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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 2014

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
10	February 24, 2014	March 7, 2014
11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
23	May 27, 2014	June 6, 2014
24	June 2, 2014	June 13, 2014
25	June 9, 2014	June 20, 2014
26	June 16, 2014	June 27, 2014
27	June 23, 2014	July 7, 2014
28	June 30, 2014	July 11, 2014
29	July 7, 2014	July 18, 2014
30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
32	July 28, 2014	August 8, 2014
33	August 4, 2014	August 15, 2014
34	August 11, 2014	August 22, 2014
35	August 18, 2014	August 29, 2014
36	August 25, 2014	September 5, 2014
37	September 2, 2014	September 12, 2014
38	September 8, 2014	September 19, 2014
39	September 15, 2014	September 26, 2014
40	September 22, 2014	October 3, 2014
41	September 29, 2014	October 10, 2014
42	October 6, 2014	October 17, 2014
43	October 14, 2014	October 24, 2014
44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

**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 May 1, 2014 until July 1, 2014.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Declaratory Rulings
- 2) Code Citation: 50 Ill. Adm. Code 2411
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2411.10	New Section
2411.20	New Section
- 4) Statutory Authority: Implementing and authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/401) and Section 5-150 of the Illinois Administrative Procedure Act (5 ILCS 100/5-150)
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking will allow the Department to offer an official interpretation in the form of a declaratory ruling at the request of any person or company.
- 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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Amanda Kimble, Asst. General Counsel  
Department of Insurance  
122 S. Michigan Ave., 19th Floor  
Chicago, Illinois 60603

or Susan Anders, Rules Coordinator  
Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

(312) 814-5420

amanda.kimble@illinois.gov

217/558-0957

217/524-9033 fax

- 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: Procedures for creating a request for a declaratory ruling
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was summarized on the January 2014 Regulatory Agenda as a proposed addition to 50 Ill. Adm. Code 2402, Administrative Hearing Procedures.

The full text of the proposed rulemaking begins on the next page:

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER dd: DIRECTOR OF INSURANCE, HEARINGS AND REVIEW

## PART 2411

## DECLARATORY RULINGS

## Section

2411.10 Definitions

2411.20 Declaratory Rulings

**AUTHORITY:** Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401] and Section 5-150 of the Illinois Administrative Procedure Act [5 ILCS 100/5-150].

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

**Section 2411.10 Definitions**

"Declaratory Ruling" means a ruling as to the applicability to the person presenting the petition or request of any statutory provision enforced by the Department or of any rule of the Department.

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

**Section 2411.20 Declaratory Rulings**

Upon written request, the Director may, at his or her discretion, issue a declaratory ruling. Notwithstanding the request, the Director is under no obligation to issue a declaratory ruling. The requestor will be informed in writing if the Director declines to issue a declaratory ruling. The procedures set out in this Section shall apply to all declaratory rulings.

- a) A request for a declaratory ruling shall include the following:
  - 1) A concise statement of the facts, which shall include all of the facts known to the requestor that are or may be relevant to a determination of the applicability of a rule or statute and shall certify to the existence of the

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

actual state of facts set forth and to the submission of all relevant facts;  
and

- 2) A concise statement of all statutes and rules known to the requestor that are relevant to a determination of the request and that the requestor seeks to have considered by the Director in making the declaratory ruling. The requestor shall certify that he or she has identified all statutes and rules the applicant seeks to have considered by the Director in making the declaratory ruling.
- b) Declaratory rulings shall be issued by the Director only as to the applicability to the person presenting the request of:
    - 1) any statutory provision enforced by the Department; or
    - 2) any rule of the Department.
  - c) A declaratory ruling shall state that it is limited to those facts that were presented and to the statute or rule identified by the requestor or other relevant statute or rule identified by the Director.
  - d) The following are limitations of, or restrictions on, declaratory rulings:
    - 1) Declaratory rulings are not appealable;
    - 2) Trade secrets or other confidential information will be redacted from the declaratory ruling before making the ruling available; and
    - 3) A declaratory ruling shall not be issued on a matter requiring an evidentiary proceeding.
  - e) The Director, on his or her own initiative, may issue a declaratory ruling to clarify or elaborate on a rule or statutory provision.
  - f) The Department will maintain a record of the rulings in its principal office in Springfield, Illinois and on its website.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Laboratory Service Fees
- 2) Code Citation: 77 Ill. Adm. Code 475
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
475.10	Amendment
475.12	Amendment
475.20	Amendment
475.25	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 2310-90 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-90]
- 5) A Complete Description of the Subjects and Issues Involved: The Department of Public Health laboratories provide testing to support the Department's programs. The Department's laboratories provide these same tests to public health clinics or community based organizations if funding can be obtained and if the surveillance data that would be created is of value to the Department's programs. The use of the Department's laboratories for testing is voluntary.

The amendments revise all tests by name and each test's associated fee. The amendments provide for charging fees based on current calculations of costs, including commodity costs, personnel and benefits, building expenses, equipment maintenance and replacement, quality assurance support, information technology applications, and indirect costs. This change will allow the laboratory to collect reimbursement based on current costs, which change with commodity and operating costs. It will allow the laboratory to obtain Medicaid reimbursement at current operating costs.

The proposed amendments establish a fee to recover costs associated with providing patients their laboratory test results as required by federal legislation.

The proposed amendments update information about the acceptability of samples and specimens, the period of time for which they will be retained, and the ability to share those specimens for quality assurance and method development purposes.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:  
  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> floor  
Springfield, Illinois 62761  
  
217/782-2043  
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Local Health Departments and Clinics of Community Based Organizations
  - B) Reporting, bookkeeping or other procedures required for compliance: No additional bookkeeping will be required.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER d: LABORATORIES AND BLOOD BANKSPART 475  
LABORATORY SERVICE FEES

Section	
475.10	Definitions
475.12	Referenced Materials
475.15	Applicability
475.20	Submission of Samples or Specimens
475.25	Fee Schedule
475.30	Statement of Fee Assessment
475.40	Payment of Fees
475.50	Failure to Submit Payment

**AUTHORITY:** Implementing and authorized by Section 2310-90 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-90]; the Clinical Laboratory Improvement Amendments (42 USC 263a); and the Health Insurance Portability and Accountability Act (HIPAA) (Public Law 104-191).

**SOURCE:** Adopted and codified at 7 Ill. Reg. 1988, effective January 27, 1983; emergency amendment at 18 Ill. Reg. 15887, effective October 12, 1994, for a maximum of 150 days; emergency expired on March 10, 1995; amended at 20 Ill. Reg. 6958, effective May 5, 1996; amended at 37 Ill. Reg. 6784, effective May 6, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 475.10 Definitions**

"Clinical Laboratory Improvement Amendments" or "CLIA" means federal regulations (Centers for Medicare and Medicaid Services, United States Department of Health and Human Services) providing standards applicable to all facilities or sites in the United States that test human specimens for health assessment or to diagnose, prevent or treat disease.

"Department" means the Department of Public Health.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

"Director" means the Director of the Department of Public Health.

"Laboratory" means the Division of Laboratories of the Illinois Department of Public Health, including its Chicago, Springfield and Carbondale Laboratories, and any other site designated by contract to perform Department Laboratory services.

"Person" means:

the State, its agencies and departments, and its officers and employees;

any local health department and its officers and employees;

any grantee or contractor of the Department that agrees to provide services to the Department, or on behalf of the Department, and officers and employees of a grantee or contractor.

"Quality Control" means a procedure or set of procedures to assure the accuracy of results reported by the laboratory.

"Supplemental Test" means any test approved by the United States Food and Drug Administration or validated under a laboratory's CLIA certification that is used to further characterize a specimen that had received a positive result when initially screened by the laboratory.

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

**Section 475.12 Referenced Materials**

a) The following Illinois statutes and administrative rules are referenced in this Part:

1)a) Civil Administrative Code of Illinois [20 ILCS 2310]

2)b) Newborn Metabolic Screening and Treatment Code (77 Ill. Adm. Code 661)

3)e) Lead Poisoning Prevention Code (77 Ill. Adm. Code 845)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 4) [Control of Communicable Diseases Code \(77 Ill. Adm. Code 690\)](#)
- 5) [Control of Tuberculosis Code \(77 Ill. Adm. Code 696\)](#)
- b) [The following federal statutes are referenced in this Part:](#)
- [Health Insurance Portability and Accountability Act \(HIPAA\) \(Public Law 104-191\)](#)
- c) [The following federal regulations are incorporated by reference in this Part:](#)
- [HIPAA Privacy Rules: Access of Individuals to Protected Health Information \(45 CFR 164.524\) \(2014\)](#)
- d) [All incorporations by reference of federal regulations refer to the regulations or guidelines on the date specified and do not include any amendments or editions subsequent to the date specified.](#)

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

**Section 475.20 Submission of Samples or Specimens**

Each sample or specimen submitted to the Laboratory for any analysis shall be delivered or shipped in a container and manner to preserve the sample/specimen from contamination or destruction and to allow it to reach the Laboratory in a condition that permits a reliable laboratory analysis.

- a) The person submitting the sample/specimen shall deliver it to the Laboratory or send it in a package approved by the U.S. Postal Service or another commercial carrier for shipping. Any sample/specimen that is submitted in a package that violates the U.S. Postal Service's guidelines (or another commercial carrier's guidelines if an alternative carrier is used), is damaged in transit, is not received within the prescribed time frame for analysis, or is otherwise received in a condition that does not permit a reliable laboratory analysis, will be discarded. When this occurs, the laboratory result will be reported as indeterminate or unsatisfactory, and the submitter will be notified so that another sample/specimen can be collected and submitted for analysis.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- b) For those laboratory services offered, the Laboratory will provide, upon request, sample/specimen collection materials or devices and mailing containers that meet the U.S. Postal Service regulations.
- c) Prior to delivering or shipping any sample/specimen to the Laboratory, the person submitting the sample/specimen shall confirm with the Laboratory the availability of the desired laboratory service/analysis and identify which Laboratory site or sites (e.g., Chicago, Springfield, Carbondale or a contract laboratory site) will perform the desired service/analysis and any testing authorization procedures that are required. Samples/specimens shall be delivered or sent only to a specific Laboratory site designated as performing the requested laboratory service or to an alternative site agreed to in advance. Authorization to obtain testing services is based on criteria including, but not limited to: the need for public health surveillance data with consideration of private testing availability; the need to characterize or identify an outbreak; prior approval from the Department or a Local Health Department; or the submission is required by the Control of Communicable Diseases Code or the Control of Tuberculosis Code. Samples or specimens submitted to the Laboratory without proper authorization will not be tested. Laboratory staff will contact the submitter and determine whether the sample/specimen will be returned or destroyed.
- d) The person submitting the sample/specimen shall pay for the postage or transport fee of the package unless alternative arrangements are made with the Laboratory in advance of mailing or shipping a sample/specimen to the Laboratory.
- e) Clinical specimens received by the Department will be retained for a minimum of one month. If all test results obtained from a specimen are determined to be within normal range, the specimen will be retained for a maximum of four months. If any test result obtained from a specimen is determined to be abnormal (i.e., out of normal range), the specimen may be retained for a maximum of six years. Specimens that the Department retains may be used within the Department for quality control purposes as required under CLIA. Based on the Department's testing capabilities, specimens with an abnormal result may be referred to other clinical laboratories for supplemental testing to further characterize the abnormality. After the maximum time period for retention, the Department will destroy all specimens.
- f) Cultures, isolates and extracts of pathogens that are provided to the Department or

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

result from testing samples/specimens that have been provided to the Department may be shared by the Department with other public health entities for quality assurance or method development purposes, provided that any and all patient identifiable information has been removed.

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

**Section 475.25 Fee Schedule**

The Department has established fees for those diagnostic Laboratory services listed in subsection (b) ~~of this Section~~.

- a) The Laboratory's service fees, itemized in subsection (b) ~~of this Section~~, shall not exceed the Department's actual costs to provide the Laboratory's services, and shall consider the current fees charged by private laboratories for comparable services. The Department's actual costs to perform the Laboratory's services shall include the costs of Laboratory personnel, materials and equipment; the Laboratory's data processing, quality control and support costs (e.g., facility-related costs, postage, telephones, supervision, etc.); any Laboratory marketing sales cost; and other Department costs outside the Laboratory but necessary to support the Laboratory's services (e.g., personnel and financial management costs). The Laboratory's actual costs per unit of service are integrally dependent upon the current technology used to perform laboratory analyses, the test volumes for each laboratory service, and the unit cost of the materials or chemicals/reagents. Because these actual costs per unit of service are subject to change, every effort will be made to review and update the Laboratory's fees on a regular (e.g., biennial) basis.

