of the disease and lead to reduced costs, improved quality of life and self-sufficiency for our residents; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois do hereby proclaim November 2013 as **COPD AWARENESS MONTH** in Illinois and encourage all residents to learn more about the prevention and treatment of COPD.

Issued by the Governor October 21, 2013

Filed by the Secretary of State November 1, 2013

**2013-402****Drunk and Drugged Driving (3D) Prevention Month**

WHEREAS, motor vehicle crashes killed 956 people in Illinois during 2012; and,

## PROCLAMATIONS

WHEREAS, hundreds of those deaths involved a driver impaired by alcohol and/or drugs; and,

WHEREAS, the December holiday season is traditionally one of the most deadly times of the year for impaired driving; and,

WHEREAS, for thousands of families across the state and the nation, holidays are a time to remember loved ones lost; and,

WHEREAS, organizations across the state and the nation are joined with the Drive Sober or Get Pulled Over and other campaigns that foster public awareness of the dangers of impaired driving and anti-impaired driving law enforcement efforts; and,

WHEREAS, the state of Illinois is proud to partner with the Illinois Department of Transportation's Division of Traffic Safety and other traffic safety groups in that effort to make our roads and streets safer; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim December 2013 as **DRUNK AND DRUGGED DRIVING (3D) PREVENTION MONTH** in Illinois and do hereby call upon all citizens, government agencies, business leaders, hospitals and health care providers, schools, and public and private institutions to promote awareness of the impaired driving problem, to support programs and policies to reduce the incidence of impaired driving, and to promote safer and healthier behaviors regarding the use of alcohol and other drugs this December holiday season and throughout the year.

Issued by the Governor October 21, 2013

Filed by the Secretary of State November 1, 2013

**2013-403****National Immigrant's Day**

WHEREAS, on October 28, 1886, the Statue of Liberty, a representation of freedom and hope for all, began welcoming our ancestors into the United States of America; and,

WHEREAS, Lady Liberty's ever-burning torch exemplifies America's dedication to welcoming diverse cultures and embracing them to form what we know as the United States, a nation of nations; and,

WHEREAS, the immigrants that have helped shape America share a deep-rooted love of freedom and individual rights. Bound by history, mutual respect, and common ideals, immigrants have been instrumental in the great struggles for human liberty; and,

## PROCLAMATIONS

WHEREAS, embodying the independence and creativity that have made our country strong, America's diverse and proud history is a source of inspiration for our nation and our world; and,

WHEREAS, Nick Ioannidis, widely known as Nick the Greek, has served as a beacon of liberty, hope and opportunity to all Americans who gather to participate in the activities and traditions in observance of National Immigrant's Day; and,

WHEREAS, this year, the diverse people throughout our state and nation are coming together to celebrate the twenty-seventh anniversary of the inauguration of National Immigrant's Day by August F. Hawkins, former California Congressman of the twenty-ninth District; and,

WHEREAS, the State of Illinois is proud to join with the entire immigrant community of Illinois in celebration of this significant occasion; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 28, 2013, as **NATIONAL IMMIGRANT'S DAY** in Illinois, in recognition of the many contributions of this important and diverse component of our state, and in tribute to all nationalized citizens who call Illinois their home.

Issued by the Governor October 21, 2013

Filed by the Secretary of State November 1, 2013

**2013-404****Philip Nelson Day**

WHEREAS, Philip Nelson's dedication to faith, family and hard work were fostered by growing up on a dairy farm in LaSalle County; and,

WHEREAS, Philip Nelson will complete 10 years of outstanding leadership for the agricultural community in December after serving five two-year terms as President of the Illinois Farm Bureau, where he was a strong, unifying voice for Illinois farmers and agriculture; and,

WHEREAS, Philip Nelson has achieved an unprecedented level of constructive exchanges of information as well as fostered positive relationships with state agencies in Springfield and federal agencies in Washington, D.C. regarding the impact of policies and administrative procedures on Illinois farmers and agriculture; and,

WHEREAS, Philip Nelson has increased understanding of agriculture by consumers and the Illinois food industry through the successful Illinois Farm Families Campaign; and,

## PROCLAMATIONS

WHEREAS, Philip Nelson has been a leader in encouraging and evaluating long-range goals and strategies that will help the future prosperity of Illinois farmers and agriculture through the Vision for Illinois Agriculture Program; and,

WHEREAS, on behalf of the agricultural community in Illinois, I wish him all the best in his future endeavors; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 23rd, 2013, as **PHILIP NELSON DAY** in Illinois, in recognition of his commitment to public service and the people of the State of Illinois.