- b) Fees  
Unless the sample/specimen is submitted as part of an agreed upon Department surveillance program, in which case the fee may be reduced, the fees for tests are:  
Each person who submits to the Laboratory any sample or specimen for any of the following laboratory analyses shall pay the indicated fee:

Arbovirus Testing

St. Louis Encephalitis, West Nile Virus, California Encephalitis (Enzyme Immunoassay)

\$73.31

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

<u>St. Louis Encephalitis, West Nile Virus, California</u>	
<u>Encephalitis (Supplemental Test)</u>	<u>\$100.22</u>
<u>Dengue Virus (Enzyme Immunoassay)</u>	<u>\$73.31</u>
<u>Dairy Testing</u>	
<u>Aflatoxin, Raw Milk</u>	<u>\$214.31</u>
<u>Inhibitor (Beta-lactam)</u>	<u>\$65.16</u>
<u>Petrifilm Aerobic Count</u>	<u>\$134.81</u>
<u>Phosphatase</u>	<u>\$64.66</u>
<u>Container Rinse Test</u>	<u>\$74.60</u>
<u>Dairy Salmonella Test</u>	<u>\$265.51</u>
<u>Total Coliform</u>	<u>\$134.81</u>
<u>Dairy Water, Contained (Coliform)</u>	<u>\$78.66</u>
<u>Dairy Water Well/Plant (Coliform)</u>	<u>\$26.16</u>
<u>Food Testing</u>	
<u>E. coli O157:H7</u>	<u>\$355.12</u>
<u>Listeria monocytogenes</u>	<u>\$261.11</u>
<u>Salmonella</u>	<u>\$265.51</u>
<u>Shigella</u>	<u>\$281.34</u>
<u>Total coliform</u>	<u>\$134.81</u>
<u>Enteric Testing</u>	
<u>Salmonella (Amplified Test)</u>	<u>\$306.87</u>
<u>Salmonella (Serology)</u>	<u>\$239.80</u>
<u>Shigella, E coli, Vibrio and Yersinia (Serology)</u>	<u>\$239.80</u>
<u>Shigatoxin 1,2 (Amplified Test)</u>	<u>\$86.70</u>
<u>Enteric PFGE (Pulse Field Gel Electrophoresis)</u>	<u>\$342.33</u>
<u>Norovirus (Amplified Test)</u>	<u>\$86.70</u>
<u>Lead Testing</u>	
<u>Blood Lead</u>	<u>\$26.33</u>
<u>Environmental Lead</u>	<u>\$49.79</u>
<u>Parasite Testing</u>	
<u>Malaria (Microscopic Observation)</u>	<u>\$82.38</u>
<u>Malaria (Amplified Test)</u>	<u>\$157.72</u>

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<u>Cryptosporidium (Enzyme Immunoassay)</u>	<u>\$78.01</u>
<u>Giardia (Enzyme Immunoassay)</u>	<u>\$78.01</u>
<u>Cyclospora (Enzyme Immunoassay)</u>	<u>\$78.01</u>
<u>Rabies Testing</u>	
<u>Rabies</u>	<u>\$232.78</u>
<u>Sexually Transmitted Infection Testing</u>	
<u>Chlamydia trachomatis (Amplified Test)</u>	<u>\$53.77</u>
<u>Neisseria gonorrhoea (Amplified Test)</u>	<u>\$53.77</u>
<u>Syphilis Serology (Enzyme Immunoassay)</u>	<u>\$27.86</u>
<u>Syphilis Serology (Rapid Plasma Reagin)</u>	<u>\$14.92</u>
<u>Syphilis Serology (Fluorescent Treponemal Antibody)</u>	<u>\$39.54</u>
<u>HIV Serology 4<sup>th</sup> Generation (Chemiluminescent Microparticle Immunoassay)</u>	<u>\$32.19</u>
<u>HIV Serology Differentiation (Enzyme Immunoassay)</u>	<u>\$33.24</u>
<u>HIV Serology Supplemental (Amplified Test)</u>	<u>\$86.70</u>
<u>HIV Oral Fluid (Western Blot)</u>	<u>\$99.88</u>
<u>Herpes Simplex 1 &amp; 2 (Amplified Test)</u>	<u>\$86.70</u>
<u>Tuberculosis (TB) Testing</u>	
<u>TB Acid Fast Bacillus, Smear</u>	<u>\$33.14</u>
<u>TB (Culture)</u>	<u>\$47.59</u>
<u>TB Drug Resistance</u>	<u>\$114.81</u>
<u>TB (Amplified Test)</u>	<u>\$142.72</u>
<u>Vaccine Preventable Disease Testing</u>	
<u>Measles (Amplified Test)</u>	<u>\$86.70</u>
<u>Mumps (Amplified Test)</u>	<u>\$86.70</u>
<u>Pertussis (Amplified Test)</u>	<u>\$86.70</u>
<u>Respiratory Virus Panel (Amplified Test)</u>	<u>\$86.70</u>
<u>Water Testing</u>	
<u>Bathing Beach E. coli (Microbiology)</u>	<u>\$24.12</u>
<u>Private Water Well (Microbiology, Most Probable Number)</u>	<u>\$26.16</u>
<u>Non-Community Public Water Supply (Microbiology, Presence/Absence)</u>	<u>\$24.22</u>

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

Nitrate-Nitrite (as Nitrogen)\$47.41

- 1) Except as provided in subsections (b)(1)(A) and (B) of this Section (in which case the service is free), the fees for the analysis of drinking water are:

For the detection of total coliforms and Escherichia coli (presence/absence), by a Chromogenic Substrate Coliform Test, following "Standard Methods for the Examination of Water and Wastewater, 19<sup>th</sup> Edition", published by the American Public Health Association, American Water Works Association, and Water Environment Federation, 1015 Fifteenth Street, Washington, D.C. 20005 (1995)

\$7.00 per sample

For the detection of nitrate/nitrite levels, by USEPA Method 353.2, published by Environmental Monitoring Systems Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (August 1993)

\$6.00 per sample

For the combined detection of coliform and nitrates/nitrites, the methods cited in this subsection (b)(1)

\$12.00 per sample

- A) unless the sample is submitted for a non-community public water supply; or
- B) unless the sample is submitted by a local health department that has entered into a potable water program agreement with the Department or submitted by a Department employee on behalf of a resident of a jurisdiction without any local health department, and under at least one of the following circumstances:
- i) for a new water well that has been inspected by the local health department or Department employee;

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- ii) ~~for a water well serving an infant under six months of age;~~  
~~or~~
- iii) ~~in support of an investigation of a suspected waterborne illness.~~

2) ~~For samples submitted by a public or private Illinois school served by an active non-transient non-community public water supply the services shall be free of charge. For samples submitted by any other entity served by an active non-transient non-community public water supply that serves a population of fewer than 100 individuals the fees for the chemical analysis of drinking water for the following contaminants are:~~

~~Inorganics (Metals), by USEPA Method 200.9, following "Methods for the Determination of Metals in Environmental Samples—Supplement I", EPA 600/R-94-111, published by Environmental Monitoring Systems Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (May 1994)~~

<del>Cadmium</del>	<del>\$6.00 per sample</del>
<del>Chromium</del>	<del>\$6.00 per sample</del>
<del>Copper</del>	<del>\$5.50 per sample</del>
<del>Lead</del>	<del>\$5.50 per sample</del>

~~Herbicides, by USEPA Method 515.1, following "Methods for the Determination of Organic Compounds in Drinking Water", EPA 600/4-88-039, published by Environmental Monitoring Systems Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (July 1991)~~

~~\$117.00 per sample~~

~~Pesticides (chlorinated hydrocarbons and organophosphates), by USEPA Method 508, following "Methods for the Determination of~~

~~\$81.00 per sample~~

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~~Organic Compounds in Drinking Water", EPA-600/4-88-039, published by Environmental Monitoring Systems Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (July 1991)~~

~~Volatile Organic Compounds, by USEPA Method 524.2, following "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II", EPA-600/R-92-129, published by Environmental Monitoring Systems Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (August 1992)~~

~~\$146.00 per sample~~

~~For laboratory services specified in this subsection, the Department will only accept samples from entities served by an active non-transient non-community public water supply that serves a population of fewer than 100 individuals, except for public or private Illinois school.~~

- ~~3) Unless the specimen is submitted by a Department-funded HIV counseling and testing site or unless such analysis is requested as part of an HIV seroprevalence study that is funded or approved by the Department (in which case the service is free), the fees for analyses of a blood specimen are:~~

~~For the presence of Human Immunodeficiency Virus (HIV) antibodies, using an enzyme-linked immunosorbent assay (ELISA) test with confirmatory Western blot test (if necessary)~~

~~\$8.00 per specimen~~

~~For the enumeration of CD4 lymphocytes using flow cytometry technology~~

~~\$91.00 per specimen~~

- ~~4) Unless the sample/specimen is submitted by a health care provider (including local health department clinics) designated annually by the Department's Division of Infectious Diseases as serving a population with~~

## DEPARTMENT OF PUBLIC HEALTH

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~~a high incidence of sexually transmitted diseases and exempt from the following laboratory fees (in which case the service is free), the fees for analysis for the presence of the following sexually transmitted diseases are:~~

~~Chlamydia trachomatis and Neisseria gonorrhea, same swab (GenProbe) \$12.50 per specimen~~

~~Syphilis serology (RPR and FTA) \$6.50 per specimen~~

5) ~~Except for samples/specimens submitted by the Chicago Department of Public Health (in which case the service is free), the fee for pap smear analysis (cytology) shall be:~~ \$11.50 per specimen

6) ~~The fees for the following services are:~~

~~Hydrocarbons (volatile and extractable) for drinking water, by USEPA SW846 Method 8000A, following "Test Methods for Evaluating Solid Waste—Physical/Chemical Methods (SW846), Revised Update II", published by Environmental Monitoring Systems Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (September 1994)~~ \$349.00 per sample

~~Prenatal screening panel, which includes testing for Hepatitis, HIV, Rubella and Syphilis~~ \$31.00 per patient

~~Alpha fetoprotein screening~~ \$21.00 per specimen

c) Results of clinical laboratory tests will be provided to medical providers that submit a patient specimen. A duplicate copy of a patient's test result will be provided upon written request by the medical provider that originally ordered the test. Other medical providers will be provided a copy of patient test results upon the Department's receipt of proof of the patient's consent to release the patient's test result to that medical provider.

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- d) In accordance with the HIPAA Privacy Rules, upon receipt of a written notarized request by a patient or a patient's legal representative, the Department will provide a copy of the patient's clinical test result to the patient, patient's legal representative or persons designated by the patient or the patient's legal representative. The request shall identify the patient, the patient's date of birth, and the test performed. The request shall be accompanied by a payment of \$25.
- e)e) The Director may reduce any of the fees listed in subsection (b) ~~of this Section~~, pursuant to a written agreement, executed prior to submission of the sample/specimen, between the Department and the person to be submitting the sample/specimen. Examples of instances when reduced service fees may be considered include, but are not limited to, when the samples/specimens from, or test volumes for, one submitter will be very large; when a large one-time advance payment for all services is desired; and where the Department is participating in a special study requiring laboratory analysis.
- f)f) The Director may waive any of the standard laboratory fees prescribed in subsection (b) ~~of this Section~~ when the sample/specimen is submitted by Department staff (to support Department programs or services), another State agency, or any unit of local government, provided that the fee waiver is requested in writing and approved by the Director in writing prior to submission of the sample/specimen.
- g)g) The Director may enter into a written agreement with any governmental unit (contained within the definition of person) to provide additional laboratory services beyond those listed in this Part. ~~The Such~~ agreement ~~will shall~~ specify any conditions established for the submission of samples/specimens and the fees for ~~thesuch~~ services.

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Cost Allocation for Small Local Exchange Carriers
- 2) Code Citation: 83 Ill. Adm. Code 712
- 3) Section Number: 712.5                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing Sections 5-102, 5-103, and 7-206 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5-102, 5-103, 7-206, and 10-101]
- 5) Effective Date of Rule: May 29, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: Nov. 8, 2013; 37 Ill. Reg. 17239
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this rulemakings replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Public Act 98-45 amended Section 13-101 of the Public Utilities Act to alter the annual reporting requirements of Electing Providers and providers that offer solely competitive services [220 ILCS 5/13-101]. Under the amended statute, those entities must file annual reports only if the Commission requires them to do so, and in their reports they may use generally accepted accounting practices or

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

accounting systems they use for financial reporting purposes. The amendment modifies Part 712 to apply these changes in reporting requirements to the cost-allocation manuals filed with the Commission by small local exchange carriers for apportioning intrastate costs between regulated and nonregulated activities.

- 16) Questions or requests for information about this adopted rule shall be directed to:

Brian W. Allen  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/558-2387

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIES

PART 712  
COST ALLOCATION FOR SMALL LOCAL EXCHANGE CARRIERS

SUBPART A: APPLICATION

Section  
712.5           Application

SUBPART B: PRELIMINARY MATERIALS

Section  
712.10           Description of Nonregulated Activities  
712.15           Incidental Activities

SUBPART C: CORPORATE ORGANIZATION AND AFFILIATE TRANSACTIONS

Section  
712.20           Corporate Organization  
712.25           Affiliate Transactions

SUBPART D: COST APPORTIONMENT METHODOLOGY

Section  
712.100           Overview  
712.105           Cost Apportionment  
712.110           Cost and Allocation Definitions  
712.115           Cost Pools  
712.200           Cost Pool Apportionment Bases  
712.205           Cost Pool Account Transaction Analysis  
712.210           Analysis of Leased Assets  
712.215           Analysis of Motor Vehicle Records  
712.235           Analysis of Tax Records  
712.245           Computer Application Activity Analysis  
712.250           Building/Floor Space Use Study  
712.255           Direct Reporting

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712.260	Flight Logs
712.265	Property Record Analysis
712.270	Relative Value – Cost Pool Apportionment
712.280	Regulated/Nonregulated Apportionment Bases
712.285	Account Transaction Analysis – Regulated/Nonregulated
712.290	Billing and Collection Study
712.305	Customer and Corporate Operations Wages and Salaries
712.315	General Allocator
712.320	Marketing Allocator
712.335	Projected Regulated/Nonregulated Shared Usage
712.345	Relative Investment Value – Regulated/Nonregulated
712.350	Relative Regulated/Nonregulated Pre-Tax Book Income
712.355	Relative Regulated/Nonregulated Revenues
712.360	Time Reporting
712.365	Service Order Activity Analysis
712.370	Analysis of Advertising Expense
712.375	Total Company Wages and Salaries

## SUBPART E: COST APPORTIONMENT – ACCOUNTS

Section	
712.1220	Account 1220 Inventories
712.1438	Account 1438 Deferred Maintenance and Retirements
712.1439	Account 1439 Deferred Charges (Repealed)
712.2002	Account 2002 Property Held for Future Telecommunications Use
712.2003	Account 2003 Telecommunications Plant Under Construction
712.2004	Account 2004 Telecommunications Plant Under Construction – Long Term (Repealed)
712.2005	Account 2005 Telecommunications Plant Adjustment
712.2006	Account 2006 Nonoperating Plant
712.2007	Account 2007 Goodwill
712.2110	Account 2110 Land and Support Assets
712.2111	Account 2111 Land (Repealed)
712.2112	Account 2112 Motor Vehicles (Repealed)
712.2113	Account 2113 Aircraft (Repealed)
712.2114	Account 2114 Special Purpose Vehicles (Repealed)
712.2115	Account 2115 Garage Work Equipment (Repealed)
712.2116	Account 2116 Other Work Equipment (Repealed)

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712.2121	Account 2121 Buildings (Repealed)
712.2122	Account 2122 Furniture (Repealed)
712.2123	Account 2123 Office Equipment (Repealed)
712.2124	Account 2124 General Purpose Computers (Repealed)
712.2210	Account 2210 Central Office – Switching
712.2220	Account 2220 Operator Systems
712.2230	Account 2230 Central Office Transmission
712.2310	Account 2310 Information Origination/Termination
712.2311	Account 2311 Station Apparatus (Repealed)
712.2321	Account 2321 Customer Premises Wiring (Repealed)
712.2341	Account 2341 Large Private Branch Exchange (Repealed)
712.2410	Account 2410 Cable and Wire Facilities
712.2680	Account 2680 Amortizable Tangible Assets
712.2690	Account 2690 Intangibles
712.3100	Account 3100 Accumulated Depreciation
712.3200	Account 3200 Accumulated Depreciation – Held for Future Telecommunications Use
712.3300	Account 3300 Accumulated Depreciation – Nonoperating
712.3400	Account 3400 Accumulated Amortization – Tangible (Repealed)
712.3410	Account 3410 Accumulated Amortization – Capitalized Leases
712.3500	Account 3500 Accumulated Amortization – Intangibles (Repealed)
712.3600	Account 3600 Accumulated Amortization – Other (Repealed)
712.4100	Account 4100 Net Current Deferred Operating Income Tax
712.4340	Account 4340 Net Noncurrent Deferred Operating Income Tax
712.5300	Account 5300 Uncollectible Revenue
712.6110	Account 6110 Network Support Expenses
712.6120	Account 6120 General Support Expenses
712.6210	Account 6210 Central Office Switching Expense
712.6220	Account 6220 Operators System Expense
712.6230	Account 6230 Central Office Transmission Expenses
712.6310	Account 6310 Information Origination/Termination Expenses
712.6410	Account 6410 Cable and Wire Facilities Expenses
712.6510	Account 6510 Other Property, Plant and Equipment Expenses
712.6530	Account 6530 Network Operations Expenses
712.6540	Account 6540 Access Expense
712.6560	Account 6560 Depreciation and Amortization Expenses
712.6610	Account 6610 Marketing
712.6620	Account 6620 Services

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712.6710	Account 6710 Executive and Planning (Repealed)
712.6720	Account 6720 General and Administrative
712.6790	Account 6790 Provision for Uncollectible Notes Receivable
712.7100	Account 7100 Other Operating Income and Expenses
712.7200	Account 7200 Operating Taxes
712.7210	Account 7210 Operating Investment Tax Credits – Net (Repealed)
712.7220	Account 7220 Operating Federal Income Taxes (Repealed)
712.7230	Account 7230 Operating State and Local Income Taxes (Repealed)
712.7240	Account 7240 Operating Other Taxes (Repealed)
712.7250	Account 7250 Provision for Deferred Operating Income Taxes – Net (Repealed)
712.7300	Account 7300 Nonoperating Income and Expenses
712.7350	Account 7350 Gains or Losses from the Disposition of Certain Property (Repealed)
712.7370	Account 7370 Special Charges (Repealed)
712.7400	Account 7400 Nonoperating Taxes
712.7500	Account 7500 Interest and Related Items
712.7600	Account 7600 Extraordinary Items

**AUTHORITY:** Implementing Sections 5-102, 5-103, and 7-206 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/5-102, 5-103, and 10-101].

**SOURCE:** Emergency rules adopted at 12 Ill. Reg. 1236, effective January 1, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 9588, effective May 25, 1988; amended at 27 Ill. Reg. 12489, effective August 1, 2003; amended at 38 Ill. Reg. 12022, effective May 29, 2014.

## SUBPART A: APPLICATION

**Section 712.5 Application**

- a) This Part specifies the procedures that will be followed in order to apportion intrastate costs between regulated and nonregulated activities. This Part applies only to those activities categorized as nonregulated in Illinois; it does not apply to those tariffed activities that have been classified as "competitive" by the Illinois Commerce Commission (Commission). (See Section 13-209 of the Public Utilities Act (Act) [220 ILCS 5/13-209].)
- b) The provisions of this Part are applicable to local exchange carriers ("carriers") with operations in the State of Illinois having no more than 35,000 subscriber

## ILLINOIS COMMERCE COMMISSION

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access lines in service, except that this Part shall apply to the services of an Electing Provider subject to Section 13-506.2(a)(1) of the Act and to competitive telecommunications rates and services only to the extent that the Commission requires that application, and provided that the telecommunications provider may use generally accepted accounting practices or the accounting systems it uses for financial reporting purposes. These carriers have diverse accounting, time reporting, and other recordkeeping systems such that records and statistics are not obtainable by all such carriers. Therefore, it is understood that not all cost pools listed in this Part must be populated. If, however, a greater degree of cost causative cost assignment is achieved, greater disaggregation of cost pools than is specified in this Part is acceptable.

- c) If the Federal Communications Commission (FCC) requires a carrier to vary from the provisions of this Part, or if modification of this Part is required to conform to separations requirements or the mirroring of access charge determination, the carrier shall keep a listing at the carrier's headquarters and available to Commission Staff, upon request, identifying the specific variances.

(Source: Amended at 38 Ill. Reg. 12022, effective May 29, 2014)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Uniform System of Accounts for Cellular Communications Telephone Utilities
- 2) Code Citation: 83 Ill. Adm. Code 715
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
715.5	Repeal
715.10	Repeal
- 4) Statutory Authority: Implementing Sections 5-102, 5-103, and 7-206 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5-102, 5-103, 7-206, and 10-101]
- 5) Effective Date of Repealer: May 29, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: November 8, 2013; 37 Ill. Reg. 17246
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Public Act 98-45 amended Section 13-101 of the Public Utilities Act to eliminate the application of Sections 5-102 (uniform system of

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED REPEALER

accounts) and 5-103 (forms of accounts) to Electing Providers and to competitive telecommunications rates and services (220 ILCS 5/5-102, 5-103, 13-101). Part 715 implements Sections 5-102 and 5-103 with respect to cellular telephone service providers. Because cellular service is classified as a competitive telecommunications service (220 ILCS 5/13-209), Part 715 may now be repealed in its entirety.

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

Brian W. Allen  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/558-2387

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Use of X-Rays in the Healing Arts Including Medical, Dental, Podiatry and Veterinary Medicine
- 2) Code Citation: 32 Ill. Adm. Code 360
- 3) 

<u>Section Number:</u>	<u>Proposed Action:</u>
360.20	Amendment
360.30	Amendment
360.75	Amendment
360.120	Amendment
360.130	New Section
360.APPENDIX D	Repealed
- 4) Statutory Authority: Implementing and authorized by Sections 16, 24 and 25 of the Radiation Protection Act of 1990 [420 ILCS 40]
- 5) Effective Date of Rule: May 29, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemakings, including any material incorporated by reference is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 16246; October 18, 2013
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:
  1. In Section 360.20 add a definition of "Contact hour"
  2. In Section 360.20 deleted struck the definition of "Multiple scan coverage dose".

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3. In Section 360.75(c), struck "multiple scan average dose (MSAD)"
  4. In Section 360.75(d), changed "or" to "of".
  5. In Section 360.120(e), changed "within six months after effective date of this amendatory rulemaking" to "by January 1, 2015." and added "Documentation shall include the name of the individual performing the CT training."
  6. In Section 360.120(i)(3)(I)(iii), changed "licensee" to "registrant"
- 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 rule currently in effect? No
  - 14) Are there any rulemakings pending on this Part? No
  - 15) Summary and Purpose of Rulemaking: This rulemaking adds additional requirements in four major areas: quality assurance for digital imaging, computed tomography, radiation therapy misadministration and electronic brachytherapy. As digital imaging technology has become more common, the Agency needs to add requirements for quality assurance for such systems. Imaging with computed tomography is becoming increasingly common and additional requirements are necessary to maintain proper oversight by the Agency. Errors occurring in radiation therapy were not previously reported to the Agency, so new regulations will require facilities to investigate such incidents and report to the Agency. Electronic brachytherapy is a new technology and regulations are required for proper oversight by the Agency. The rulemaking also prohibits the use of limited diagnostic radiographers by providers of portable x-ray services since federal Medicare rules require persons who perform portable x-ray examinations to have completed formal training in x-ray technology.
  - 16) Information and questions regarding this adopted rule shall be directed to:

Traci Burton  
Paralegal Assistant  
Illinois Emergency Management Agency  
1035 Outer Park Drive

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ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