Issued by the Governor October 21, 2013

Filed by the Secretary of State November 1, 2013

**2013-405****Learning Disability Awareness Month**

WHEREAS, there are approximately 58 million Americans with disabilities, including 1.4 million living in Illinois who have physical, sensory, and mental impairments that limit one or more major life activities; and,

WHEREAS, research has shown that 13.1 percent of students enrolled in K-12 nationally are affected by a learning disability; and,

WHEREAS, increasing public awareness of learning disabilities is critically important to improving the lives of people who have a learning disability; and,

WHEREAS, early diagnosis along with special education and correct psychological, medical, and social services, can provide people with learning disabilities an equal opportunity to learn; and,

WHEREAS, the month of October was designated National Learning Disability Awareness Month by President Ronald Reagan in 1985, and a variety of activities are being held throughout the nation this year to commemorate the contributions of individuals with learning disabilities; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2013 as **LEARNING DISABILITY AWARENESS MONTH** in Illinois, and reaffirm the commitment of my administration to the improvement of the lives of Illinoisans with learning disabilities.

Issued by the Governor October 22, 2013

Filed by the Secretary of State November 1, 2013

## PROCLAMATIONS

**2013-406****Veronica Roth Day**

WHEREAS, the State of Illinois has a rich literary history and has produced many talented writers, including Veronica Roth; and,

WHEREAS, Veronica Roth, one of the most successful authors to have ties to the Land of Lincoln, was raised in Barrington and graduated from Northwestern University; and,

WHEREAS, Veronica Roth's debut novel, Divergent, which was the first book in her trilogy, landed on the New York Times best sellers list when she was just 22 and was selected by Goosreads as the Favorite Book of 2011; and,

WHEREAS, Divergent is told from the perspective of 16-year-old Beatrice Prior and chronicles life in the City of Chicago, where groups of citizens are broken down into five factions depending on their beliefs, passions, and loyalties; and,

WHEREAS, Insurgent, the second book in the trilogy, received positive reviews and would also become a New York Times bestseller as well as the 2012 Goosreads winner for Best Young Adult Fantasy & Science Fiction; and,

WHEREAS, as a result of its riveting plot and popularity, Divergent is being made into a movie that is expected to hit theaters in March of 2014; and,

WHEREAS, Veronica Roth serves as an inspiration and role-model for aspiring authors; and,

WHEREAS, despite all she has accomplished at the young age of 25, Veronica Roth has remained loyal to the City of Chicago; and,

WHEREAS, Allegiant, the trilogy's third book, will hit book stores on October 22<sup>nd</sup>, 2013; and,

WHEREAS, as a part of her book tour for Allegiant, Veronica Roth will stop at Tivoli Theater in Downers Grove on October 26<sup>th</sup>; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 26, 2013, as **VERONICA ROTH DAY** in Illinois, in recognition of her tremendous success as an author and dedication to the Land of Lincoln.

Issued by the Governor October 23, 2013

Filed by the Secretary of State November 1, 2013

## PROCLAMATIONS

**2013-407****Adoption Awareness Month**

WHEREAS, thanks to thousands of adoptive parents across the state, 16,265 children have found permanent loving homes over the last decade, including 1,468 children in the last year alone; and,

WHEREAS, all children need and deserve the love, nurturing, and sense of security that can only come from being a part of a loving, permanent family; and,

WHEREAS, adoption provides a unique joy and a special opportunity for individuals, whether or not they are already parents, married, in a civil union, single or divorced, to open their hearts and their homes for the rest of their lives to children; and,

WHEREAS, the Illinois Department of Children and Family Services and its nonprofit partners strive to reunify children with their birth families; but when that simply is not possible, they are equally committed to ensuring every child has the safe, loving family they deserve and need to reach their fullest potential; and,