Springfield IL 62704

217/785-9860

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

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 32: ENERGY

## CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

## SUBCHAPTER b: RADIATION PROTECTION

## PART 360

USE OF X-RAYS IN THE HEALING ARTS INCLUDING MEDICAL,  
DENTAL, PODIATRY, AND VETERINARY MEDICINE

Section	
360.10	Scope
360.20	Definitions
360.30	General Requirements and Administrative Controls
360.40	General Equipment and Operation Requirements for Diagnostic X-Ray Systems
360.41	Additional Requirements for Use of Diagnostic X-Ray Systems in the Healing Arts of Medicine, Podiatry and Chiropractic
360.50	Fluoroscopic Systems
360.60	Radiographic Systems Other Than Fluoroscopic, Dental, Veterinary or Computed Tomography Systems
360.70	Mobile/Portable Radiographic Systems Other Than Systems Used Solely for Mammography (Repealed)
360.71	Additional Requirements for Facilities Performing Mammography (Repealed)
360.75	Computed Tomography (CT) Systems
360.80	Photofluorographic Systems (Repealed)
360.90	Dental Radiographic Systems
360.100	Veterinary Radiographic Systems
360.110	Therapy Systems Operating Below 1 MeV
360.120	Therapy Systems Operating at 1 MeV or Greater
<a href="#">360.130</a>	<a href="#">Electronic Brachytherapy</a>
360.APPENDIX A	Medical Radiographic Entrance Exposure Measurement Protocol
360.APPENDIX B	Mammography Dose Measurement Protocol (Repealed)
360.APPENDIX C	Mammography Phantom Image Evaluation (Repealed)
360.APPENDIX D	Computed Tomography Dose Measurement Protocol ( <a href="#">Repealed</a> )
360.APPENDIX E	Minimum Quality Control Program for Medical Accelerators
360.ILLUSTRATION A	Thimble and Pancake Chamber-Radiation Measuring Devices (Repealed)
360.ILLUSTRATION B	Mammography Dose Evaluation Graph (Repealed)
360.TABLE A	Mammography Dose Evaluation Table (Repealed)

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED AMENDMENTS

360.TABLE B	Half-Value Layer as a Function of Tube Potential
360.TABLE C	Entrance Exposure Limits Per Intraoral Bitewing Film (Repealed)

**AUTHORITY:** Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

**SOURCE:** Filed April 20, 1974 by the Department of Public Health; old rules repealed, new rules adopted at 4 Ill. Reg. 25, p. 157, effective July 1, 1980; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; codified at 7 Ill. Reg. 16406; amended at 10 Ill. Reg. 13271, effective July 28, 1986; amended at 13 Ill. Reg. 803, effective April 1, 1989; amended at 15 Ill. Reg. 6180, effective April 16, 1991; amended at 17 Ill. Reg. 17972, effective October 15, 1993; amended at 18 Ill. Reg. 11524, effective July 11, 1994; emergency amendment adopted at 19 Ill. Reg. 273, effective December 30, 1994, for a maximum of 150 days; emergency expired May 30, 1995; amended at 19 Ill. Reg. 8284, effective June 12, 1995; amended at 22 Ill. Reg. 5904, effective March 13, 1998; amended at 23 Ill. Reg. 14516, effective January 1, 2000; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 32 Ill. Reg. 3693, effective February 29, 2008; amended at 38 Ill. Reg. 12031, effective May 29, 2014.

**Section 360.20 Definitions**

As used in this Part, the following definitions apply:

"Accelerator" (also "particle accelerator") means any therapeutic machine capable of producing a useful beam of x-rays or charged particles with energies of 1 MeV or greater. Accelerators include cyclotrons, betatrons and linear accelerators.

"Accelerator facility" means the location at which one or more particle accelerators are installed and are operated under the same administrative control.

"Agency" means the Illinois Emergency Management Agency.

"Aluminum equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

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"Applicator" means a structure which determines the extent of the treatment field at a given distance from the source of the beam.

"Attenuation block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of aluminum equivalent. Copper may be substituted for aluminum if an appropriate thickness is used for the kVp selected, as indicated below:

kVp	Millimeters of Copper Equivalent to 3.8 centimeters of aluminum
99 or less	2.0
100 to 125	2.5
greater than 125	3.0

"Automatic exposure control" means a device ~~that~~which automatically controls one or more technique factors in order to obtain at a preselected location or locations~~location(s)~~ a required quantity of radiation (see "Phototimer").

"Barrier" (see "Protective barrier").

"Beam" means a flow of electromagnetic or particulate radiation ~~that~~which passes through the opening in the beam limiting device and ~~that~~which is used for diagnosis or treatment.

"Beam axis" (see "Central axis of the beam").

"Beam-limiting device" means a device ~~that~~which provides a means to restrict the dimensions of the x-ray field (see "Collimator", "Diaphragm" and "Shutter").

"Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation when a preselected number of monitor units has been accumulated.

"Beam scattering filter" means a filter placed in an electron beam in order to scatter the beam and provide a more uniform distribution of electrons in the beam.

"Central axis of the beam" means the line passing through the source of the beam

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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and the center of the plane formed by the edge of the first beam-limiting device.

"Charged particle beam" (see "Beam").

"Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations.

"Collimator" means a device or mechanism by which the x-ray beam is restricted in size (see "Beam-limiting device").

"Computed tomography" or "CT" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Computed tomography dose index" or "CTDI" means the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic section thickness and the number of tomograms produced in a single scan.

"Contact hour" means the number of hours an individual is in contact with an instructor. One contact hour equals 50 minutes.

"Contact therapy system" means an x-ray system used for therapy ~~that~~<sup>which</sup> is designed for very short treatment distances (5 centimeters or less), usually employing peak tube potentials in the range of 20 to 50 kVp.

"Control panel" means that part or parts of the x-ray system upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for setting the technique factors prior to initiating an x-ray exposure.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors and the supporting structures and frames ~~that~~<sup>which</sup> hold these components.

"Dead-man switch" means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

"Diagnostic imaging specialist" means a person who possesses the knowledge, training and experience to apply the principles of radiological physics to

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diagnostic x-ray applications. The diagnostic imaging specialist shall be approved and registered by the Agency pursuant to 32 Ill. Adm. Code 410.

"Diagnostic source assembly" means an x-ray tube housing assembly, designed for use in diagnostic x-ray applications, with a beam-limiting device attached.

"Diaphragm" means a device or mechanism by which the x-ray beam is restricted in size (see "Beam-limiting device").

"Direct supervision" means an individual is in the physical presence of a licensed practitioner who assists, evaluates and approves of the individual's performance of the various tasks involved in the application of ionizing radiation.

"Electronic brachytherapy" means a method of radiation therapy in which an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver a therapeutic radiation dosage.

"Electronic brachytherapy device" means the system used to produce and deliver therapeutic radiation, including x-ray tube, the control mechanism, the cooling system and the power source.

"Electronic brachytherapy device operator" means a radiation therapist accredited in accordance with 32 Ill. Adm. Code 401 or a physician.

"Electronic brachytherapy source" means the x-ray tube component used in an electronic brachytherapy device.

"Field flattening filter" means a filter used to provide dose uniformity over the area of a useful beam of x-rays at a specified depth.

"Filter" means material placed in the useful beam to absorb, preferentially, radiations based on energy level or to modify the spatial distribution of the beam.

"Gantry" means that part of the system supporting and allowing possible movements of the radiation head.

"General purpose x-ray system" means any radiographic x-ray system ~~that~~which,

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by design, is not limited to radiographic examination of specific anatomical regions.

"Gonad shield" means a protective device for the testes or ovaries ~~that~~which provides a minimum of 0.5 millimeter lead equivalent protection.

"Half-value layer" or "HVL" means the thickness of a specified material that attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value.

AGENCY NOTE: The contribution of all scattered radiation, other than any that might be present initially in the beam concerned, should be minimized.

"Healing arts screening" means the examination of human beings using x-ray machines for the detection or evaluation of potential diseases when ~~the~~such examinations are not specifically ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray examinations for the purpose of diagnosis or treatment. However, healing arts screening does not include mammography on self-referred patients.

"Image intensifier" means a device, installed in a housing, ~~that~~which converts an x-ray pattern into a corresponding light image, usually by electronic means.

"Image receptor" means any device, such as a fluorescent screen or radiographic film, ~~that~~which transforms incident x-ray photons either into a visible image or into another form ~~that~~which can be made into a visible image by further transformations.

"Institutional review board" means a committee that has been formally designated by the registrant to approve, monitor and review biomedical and behavioral research involving humans.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

"Isocenter" means a fixed point in space located at the center of the smallest sphere through which the central axis of the useful beam passes at any beam

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orientation.

"Kilovolts peak" or "kVp" means the crest value, in kilovolts, of the electric potential applied to the x-ray tube between the cathode and anode of a pulsating electric potential generator.

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means all radiation emanating from the diagnostic source assembly except for:

The useful beam; and

The radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors used to measure leakage radiation from the diagnostic source assembly. They are defined as follows:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in 1 hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliamperes-seconds, or the minimum obtainable from the unit, whichever is larger.

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in 1 hour for operation at the maximum-rated peak tube potential.

For all other equipment, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Light field" means that area of the intersection of the light beam from the beam-limiting device and any one of the sets of planes parallel to and including the plane of the image receptor. The edge of the light field is defined as the locus of points at which the illumination is 25 percent of that at the center of the light

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field.

"Medical event" means an event that meets the criteria in Section 360.120(i)(3).

"Medical radiographer" means a person other than a licensed practitioner, accredited in accordance with the provisions of 32 Ill. Adm. Code 401, or an individual exempt from the provisions of 32 Ill. Adm. Code 401, who performs medical radiation procedures and applies x-radiation, to any part of the human body, for diagnostic purposes while under the supervision of a licensed practitioner.

"Mobile equipment" (see "X-ray equipment").

"Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

"Moving beam therapy" means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy and rotational beam therapy.

~~"Multiple scan average dose" or "MSAD" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a computed tomography system.~~

"Operator" means an individual who applies ionizing radiation for diagnostic or therapeutic purposes.

"Phototimer" means a method for controlling radiation exposures to image receptors by the amount of radiation ~~that~~<sup>which</sup> reaches a radiation monitoring devices. The radiation monitoring devices is part of an electronic circuit ~~that~~<sup>which</sup> controls the duration of time the tube is activated (see "Automatic exposure control").

"Portable equipment" (see "X-ray equipment").

"Portable x-ray service provider" means a registrant who, under a physician's authorization, provides x-ray procedures with hand-held or mobile radiographic

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equipment in a patient's place of residence.

"Position indicating device" means a device on intraoral dental x-ray equipment used to indicate the beam position and to establish a definite source-skin distance.

"Prescribed dose" means the total dose and dose per fraction as documented in the written directive. The prescribed dose is an estimation from measured data from a specified therapeutic machine using assumptions that are clinically acceptable for that treatment technique and historically consistent with the clinical calculations previously used for patients treated with the same clinical technique.

"Primary protective barrier" (see "Protective barrier").

"Protective apron" means an apron of radiation absorbing materials, at least 0.25 millimeter lead equivalent, used to reduce exposure from leakage and scatter radiation.

"Protective barrier" means a barrier of radiation absorbing materials used to reduce radiation dose. The types of protective barriers are as follows:

"Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation dose.

"Secondary protective barrier" means a barrier sufficient to attenuate the leakage and scatter radiation to the required degree.

"Protective glove" means a glove made of radiation absorbing materials, at least 0.25 millimeter lead equivalent, used to reduce dose from leakage and scatter radiation.

"Radiation beam" (see "Beam").

"Radiation therapy simulation system" means a radiographic/ fluoroscopic x-ray system used exclusively for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

"Radiologist assistant" means a person, other than a licensed practitioner, who, as

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a medical radiographer with advanced-level training and certification, performs a variety of activities under the supervision of a radiologist certified by the American Board of Radiology or the American Osteopathic Board of Radiology, in the areas of patient care, patient management, clinical imaging and interventional procedures. The radiologist assistant may not interpret images, make diagnoses or prescribe medications or therapies.

"Reference plane" means a plane that is displaced from and parallel to the tomographic plane.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient support device with respect to the CT x-ray system between successive scans measured along the direction of such displacement.

"Scatter radiation" means radiation that, during passage through matter, has been deviated in direction.

"Secondary protective barrier" (see "Protective barrier").

"Shadow tray" means a device attached to the radiation head to support auxiliary beam-limiting material.

"Shutter" means an adjustable beam-limiting or attenuating device, usually made of lead, fixed to an x-ray tube housing to intercept or collimate the useful beam (see "Beam-limiting device").

"SID" means source-image receptor distance (see "Source-image receptor distance").

"Source" means the focal spot of the x-ray tube.

"Source-image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

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"Source to skin distance" or "SSD" means the distance measured along the central ray from the center of the front surface of the x-ray focal spot to the surface of the irradiated object.

"Special purpose x-ray system" means any radiographic x-ray system ~~that~~which, by design, is limited to radiographic examination of a specific anatomical region, or to the extremities collectively.

"Spot film" means a radiograph ~~that~~which is made during a fluoroscopic examination to permanently record conditions ~~that~~which exist during that fluoroscopic procedure.

"Stationary beam therapy" means radiation therapy in which there is no displacement of the useful beam relative to the patient during irradiation.

"Stationary equipment" (see "X-ray equipment").

"Supervision" means responsibility for and control of quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.

"Technique factors" means the electrical potential (kilovolts), current (milliamperes), exposure time parameters (seconds or pulses) or a combination thereof, selectable at the control panel of an x-ray system (see "Control panel").

"Therapeutic radiological physicist" means an individual who has the knowledge, training and experience to measure ionizing radiation, evaluate safety techniques, advise regarding radiation protection needs and apply the principles of radiological physics to clinical radiation therapy. The therapeutic radiological physicist shall be approved and registered by the Agency pursuant to 32 Ill. Adm. Code 410.

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane ~~that~~which is identified as

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corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Useful beam" (see "Beam").

"X-ray equipment" means an x-ray system, sub-system or component thereof. Types of x-ray equipment are as follows:

"Mobile x-ray equipment" means x-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled. Mobile x-ray equipment includes x-ray equipment permanently mounted in vehicles.

"Portable x-ray equipment" means x-ray equipment designed to be hand-carried.

"Stationary x-ray equipment" means x-ray equipment that is installed in a fixed location.

"X-ray field" means, for diagnostic purposes, that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor. The edge of the x-ray field is defined as the locus of points at which the exposure is 25 percent of that at the center of the x-ray field.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control panel, an x-ray tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components that function with the system are considered integral parts of the system. X-ray systems include diagnostic systems, therapeutic systems and accelerator systems.

(Source: Amended at 38 Ill. Reg. 12031, effective May 29, 2014)

**Section 360.30 General Requirements and Administrative Controls**

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The requirements in this Section apply to all uses of x-rays in veterinary medicine and to all uses of x-rays in the healing arts including the use of x-rays for both diagnostic and therapeutic purposes. Additional requirements for all diagnostic x-ray systems are in Section 360.40 ~~of this Part~~ and specific equipment application classes are contained in Sections 360.41 through 360.100 ~~of this Part~~. For therapeutic x-ray systems also see Sections 360.110 and 360.120 ~~of this Part~~.

- a) Registrant. The registrant shall:
  - 1) Direct the operation of the x-ray systems;
  - 2) Register with the Agency, in accordance with the provisions of 32 Ill. Adm. Code 320, all x-ray equipment which is used at the facility and all portable or mobile x-ray equipment used by the registrant;
  - 3) Verify that each individual required to be accredited by 32 Ill. Adm. Code 401 to apply x-rays for either diagnostic or therapeutic purposes is properly accredited with the Agency prior to allowing the individual to apply medical radiation procedures on human beings;
  - 4) Permit operation of the x-ray systems only by individuals who are licensed in accordance with State law (see Section 360.10(a) ~~of this Part~~), or who are accredited by the Agency pursuant to 32 Ill. Adm. Code 401 or who are exempt from such requirements in accordance with the provisions of 32 Ill. Adm. Code 401.
- b) Shielding. Each installation shall be provided with such primary barriers and/or secondary barriers as are necessary to assure compliance with the provisions of 32 Ill. Adm. Code 340.210, 340.270, 340.280 and 340.310.
- c) An x-ray system which does not meet the provisions of this Part shall not be operated for diagnostic or therapeutic purposes.
- d) If an x-ray system is identified as not being in compliance with the provisions of this Part and if that system is accessible for use, it shall be rendered inoperable (i.e., dismantle the x-ray source from the source support assembly) if so ordered by the Director.

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## e) Prohibitions

- 1) Unauthorized Exposure. Individuals shall not be exposed to the useful beam except for healing arts purposes and only when ~~the such~~ exposure has been authorized by a licensed practitioner of the healing arts. A physician assistant or an advanced practice nurse may give authorization as long as he or she is acting under the supervision or direction of a licensed physician. This provision specifically prohibits deliberate exposure for the following purposes:
  - A) Exposure of individuals for training, demonstration or other non-healing arts purposes.
  - B) Exposure of individuals for the purpose of "healing arts screening" (see Section 360.20 ~~of this Part~~).
- 2) Fluoroscopy shall not be used as a substitute for radiography or in lieu of proper anatomical positioning/centering procedures prior to radiographic studies.
- 3) Fluoroscopic equipment using phosphorescent screens shall not be used. Image intensification shall be utilized on all fluoroscopic equipment.
- 4) The use of direct exposure x-ray film (without intensifying screens) for routine diagnostic radiological imaging procedures, other than intraoral dental radiography and therapeutic portal imaging, is prohibited.

AGENCY NOTE: Therapeutic portal imaging is a technique used in radiation therapy to verify correct alignment of therapy beams with the patient's anatomy.

- 5) The use of photofluorographic systems is prohibited.
- 6) The use of an individual accredited as a limited diagnostic radiographer by the Agency pursuant to 32 Ill. Adm. Code 401 by a portable x-ray service provider is prohibited.

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AGENCY NOTE: Photofluorography is frequently called mass miniature radiography. In this technique the image of a fluorescent screen is recorded on film by means of a camera.

- f) Individual Monitoring and Reporting Requirements. All persons who are associated with the operation of an x-ray system are subject to the radiation dose standards, requirements for the determination of the doses, requirements for individual monitoring and requirements for reporting of radiation doses ~~that~~ which are contained in 32 Ill. Adm. Code 340.
- g) The registrant shall comply with the requirements of the Agency's rules entitled, Notices, Instructions and Reports to Workers; Inspections, (32 Ill. Adm. Code 400).
- h) Records and Associated Information. The registrant shall maintain at the facility, for a period of at least one inspection cycle (see 32 Ill. Adm. Code 320.10(c)), records showing the receipt, transfer, storage and disposal of all sources of radiation in accordance with the provisions of 32 Ill. Adm. Code 310 and 320.
- i) Staff Qualifications. The registrant shall maintain at the facility, for review by the Agency, current certificates of accreditation (clear, legible copies are acceptable), issued by the Agency in accordance with the provisions of 32 Ill. Adm. Code 401, for all individuals who are required to be so accredited.
- j) Radiation Safety Procedures. The registrant shall provide to each individual who operates x-ray equipment at the facility written operating and safety procedures. These procedures shall include restrictions required for the safe operation of each radiation machine and shall include the topics listed in the radiation safety program of subsection (k) ~~of this Section~~.
- k) Radiation Safety Program. The registrant shall provide for initial and annual in-service training in radiation safety for individuals (excluding licensed practitioners) that apply ionizing radiation at the facility, to ensure their awareness of the registrant's radiation safety practices and policies. The in-service training shall include the following topics:
  - 1) Operating and emergency procedures for the radiation machines;

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- 2) Use of personnel and patient protective devices;
  - 3) Procedures to minimize patient and occupational doses, including procedures for selecting personnel to support patients or film, as required by Section 360.40 ~~of this Part~~;
  - 4) Use of individual monitoring devices (if such devices are used at the facility);
  - 5) Film processing procedures; and
  - 6) Prohibited uses of x-ray machines, as described in subsection (e) ~~of this Section~~.
- 1) Operator Training. Individuals who operate radiation machines shall be instructed in and able to demonstrate competence with the registrant's operating and safety procedures.

(Source: Amended at 38 Ill. Reg. 12031, effective May 29, 2014)

**Section 360.75 Computed Tomography (CT) Systems**

- a) Requirements for Equipment
  - 1) Termination of Exposure
    - A) In the event of equipment failure affecting data collection, means shall be provided to terminate the x-ray exposure automatically, either by de-energizing the x-ray source or by shuttering the x-ray beam, through the use of either a back-up timer or devices ~~that~~which monitor equipment function.
    - B) A visible signal shall indicate when the x-ray exposure has been terminated through the means required by subsection (a)(1)(A) ~~of this Section~~.

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- C) The operator shall be able to terminate the x-ray exposure at any time during a scan, or series of scans, of greater than 0.5 second duration.
- 2) Tomographic Plane Indication and Alignment
- A) Means shall be provided to permit visual determination of the location of a reference plane. This reference plane can be offset from the location of the tomographic planes.
  - B) If a device using a light source is used to satisfy subsection (a)(2)(A) ~~of this Section~~, the light source shall provide illumination levels sufficient to permit visual determination of the location of the tomographic plane or reference plane under ambient light conditions of up to 500 lux (45 footcandles).
  - C) The total error in the indicated location of the tomographic plane or reference plane shall not exceed 5 millimeters.
  - D) The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with a typical patient mass resting on the patient support device. The patient support device shall be moved incrementally from a typical starting position to the maximum incremental distance or 30 centimeters, whichever is less, and then returned to the starting position. If the CT system has the capability of variable gantry angles, the compliance measurements shall be performed with the CT gantry positioned at zero degrees.
- 3) Beam-On and Shutter Status Indicators. The CT x-ray control panel and gantry shall provide visual indication whenever x-rays are produced and, if applicable, whether the shutter is open or closed.
- 4) Technique Indicators. The CT x-ray control panel shall provide visual indication of the technique factors, tomographic section thickness and scan increment prior to the initiation of a scan or a series of scans.

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- b) Facility Design Requirements
- 1) The control panel shall be located behind a protective barrier.
  - 2) Communication. Provision shall be made for two-way aural communication between the patient and the operator at the control panel.
  - 3) Viewing Systems. Windows, mirrors, closed-circuit television or an equivalent system shall be provided to permit continuous observation of the patient during irradiation and shall be located so that the operator can observe the patient from the control panel.
- c) Radiation dose measurements shall be performed by a diagnostic imaging specialist on each CT x-ray system. The~~Such~~ measurements shall be specified in terms of the multiple scan average dose (MSAD) computed tomography dose index (CTDI), for the head and abdomen, using a head or abdomen phantom, respectively, and the facility's technique factors most frequently used for a CT examination of the head or abdomen, respectively, and shall be performed:
- 1) At least annually by a diagnostic imaging specialist and after any change or replacement of components that could cause a change in the radiation output;
  - 2) With a dosimetry system that has been calibrated within the preceding 12 months. The calibration of such system shall have no more than a three-step (tertiary) calibration, traceable to the National Institute of Standards and Technology; and
  - 3) Using the computed tomography dose measurement protocol found in Report 111 of the American Association of Physicists in Medicine (AAPM), entitled "Comprehensive Methodology for the Evaluation of Radiation Dose in X-Ray Computed Tomography" published by AAPM, February 2010, exclusive of subsequent amendments or editions. A copy of this report is available for public inspection at the Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, Illinois or may also be obtained directly from the AAPM, One Physics Ellipse, College Park MD 20740-3846, Section 360, Appendix D of this Part.

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AGENCY NOTE: The Agency recognizes that other phantoms and protocols are available to provide accurate dose measurements as specified in this Section. The Agency will consider use of such phantoms and protocols as satisfying this Section if the intent of the regulation is met.

- d) Diagnostic Imaging Specialists who perform radiation dose measurements and develop quality assurance procedures for CT systems shall have CT training as follows:
- 1) Individuals certified in diagnostic radiological physics or radiological physics by either the American Board of Radiology or the American Board of Medical Physics shall have 20 contact hours of documented specialized training in conducting surveys of CT equipment;
  - 2) Individuals not certified as specified in subsection (d)(1) shall have 40 contact hours of documented specialized training in conducting surveys of CT equipment.
- e) Documentation of the training required by subsection (d) shall be available for review at the facility by January 1, 2015. Documentation shall include the name of the individual performing the CT training.
- f) Quality assurance procedures shall be conducted on each CT system and shall meet the following requirements:
- 1) The quality assurance procedures shall be in writing and shall have been developed by a diagnostic imaging specialist. The procedures shall include, but need not be limited to, the following:
    - A) Specifications of the tests that are to be performed, including instructions to be employed in the performance of those tests; and
    - B) Specifications of the frequency at which tests are to be performed, the acceptable tolerance for each parameter measured and actions to be taken if tolerances are exceeded.

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- 2) Quality assurance procedures shall include acquisition of images using a CT phantom ~~that~~which has the capability of providing an indication of the resolution capability of the system. Quality assurance procedures shall include, at a minimum:
- A) Image quality evaluation, including CT number uniformity, noise, and low and high contrast resolution;
  - B) Quantitative accuracy including CT number calibration and constancy;
  - C) Image display evaluation, including visual and hard copy output.