WHEREAS, Illinois has made great strides in recent years in strengthening and improving the child welfare system: reducing the number of children in temporary substitute care from 52,000 to 15,000; establishing a Bill of Rights for both birth parents and adoptive parents; and strengthening licensing requirements for adoption agencies to prevent the exploitation of birth parents, adoptive parents and children; and,

WHEREAS, all of the progress in recent years would not have been possible without champions like State Representative Sara Feigenholtz, an adoptee herself, and State Representative Naomi Jakobsson, a former foster parent, as well as child advocates including: Child Care Association of Illinois; Illinois Foster and Adoptive Parent Association; Illinois Adoption Advisory Council; Illinois Statewide Youth Advisory Board; Chicago Bar Association; Loyola ChildLaw Clinic of Loyola University; and many child welfare agencies, adoptive parent groups and individuals across the state; and,

WHEREAS, together we are committed to improving the child welfare system even further, especially to reducing the length of time children remain in temporary foster care, where Illinois ranks 46<sup>th</sup> in the nation according to the U.S. Department of Health and Human Services; and,

WHEREAS, currently there are 1,973 children awaiting adoption across the state, of all ages, backgrounds and needs; and,

## PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 2013 as **ADOPTION AWARENESS MONTH** in Illinois, and do hereby encourage all Illinoisans to express their gratitude to the thousands of families across the state that have opened their homes and their hearts to children, and encourage others to consider joining them in making a life-changing difference to children.

Issued by the Governor October 24, 2013

Filed by the Secretary of State November 1, 2013

**2013-408****Lou Boudreau Day**

WHEREAS, Lou Boudreau is one of the greatest athletes to ever come from the Land of Lincoln; and,

WHEREAS, a native of Harvey, Illinois, Lou Boudreau exhibited supreme talent for baseball and basketball while attending Thornton Township High School, where he led the "Flying Clouds" to three state basketball finals games in a row, winning the state title in 1933, and coming in second in 1934 and 1935; and,

WHEREAS, at the University of Illinois, Lou Boudreau led the Illini basketball and baseball teams to Big Ten titles in 1937. In recognition of his accomplishments, his jersey # 5 was retired by the university in 1992, an honor given to only two other Illini greats, Red Grange and Dick Butkus; and,

WHEREAS, Lou Boudreau was signed by the Cleveland Indians in 1938, and in 1941 he was named a player-manager for the club at the age of 24, making him the youngest person to ever manage a Major League baseball team; and,

WHEREAS, in 1948, Lou Boudreau led the Indians to the World Series Championship, and he was also named that year as the American League's Most Valuable Player; and,

WHEREAS, Lou Boudreau was inducted into the baseball Hall of Fame in 1970; and,

WHEREAS, after his playing and managing career ended, Lou Boudreau began a 30 year career with the WGN Sports broadcasting team, where he brought his experience and comprehensive knowledge of the game into every one of his broadcasts; and,

WHEREAS, despite his success as a baseball player, manager, and broadcaster, Lou Boudreau remained loyal to his hometown and committed to serving others. For nearly a decade, he served on the Thornton School District Board in Harvey; and,

## PROCLAMATIONS

WHEREAS, perhaps most importantly, Lou Boudreau was a loving husband to his high school sweetheart and wife, Della, and their four children, sixteen grandchildren, and six great-grandchildren; and,

WHEREAS, Thornton Township High School and the Thornton Alumni Legacy Fund will host the re-dedication of the Lou Boudreau Room on Saturday, October 26, 2013, at Thornton Gymnasium; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 26, 2013, as **LOU BOUDREAU DAY** in Illinois, in recognition of his accomplishments as an athlete and dedication to the City of Harvey and the people of the Land of Lincoln.