~~AGENCY NOTE: The CT phantom used for quality assurance procedures should have the capability of providing an indication of contrast scale, noise, nominal tomographic section thickness, resolution capability of the system for low and high contrast objects and relative densities (CT numbers) for water or other reference material.~~

- ge) Operating Procedures. Information shall be available at the control panel regarding the operation of the system. The information shall include written quality assurance procedures, as required in subsection ~~(fd)(1) of this Section.~~

(Source: Amended at 38 Ill. Reg. 12031, effective May 29, 2014)

**Section 360.120 Therapy Systems Operating at 1 MeV or Greater**

In addition to the provisions of Sections 360.10 through 360.30 ~~of this Part,~~ the requirements of this Section apply to particle accelerator systems operating at energies of 1 MeV or greater. Accelerator systems capable of producing radioactive materials in excess of the exempt quantities specified in 32 Ill. Adm. Code 330.Appendix B shall also be licensed pursuant to the provisions of 32 Ill. Adm. Code 330.

- a) Facility Design
  - 1) The registrant shall consult a therapeutic radiological physicist in the design of a particle accelerator installation.

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- 2) Shielding Requirements
  - A) Each accelerator installation shall be provided with such primary and secondary barriers as are necessary to assure compliance with 32 Ill. Adm. Code 340.
  - B) Facility design information for all accelerators installed after October 15, 1993 shall be submitted to the Agency for review prior to installation. Information submitted to the Agency shall include, but need not be limited to, the following:
    - i) Name and address of the planned installation;
    - ii) Name, address and telephone number of the therapeutic radiological physicist who was consulted in the design of the installation;
    - iii) A scale drawing that includes the location of the accelerator, control panel and doors to the room;
    - iv) The structural composition and thickness of all walls, doors, partitions, floor and ceiling of the installation;
    - v) The occupancy of areas adjacent to the installation;
    - vi) Calculations that demonstrate the adequacy of the amount of shielding specified for each primary and secondary protective barrier; and
    - vii) Projected weekly dose rates in areas adjacent to the installation.
- 3) Interlock. An interlock shall be installed on each door of the therapy room. The interlock shall be wired into the electrical circuit in such a manner that when the door is opened for any reason, the generation of radiation beams will automatically be terminated and irradiation can be

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resumed only by manually resetting the controls on the control panel after the door is closed.

- 4) Warning lights that indicate when the beam is on shall be provided in a readily observable position near the outside of all access doors to the therapy room.
- 5) Viewing System. Windows, mirrors, closed-circuit television or an equivalent system shall be provided to permit continuous visual observation of the patient during irradiation and shall be located so that the operator can observe the patient from the control panel.

AGENCY NOTE: When the primary viewing system is electronic, a back-up system should be available for use in the event of failure of the primary system in order to ensure compliance with the requirements of subsection (g)(1)(H) ~~of this Section~~.

- 6) The facility design shall permit two-way aural communications between the patient and the operator at the control panel.
- 7) Signs required by 32 Ill. Adm. Code 340.920 shall be posted in the facility.
- 8) The control panel shall be outside the therapy room.
- 9) The facility design shall include emergency off buttons, at locations that allow shutting off the machine from inside the therapy room and at the control panel.
- 10) The doors to the therapy room shall be designed to allow opening from the inside at all times and shall be capable of being opened manually.

b) Equipment Requirements

- 1) Leakage radiation to the patient area shall be measured for each accelerator. Measurements shall be repeated following maintenance or service performed on the accelerator, as determined by a therapeutic

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radiological physicist.

- A) For operating conditions producing maximum leakage radiation, the absorbed dose due to leakage radiation, excluding neutrons, at any point in a circular plane of 2 meters radius centered on and perpendicular to the central axis of the beam at the isocenter or normal treatment distance and outside the maximum useful beam size shall not exceed 0.1 percent of the maximum absorbed dose of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the plane surface. Radiation measurements shall be averaged over an area up to but not exceeding 100 square centimeters.
  - B) Records of the most recent radiation leakage measurements and the machine parameters used during the survey shall be maintained at the facility for inspection by the Agency.
- 2) Beam-Limiting Devices. Adjustable or interchangeable beam-limiting devices shall transmit no more than two percent of the useful beam at the normal treatment distance for the portion of the useful beam that is to be attenuated by the beam-limiting device. The neutron component of the useful beam shall not be subject to this requirement. This requirement does not apply to auxiliary blocks or materials placed in the useful beam to shape the useful beam to the individual patient.
- 3) Source-Skin Distance (SSD) Indication
- A) Means shall be provided to indicate the SSD.
  - B) The SSD shall be indicated in centimeters and/or inches and the measured SSD shall correspond to the indicated value to within 0.5 percent.
- 4) Filters
- A) Each filter that is removable from the system shall be clearly marked with an identification number. Documentation available at

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the control panel shall contain a description of the filter. For wedge filters, the wedge angle and maximum design field size shall appear on the wedge or wedge tray.

- B) If the machine calibration measurements required by subsection (d) ~~of this Section~~ relate exclusively to operation with an x-ray field flattening filter or electron beam scattering filter in place, such filters shall be removable from the machine only by the use of tools.
  - C) Equipment utilizing a system of wedge filters, interchangeable field flattening filters or interchangeable beam scattering filters shall meet the following requirements:
    - i) The equipment shall have an interlock that prevents irradiation if any filter selection operation carried out in the therapy room is not consistent with the selection of filter, beam type or beam energy at the control panel; and
    - ii) The equipment shall have an interlock system that prevents irradiation if any selected filter is not in the correct position.
- 5) Beam Monitoring System. All accelerator systems shall be provided with a beam monitoring system in the radiation head capable of monitoring and terminating irradiation.
- A) Each beam monitoring system shall have a display at the treatment control panel which shall register accumulated monitor units.
  - B) The beam monitoring system shall terminate irradiation when the preselected number of monitor units has been detected by the system.
  - C) Accelerator systems manufactured after October 15, 1993 shall be equipped with a primary and a secondary beam monitoring system. Each beam monitoring system shall be independently capable of

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monitoring and terminating irradiation.

- D) For units with a secondary beam monitoring system, the primary beam monitoring system shall terminate irradiation when the preselected number of monitor units has been detected. The secondary beam monitoring system shall terminate irradiation if the primary system fails.
  - E) An interlock device shall prevent irradiation if any beam monitoring system is inoperable.
  - F) In the event of power failure, the display information required in subsection (b)(5)(A) ~~of this Section~~, shall be retrievable in at least one system for 20 minutes.
- 6) Beam Symmetry. For equipment equipped with beam bending magnets, the symmetry of the radiation beam in two orthogonal directions shall be monitored before the beam passes through the beam-limiting device. The equipment shall provide means of terminating irradiation automatically if the difference in dose rate between one region and another region exceeds criteria specified by the manufacturer.
- 7) Control Panel
- A) Selection and Display of Monitor Units
    - i) Irradiation shall not be possible until a selection of a number of monitor units has been made at the control panel.
    - ii) The selected number of monitor units shall be displayed at the control panel until reset.
    - iii) After completion of irradiation, it shall be necessary to reset the accumulated beam monitor units before treatment can be restarted.

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- B) Termination of Irradiation. It shall be possible to terminate irradiation and equipment movements at any time from the operator's position at the control panel.
- C) Selection of Radiation Type. Equipment capable of both photon and electron therapy shall meet the following requirements:
- i) Irradiation shall not be possible until the radiation type has been selected and displayed at the control panel.
  - ii) An interlock shall be provided to ensure that the machine will emit only the radiation type that has been selected.
  - iii) An interlock shall be provided to prevent irradiation with x-rays, except to obtain port films, when electron applicators are installed.
  - iv) An interlock shall be provided to prevent irradiation with electrons if accessories specific for x-ray therapy are installed.
- D) Selection of Radiation Energy. Equipment capable of producing radiation beams of different energies shall meet the following requirements:
- i) Irradiation shall not be possible until a selection of energy has been made at the control panel.
  - ii) An interlock shall be provided to ensure that the machine will emit only the nominal energy of radiation that has been selected.
  - iii) The nominal value of the energy selected shall be displayed at the treatment control panel.
- E) Selection of Stationary or Moving Beam Therapy. Equipment capable of both stationary and moving beam therapy shall meet the

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following requirements:

- i) Irradiation shall not be possible unless either stationary therapy or moving beam therapy has been selected at the control panel. The selection of stationary therapy may be performed as a default selection if moving beam therapy is not selected.
  - ii) An interlock shall be provided to ensure that the machine will operate only in the mode that has been selected.
  - iii) An interlock shall be provided to terminate irradiation if the gantry fails to move properly during moving beam therapy.
  - iv) Means shall be provided to prevent movement of the gantry during stationary therapy.
  - v) The mode of operation shall be displayed at the control panel.
- F) Timers. A timer shall be provided with a display at the treatment control panel, as a back-up device to the beam monitoring system.
- i) The timer shall permit presetting and determination of exposure times.
  - ii) The timer shall be a cumulative timer which activates with the production of radiation and retains its reading after irradiation is interrupted or terminated.
  - iii) The timer shall terminate irradiation when a preselected time has elapsed if the beam monitoring system has not previously terminated irradiation. If set at zero, the timer shall not permit irradiation.
- G) Security. The control panel shall be capable of being locked to prevent unauthorized use.

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- c) Radiation Protection Survey. A radiation protection survey shall be performed by a therapeutic radiological physicist on each accelerator. The registrant shall maintain at the facility a copy of the most recent radiation protection survey report for review by the Agency. Radiation protection surveys shall meet the following additional requirements:
- 1) For each accelerator installed after October 15, 1993, a radiation protection survey shall be performed by a physicist before the system is first used for irradiation of a patient. The physicist who performs the radiation protection survey shall be a person who did not consult in the design of the accelerator installation (see subsection (a) ~~of this Section~~) and is not employed by or within any corporation or partnership with the person who consulted in the design of the installation.
  - 2) A radiation protection survey shall be performed by a physicist after any change in the accelerator or facility that might produce a radiation hazard. Such survey shall be performed before the system is used to treat patients.
  - 3) The survey report shall include, but need not be limited to, the following:
    - A) A diagram of the facility which details building structures and the position of the control panel, accelerator and associated equipment;
    - B) A description of the accelerator system including the manufacturer, model number, beam type and beam energy range;
    - C) A description of the instrumentation used to determine radiation measurements, including the date and source of the most recent calibration for each instrument used;
    - D) Conditions under which radiation measurements were taken;
    - E) Survey data including:
      - i) Projected weekly dose equivalent in areas adjacent to the therapy room; and

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- ii) A description of workload, use and occupancy factors employed in determining the projected weekly dose equivalent.
  - 4) The registrant shall retain a copy of the radiation protection survey report and a copy of the report shall be provided to the Agency within 30 days after completion of the survey.
  - 5) Any deficiencies detected during the radiation protection survey that would constitute or result in a violation of 32 Ill. Adm. Code 340 shall be corrected prior to using the machine for treatment of patients.
  - 6) The facility shall be operated in compliance with any limitations indicated by the therapeutic radiological physicist as a result of the radiation protection survey.
- d) Machine Calibration. Calibration measurements shall be performed on each accelerator system by a therapeutic radiological physicist before the therapy system is first used for irradiation of a patient. Subsequent calibrations shall be performed at intervals not exceeding 1 year.
- 1) Calibration measurements shall include, but need not be limited to, the following determinations:
    - A) Verification that the equipment is operating in compliance with the design specifications concerning the light localizer, variation in the axes of rotation for the table, gantry and jaw system and the beam flatness and symmetry at the specified depth;
    - B) The absorbed dose rate at various depths in water for the range of field sizes used, for each beam type and energy;
    - C) The uniformity of the radiation field and any dependency upon the direction of the beam;
    - D) Verification that existing depth-dose data and isodose charts

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applicable to the specific machine continue to be valid or are updated to existing machine conditions; and

- E) Verification of transmission factors for all accessories such as wedges, shadow trays and compensators, as applicable.
- 2) Calibration radiation measurements shall be performed using a dosimetry system that has been calibrated by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM), and meets the requirements of either subsection (d)(2)(A) or (B) ~~of this Section~~:
- A) The calibration shall have been performed within the previous 2 years and after any servicing that may have affected calibration of the dosimetry system; or
  - B) The dosimetry system shall have been calibrated within the previous 4 years and shall have been:
    - i) Compared at annual intervals following the calibration to a dosimetry system with calibration obtained within the previous 2 years from a calibration laboratory accredited by the AAPM, and the results of the comparison indicate the calibration factor has not changed by more than two percent; or
    - ii) Subjected to a testing protocol that has been established by a therapeutic radiological physicist and that provides for checks of dosimetry constancy and provides for corrective action when results deviate more than two percent from the expected values.