Issued by the Governor October 25, 2013

Filed by the Secretary of State November 1, 2013

**2013-409****Jean Gaines Day**

WHEREAS, Jean M. Gaines was born in Ludington, Michigan, the daughter of Arlene and Leonard Neilsen; and,

WHEREAS, while working at the Geneva Chamber of Commerce for 36 years, Jean has made the City of Geneva a better place to work and live; and,

WHEREAS, Jean has attended state, county and city board meetings to support the businesses and the citizens of the City of Geneva; and,

WHEREAS, Jean is instrumental in keeping alive the 64 year history of the Swedish Days Parade "The Grand Daddy" of all parades; and,

WHEREAS, Jean has been the driving force behind the Festival of the Vine and the Geneva Arts Fair. She has also established the annual Geneva Christmas Walk and the Geneva House Tour; and,

WHEREAS, Jean has been married to John Gaines for over 52 years and she is the proud mother of Kristine and Marc; and the proud grandmother of John "Jack" and Luke Holtz; and,

WHEREAS, she continues to lead the Geneva Chamber of Commerce and the business community as the Chamber President and has provided leadership to a tremendous team of women who staff the Geneva Chamber office; and,

## PROCLAMATIONS

WHEREAS, the Chamber of Commerce is honoring her with the annual citizen of the year award, which is known as the Wood Award, on Tuesday evening November 12, 2013, at Eaglebrook Country Club; and,

WHEREAS, the city and community are joining together to honor her outstanding work as a leader, an advocate, a friend, and supporter of all those who live within the City of Geneva; and,

WHEREAS, her work has provided opportunities for all citizens of Illinois to participate in the many festivals and activities within the City of Geneva; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 12, 2013, as **JEAN GAINES DAY** in Illinois, in recognition of her winning the Wood Award and her commitment to the people of the State of Illinois.

Issued by the Governor October 28, 2013

Filed by the Secretary of State November 1, 2013

**2013-410****Project Management Institute Day**

WHEREAS, the Chicagoland Project Management Institute (PMI) Chapter was chartered in 1977 and today it has 4,000+ members in the Chicago metropolitan area; and,

WHEREAS, some of the objectives of PMI Chicagoland Chapter include providing value to its members, increasing awareness among senior management about the importance of project management, and increasing awareness of the PMI certification process; and,

WHEREAS, the mission of PMI Chicagoland Chapter is to promote project management knowledge as well standards and ethical practices for its members, the profession, and the community; and,

WHEREAS, PMI professionals come from virtually every major industry including aerospace, automotive, business management, construction, engineering, financial services, information technology, pharmaceuticals, healthcare, and telecommunications; and,

WHEREAS, PMI Chicagoland Chapter will host its 3<sup>rd</sup> Annual Professional Development Day on November 1, 2013; and,

WHEREAS, November 1, 2013, is being celebrated as International Project Management Day; and,

## PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 1, 2013, as **PROJECT MANAGEMENT INSTITUTE DAY** in Illinois, in recognition of the contributions that project managers make to the economic vitality of the Land of Lincoln.

Issued by the Governor October 28, 2013

Filed by the Secretary of State November 1, 2013

**2013-411****Infant Safe Sleep Awareness Month**

WHEREAS, hundreds of infants die each year because they are placed in unsafe sleeping environments; and,

WHEREAS, Sudden Infant Death Syndrome (SIDS) occurs in children one year of age or under, and is the unexpected, sudden death of an infant with no explainable cause of death; and,

WHEREAS, the tragedy of SIDS can happen to any family, regardless of race, ethnic or economic group; and,

WHEREAS, adult beds, waterbeds, couches, chairs, pillows, quilts and other soft surfaces are not appropriate or safe for sleeping infants; and,

WHEREAS, babies sleep safest when sleeping alone, on their backs, in a bassinet or crib with a firm mattress and tightly fitted sheets that is free of pillows, bumpers, blankets and other items; and,

WHEREAS, Illinois law requires hospitals to provide education and materials regarding SIDS prevention and safe sleep practices to parents of newborns; and,

WHEREAS, during the month of October, in partnership with the Illinois Department of Children and Family Services, Sudden Infant Death Services of Illinois, Inc., the Illinois Department of Public Health, the American Academy of Pediatrics, the Illinois Hospital Association, Prevent Child Abuse Illinois and other community partners, we raise awareness of the important steps parents can take to ensure the safety of their infant children while sleeping; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2013 as **INFANT SAFE SLEEP AWARENESS MONTH** in Illinois in order to raise awareness about sudden unexplained infant death and to encourage infant safe sleep practices so that no parent will have to endure the tragedy of infant death.

Issued by the Governor October 30, 2013

Filed by the Secretary of State November 1, 2013

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 37, Issue 46 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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