AGENCY NOTE: Redundancy is a basic tenet of radiation dosimetry, therefore the therapeutic radiological physicist should establish a program of inter-comparison and constancy testing of calibrated dosimetry instruments to assure, as much as possible, the accuracy, reliability and reproducibility of the measurements performed with those

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instruments.

- 3) Calibration of the radiation output of the accelerator shall be performed in accordance with:
  - A) The protocol of Task Group 21, Radiation Therapy Committee, American Association of Physicists in Medicine (AAPM), entitled "A Protocol for the Determination of Absorbed Dose from High-Energy Photon and Electron Beams" published in Medical Physics, Volume 10, pages 741-771 (1983), exclusive of subsequent amendments or editions; or
  - B) The protocol of the Scientific Committee on Radiation Dosimetry of the AAPM, entitled "Protocol for the Dosimetry of X and Gamma Ray Beams with Maximum Energies Between 0.6 and 50 MeV", published in Physics, Medicine, and Biology, Volume 16, pages 379-396 (1971), exclusive of subsequent amendments or editions; or
  - C) Other machine calibration protocols provided that the registrant has submitted the protocols to the Agency and the protocols cover the same topics as those contained in subsections (d)(3)(A) and (B) [of this Section](#).

AGENCY NOTE: Copies of the two protocols referenced in subsections (d)(3)(A) and (B) are available for public inspection at the Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, Illinois. The protocols may also be obtained directly from the AAPM, One Physics Ellipse, College Park MD 20740-3846.

- 4) The radiation output of each therapy system shall be independently verified at intervals not to exceed 2 years. Independent verification shall consist of:
  - A) Verification of the machine output by a therapeutic radiological physicist who is not employed at the facility and does not perform

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the annual calibration; or

- B) Alternate methods of verification of machine output, such as the use of mailed dosimetry devices, that use devices and procedures approved by the AAPM.
- 5) Machine calibration records shall include identification of the accelerator calibrated, the results of the tests specified in subsection (d)(1) ~~of this Section~~ and shall be signed and dated by the therapeutic radiological physicist who performed the calibration.
- 6) The registrant shall maintain at the facility, for a period of 5 years, records of machine calibrations, instrument calibrations and independent verifications of machine output for inspection by the Agency.
- e) Quality Assurance Checks. A quality assurance (QA) check shall be performed by a therapeutic radiological physicist on each therapy system each calendar month. The interval between QA checks shall not exceed 45 days. QA checks shall also be performed after any change which could affect the radiation output, spatial distribution or other characteristics of the therapy beam, as determined by the physicist. Quality assurance checks shall also meet the following requirements:
  - 1) Quality assurance checks shall include determination of:
    - A) The radiation output for a set of operating conditions specified by a therapeutic radiological physicist; and
    - B) The coincidence of the radiation field and the field indicated by the localizing device.
  - 2) Radiation measurements shall be obtained using a dosimetry system that:
    - A) Meets the requirements of subsection (d)(2) ~~of this Section~~; or
    - B) Has been directly compared by a therapeutic radiological physicist within the previous year with a dosimetry system which meets the

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requirements of subsection (d)(2)-of this Section.

- 3) The therapeutic radiological physicist shall establish criteria for quality assurance check measurements and shall determine corrective actions to be implemented if the criteria are exceeded.
  - 4) The registrant shall retain a record of quality assurance check measurements for inspection by the Agency for a period of 5 years. The record shall include the date of the quality assurance check, identification of the accelerator, results of the quality assurance check measurements and the signature of the individual who performed the quality assurance check.
- f) Quality Control. A comprehensive quality control program shall be implemented as specified by a therapeutic radiological physicist and shall meet the following requirements:
- 1) The program shall be designed to test the operation and performance of the accelerator in order to maintain radiation safety and clinical reliability. The program shall include as a minimum the items listed in Section 360.Appendix E-of this Part.
  - 2) The physicist shall specify the tolerance and frequency of performance for each item of the quality control program.
  - 3) The physicist shall specify what actions are to be taken for any item exceeding the specified tolerance.
  - 4) The physicist shall review, sign and date the results of the quality control program each calendar month.

AGENCY NOTE: The elements of a comprehensive quality control program are described in Report No. 13 published by the AAPM, entitled "Physical Aspects of Quality Assurance in Radiation Therapy" (1984). A copy of this report is available for public inspection at the Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, Illinois. Report No. 13 may also be obtained directly from the AAPM, One Physics Ellipse, College Park MD 20740-3846.

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- g) Operating Procedures. The registrant shall have a therapeutic radiological physicist establish written operating and emergency procedures and shall ensure that the procedures are implemented before the accelerator is used for treatment of patients. Operators of accelerators shall receive training in the application of the procedures before using the accelerator to irradiate patients. A copy of the current operating and emergency procedures shall be maintained at the treatment control panel for use and review.
- 1) Operating procedures to be implemented shall include instructions that:
    - A) The accelerator is used in such a manner that patients, workers and the general public are protected from radiation hazards and the provisions of 32 Ill. Adm. Code 340 are met;
    - B) No accelerator shall be left unattended unless it is secured against unauthorized use;
    - C) The safety interlock system shall not be used to turn off the beam except in an emergency;
    - D) The safety interlocks and warning systems required in subsections (a)(3), (a)(4) and (a)(9) ~~of this Section~~ shall be tested for proper operation at monthly intervals;
    - E) Mechanical supporting or restraining devices shall be used when a patient must be held in position for radiation therapy;
    - F) No individual other than the patient shall be in the therapy room during irradiation;
    - G) Start-up procedures for the accelerator, specified by the therapeutic radiological physicist, shall be performed daily prior to treatment of patients; and
    - H) The accelerator shall not be used for treatment of patients unless the operator can maintain visual observation of the patient and

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audible communication with the patient.

- 2) Emergency procedures shall include instructions for alternate methods for termination of irradiation and machine movements.

AGENCY NOTE: The operating and emergency procedures should contain as a minimum the machine manufacturer's operations manual for the accelerator.

- 3) Operating and emergency procedures shall include instructions for contacting the therapeutic radiological physicist when operational problems or emergencies occur and the actions that are to be taken until the physicist can be contacted.
- h) Machine Maintenance. The therapeutic radiological physicist shall establish accelerator maintenance procedures that meet the following requirements:
- 1) Whenever service or maintenance is performed on the accelerator, a therapeutic radiological physicist shall be notified of such service or maintenance.
  - 2) Following completion of service or maintenance involving radiation beam generation, beam steering or monitoring of the beam, but before the accelerator is again used for treatment of patients, the therapeutic radiological physicist shall review the service or maintenance report and shall determine whether a calibration or quality assurance check is necessary to verify the characteristics of the beams. If the therapeutic radiological physicist determines that a calibration or quality assurance check is necessary, the calibration or quality assurance check shall be performed before the accelerator is again used for treatment of patients.
  - 3) The therapeutic radiological physicist shall establish the frequency of routine maintenance and ensure that records of all service and maintenance performed on the machine are maintained at the facility.
  - 4) The therapeutic radiological physicist shall sign and date records of all service and maintenance performed on the machine.

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- 5) The therapeutic radiological physicist shall specify the qualifications of maintenance personnel and prohibit non-qualified personnel from repairing the machine or adjusting parameters on the machine.
  - 6) Circuit diagrams of the accelerator and interlock systems shall be maintained at the facility and kept current.
- i) Quality Management Program. Each registrant shall develop, implement, and maintain a quality management program to provide high confidence that radiation will be administered as directed by the physician. The quality management program shall address, as a minimum, the following specific objectives:
- 1) Written Directives. A written directive must be dated and signed by a physician prior to the administration of radiation.
    - A) A written directive must contain the patient or human research subject's name, the type and energy of the beam, the total dose, dose per fraction, treatment site, and number of fractions.
    - B) A written revision to an existing written directive may be made provided that the revision is dated and signed by a physician prior to the administration of the external beam dose, or the next fractional dose.
    - C) An oral revision to an existing written directive is acceptable provided that:
      - i) a delay in providing a written revision would jeopardize the patient's health; and
      - ii) the oral revision is documented as soon as possible in writing in the patient's record; and
      - iii) a revised written directive is signed by a physician within 48 hours after the oral revision.

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- D) The registrant shall retain a copy of each written directive for 3 years.
- 2) Procedures for Administrations. The registrant shall develop, implement, and maintain written procedures to provide high confidence that:
- A) Prior to the administration of each course of radiation treatments, the patient's or human research subject's identity is verified by more than one method as the individual named in the written directive;
  - B) Each administration is in accordance with the written directive;
  - C) External beam radiation therapy final plans of treatment and related calculations are in accordance with the respective written directives;
  - D) Any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken; and
  - E) The registrant retains a copy of the procedures for administrations for three years.
- 3) Reports and Notifications of Medical Events
- A) A registrant shall report any event in which the administration of therapeutic radiation machine radiation results, or will result, in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.
  - B) Other than events that result from intervention by a patient or human research subject, a registrant shall report any event in which:
    - i) The administration of a therapeutic radiation machine therapy dose involves the wrong patient, wrong treatment modality, or wrong treatment site; or

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- ii) The calculated weekly administered dose differs from the weekly prescribed dose by more than (30%); or
  - iii) The calculated total administered dose differs from the total prescribed dose by more than (20%) of the total prescribed dose;
- C) The registrant shall notify the Agency by telephone no later than the next calendar day after the discovery of a medical event.
- D) The registrant shall submit a written report to the Agency within 15 days after the discovery of a medical event. The written report must include:
- i) The registrant's name;
  - ii) The name of the prescribing physician;
  - iii) A brief description of the event;
  - iv) Why the event occurred;
  - v) The effect, if any, on the individuals who received the administration;
  - vi) Actions, if any, that have been taken, or are planned, to prevent recurrence;
  - vii) Certification that the registrant notified the individual (or the individual's responsible relative or guardian) and if not, why not.
- E) The report shall not contain the individual's name or any other information that could lead to the identification of the individual.

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- F) The registrant shall provide notification of the event to the referring physician and shall notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the registrant either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The registrant is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the registrant shall notify the individual as soon as possible thereafter. The registrant may not delay any appropriate medical care for the individual, including any necessary remedial care required as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection (i)(3)(F), the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the registrant shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the registrant upon request. The registrant shall provide the written description if requested.
- G) Aside from the notification requirement, nothing in this Section affects any rights or duties of registrants and physicians in relation to each other, to an individual affected by the medical event, or to that individual's responsible relatives or guardians.
- H) The registrant shall retain a record of a medical event in accordance with subsection (i)(4). A copy of the record required shall be provided to the referring physician, if other than the registrant, within 15 days after discovery of the medical event.
- D) The registrant shall annotate a copy of the report provided to the Agency with:
- i) The name of the individual who is the subject of the event;

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- ii) The social security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and
  - iii) A copy of the annotated report to the referring physician, if other than the registrant, no later than 15 days after the discovery of the event.
- 4) Records of Medical Events. A registrant shall retain a record of medical events for 3 years. The record must contain the following:
- A) The registrant's name and the names of the individuals involved;
  - B) The social security number or other identification number, if one has been assigned, of the individual who is the subject of the medical event;
  - C) A brief description of the event; why it occurred; the effect, if any, on the individual;
  - D) The actions, if any, taken or planned to prevent recurrence; and
  - E) Whether the registrant notified the individual (or the individual's responsible relative or guardian) and, if not, whether such failure to notify was based on guidance from the referring physician.

(Source: Amended at 38 Ill. Reg. 12031, effective May 29, 2014)

**Section 360.130 Electronic Brachytherapy**

- a) Applicability. Electronic brachytherapy devices shall be subject to the requirements of this Section and shall be exempt from the requirements of Section 360.110, unless otherwise noted in this Section.
- 1) An electronic brachytherapy device that does not meet the requirements of this Section shall not be used for irradiation of patients; and

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- 2) An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA) unless participating in a research study approved by the registrant's Institutional Review Board.
- b) Possession of Survey Instruments. Each registrant using an electronic brachytherapy device in accordance with this Section shall possess appropriately calibrated portable monitoring equipment. At a minimum, the monitoring equipment shall include a portable radiation measurement survey instrument capable of measuring dose rates over the range 10  $\mu$ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instruments shall be operable and calibrated within the prior 12 months for the applicable electronic brachytherapy source energy.
- c) Facility Design Requirements for Electronic Brachytherapy Devices. Each electronic brachytherapy installation shall be provided with such primary and secondary barriers as are necessary to assure compliance with 32 Ill. Adm. Code 340.
  - 1) If applicable, provision shall be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.
  - 2) Access to the treatment room shall be controlled by a door at each entrance.
  - 3) Each treatment room shall have provisions to permit continuous aural communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device shall not be used for patient irradiation unless the patient can be observed.
- d) Control Panel Functions. The control panel, in addition to the displays required by other provisions in this Section, shall:
  - 1) Provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;

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- 2) Provide an indication of whether x-rays are being produced;
  - 3) Provide a means for indicating electronic brachytherapy source potential and current;
  - 4) Provide a means for terminating an exposure at any time; and
  - 5) Include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.
- e) Timer. A suitable irradiation control device (timer) shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor. The timer shall operate according to the manufacturer's design specifications.
- f) Therapeutic Radiological Physicist Support. The services of a therapeutic radiological physicist shall be required in facilities having electronic brachytherapy devices. The therapeutic radiological physicist shall be responsible for:
- 1) Evaluation of the output from the electronic brachytherapy source;
  - 2) Generation of the necessary dosimetric information;
  - 3) Supervision and review of treatment calculations prior to initial treatment of any treatment site;
  - 4) Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in subsection (j);
  - 5) Consultation with the physician in treatment planning, as needed;
  - 6) Performing calculations/assessments regarding patient treatments that may constitute a misadministration.

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- 7) Determination of the need for shielding or safe distances for individuals in the room during electronic brachytherapy treatments, in accordance with the radiation dose limits of 32 Ill. Adm. Code Part 340;
  - 8) Implementation of the use of shielding or safe distances as determined in subsection (f)(7).
- g) Operating Procedures
- 1) Only individuals approved by the physician or therapeutic radiological physicist shall be present in the treatment room during treatment.
  - 2) Electronic brachytherapy devices shall not be made available for medical use unless the requirements of this Section have been met.
  - 3) The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel.
  - 4) During operation, the therapeutic radiologic physicist shall ensure that all persons in the treatment room, and all persons entering the treatment room, are prevented from exceeding the radiation dose limits of 32 Ill. Adm. Code Part 340.
  - 5) If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used.
  - 6) Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:
    - A) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and
    - B) The names and telephone numbers of the physician and the therapeutic radiological physicist to be contacted if the device or console operates abnormally.

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- 7) A copy of the current operating and emergency procedures shall be physically located at the electronic brachytherapy device control console.
  - 8) Instructions shall be posted at the electronic brachytherapy device control console to inform the electronic brachytherapy device operator of the names and telephone numbers of the physician and the therapeutic radiological physicist to be contacted if the device or console operates abnormally.
- h) Safety Precautions for Electronic Brachytherapy Devices
- 1) A therapeutic radiological physicist shall determine which persons in the treatment room require radiation monitoring when the beam is energized.
  - 2) A physician and a therapeutic radiological physicist shall be physically present during the initiation of all patient treatments involving the electronic brachytherapy device.
  - 3) A therapeutic radiological physicist and either a physician or an electronic brachytherapy device operator, under the supervision of a physician, who has been trained in the operation of, and emergency response for, the electronic brachytherapy device, shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device.
  - 4) A therapeutic radiological physicist shall designate shield locations or safe distances sufficient to meet the requirements of 32 Ill. Adm. Code 340 for any individual, other than the patient, in the treatment room;
  - 5) All personnel in the treatment room are required to remain behind shielding or at a safe distance specified by the therapeutic radiological physicist during treatment. A therapeutic radiological physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

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- i) Electronic Brachytherapy Source Calibration Measurements
- 1) Calibration of the electronic brachytherapy source output for an electronic brachytherapy device shall be performed by, or under the direct supervision of, a therapeutic radiological physicist.
  - 2) Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks.
  - 3) Calibration of the electronic brachytherapy source output shall utilize a dosimetry system that meets the requirements of subsection 360.110(d)(4).
  - 4) Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:
    - A) The output within 2% of the expected value, if applicable, or determination of the output if there is no expected value;
    - B) Timer accuracy and linearity over the typical range of use;
    - C) Proper operation of back-up exposure control devices;
    - D) Evaluation that the relative dose distribution about the source is within 5% of that expected; and
    - E) Source positioning accuracy to within one millimeter within the applicator.
  - 5) Calibration of the x-ray source output shall be in accordance with the manufacturer's calibration protocol.
  - 6) The registrant shall maintain a record of each calibration in an auditable form for 5 years. The record shall include: the date of the calibration; the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic

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brachytherapy source; the model numbers and serial numbers of the instruments used to calibrate the electronic brachytherapy device; and the name and signature of the therapeutic radiological physicist responsible for performing the calibration.

- j) Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices
- 1) Quality assurance checks shall be performed on each electronic brachytherapy device:
    - A) At the beginning of each day of use;
    - B) Each time the device is moved to a new room or site; and
    - C) After each x-ray tube installation.
  - 2) The registrant shall perform periodic quality assurance checks required by subsection (j)(1) in accordance with procedures established by the therapeutic radiological physicist;
  - 3) Quality assurance checks shall include, at a minimum:
    - A) Verification that output of the electronic brachytherapy source falls within 3% of expected values, as appropriate for the device, as determined by:
      - i) Output as a function of time; or
      - ii) Output as a function of setting on a monitor chamber.
    - B) Verification of the consistency of the dose distribution to within 3% of that found during calibration required by subsection (i); and
    - C) Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within 1 mm.

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- 4) The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in subsection (i)(3) to make the quality assurance checks required in this subsection (j).
- 5) The registrant shall review the results of each radiation output quality assurance check according to the following procedures:
  - A) A physician and therapeutic radiological physicist shall be immediately notified if any parameter is not within its acceptable tolerance. The electronic brachytherapy device shall not be made available for subsequent medical use until the therapeutic radiological physicist has determined that all parameters are within their acceptable tolerances; and
  - B) The therapeutic radiological physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.
- 6) Quality assurance checks shall, at a minimum, assure:
  - A) Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;
  - B) Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;
  - C) Proper operation of radiation monitors, if applicable;
  - D) The integrity of all cables, catheters or parts of the device that carry high voltages; and
  - E) Connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.

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- 7) If the results of the safety device quality assurance checks indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.
- 8) The registrant shall maintain a record of each quality assurance check in an auditable form for 3 years.
- A) The record shall include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check; and the name and signature of the therapeutic radiological physicist who reviewed the quality assurance check; and
- B) The record shall also include the unique identifier for the electronic brachytherapy source; the manufacturer's name; and the model number and serial number for the instruments used to measure the radiation output of the electronic brachytherapy device.
- k) Therapy-Related Computer Systems. The registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with the manufacturer's acceptance testing protocol.
- 1) Acceptance testing shall be performed by, or under the direct supervision of, a therapeutic radiological physicist. At a minimum, the acceptance testing shall include, as applicable, verification of:
- A) The source-specific input parameters required by the dose calculation algorithm;
- B) The accuracy of dose, dwell time, and treatment time calculations at representative points;
- C) The accuracy of isodose plots and graphic displays;

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- D) The accuracy of the software used to determine radiation source positions from radiographic images; and
- E) If the treatment planning system is different from the treatment delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.
- 2) The position indicators in the applicator shall be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.
- 3) Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated and approved by the physician and the therapeutic radiological physicist for correctness through means independent of that used for the determination of the parameters.
- l) Training
  - 1) A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in subsection (g). If the interval between patients exceeds one year, retraining of the individuals shall be provided.
  - 2) Physicians, therapeutic radiological physicists, and electronic brachytherapy device operators shall receive device specific instruction initially from the manufacturer and annually from either the manufacturer or other qualified trainer. The training shall be of a duration recommended by the manufacturer's training protocol. The training shall include, but not be limited to:
    - A) Device-specific radiation safety requirements;
    - B) Device operation;

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- C) Clinical use for the types of use approved by the FDA;
  - D) Emergency procedures, including an emergency drill; and
  - E) The registrant's quality assurance program.
- 3) A registrant shall retain a record of individuals receiving instruction required by this subsection (1) for 3 years. The record shall include a list of the topics covered, the date of the instruction, the names of the attendees, and the names of the individuals who provided the instruction.
- m) Mobile Electronic Brachytherapy Service. A registrant providing mobile electronic brachytherapy service shall, as a minimum:
- 1) Check all radiation survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive.
  - 2) Account for the electronic brachytherapy source in the electronic brachytherapy device before departure from the client's address.
  - 3) Perform, at each location on each day of use, all of the required quality assurance checks specified in subsection (j) to assure proper operation of the device.

(Source: Added at 38 Ill. Reg. 12031, effective May 29, 2014)

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**Section 360.APPENDIX D Computed Tomography Dose Measurement Protocol  
(Repealed)**

~~Radiation measurements shall be performed by a diagnostic imaging specialist with a calibrated radiation measuring device that is designed for computed tomography (CT) dose measurements. The radiation measuring instrument shall have been calibrated within the previous 12 months with devices which have no more than a three step (tertiary) calibration, traceable to the National Institute of Standards and Technology. Measurements shall be specified in terms of the multiple scan average dose (MSAD) and shall be performed with a head phantom specifically designed for making CT dose measurements.~~

~~AGENCY NOTE: There are two terms used to describe CT dosimetry measurements, the computed tomography dose index (CTDI) and the multiple scan average dose (MSAD). Manufacturers of CT systems measure and report CTDI pursuant to the requirements of the Code of Federal Regulations, 21 CFR 1020.33(b)(1). While the CTDI is carefully defined, it is difficult to measure accurately. The MSAD is easily measured and was the CT dose descriptor used by the Center for Devices and Radiological Health (FDA) in the Nationwide Evaluation of X-Ray Trends (NEXT). The CTDI is equivalent to the MSAD for a series of 14 contiguous scans spaced by the nominal tomographic thickness. The MSAD was chosen as the dose descriptor for this Part due to the ease of measurement and the applicability of the data generated for comparisons with the results of the NEXT study.~~

- a) ~~CT dose measurements shall be performed using a head phantom that meets the following requirements:~~
  - 1) ~~The phantom shall be a right circular cylinder of polymethyl-methacrylate of density 1.19 plus or minus 0.01 grams per cubic centimeter.~~
  - 2) ~~The phantom shall be at least 14 centimeters in length and shall have a diameter of 16 centimeters.~~
  - 3) ~~The phantom shall provide means for the placement of a radiation measuring device in the center of the phantom along its axis of rotation.~~
- b) ~~Set up procedure~~
  - 1) ~~Place the phantom on the patient support device and in the patient head~~

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~~rest, if available. Center the phantom in the CT gantry aperture and position the gantry so that it is perpendicular to the patient support device. Align the phantom so that the tomographic plane is centered along the axis of the phantom.~~

- ~~2) Make a single scan of the phantom and determine if the center of the phantom is aligned with the axis of rotation of the scanner. If necessary, realign the phantom and repeat this procedure until the center of the phantom is aligned to within plus or minus 0.5 centimeters of the axis of rotation of the CT scanner.~~
- ~~3) Place the radiation measuring device in the center of the phantom.~~

## e) Exposure measurement

- ~~1) Select and record the technique factors and the tomographic section thickness most frequently used for a CT examination of the head.~~

~~AGENCY NOTE: If routine CT examinations of the head are performed at the facility using a different tomographic section thickness for the top or bottom part of the head, the larger tomographic section thickness should be used for measurement of the MSAD.~~

- ~~2) Perform a single CT scan and record the exposure reading from the radiation measuring device. Repeat this procedure, without advancing the table or phantom, three times for a total of four scans and determine the average exposure reading for a single scan.~~

## d) Calculation of MSAD

- ~~1) The MSAD shall be calculated using the mathematical expression below:~~

$$\text{MSAD} = \frac{E \times f \times K \times L}{T}$$

~~where:~~

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- ~~E = average exposure reading in coulombs per kilogram or in milliroentgens.~~
- ~~f = factor to convert exposure in air to absorbed dose in tissue or other attenuating matter, in grays per coulomb per kilogram or in rad per milliroentgen. For acrylic, at an effective energy of 70 KeV, f is equal to 30.2 Gy per C/kg (0.78 x 10<sup>-3</sup> rad/mR).~~
- ~~K = calibration factor to account for the radiation measuring device's response and volume.~~
- ~~L = effective length of the radiation measuring device in millimeters.~~
- ~~T = thickness in millimeters of the tomographic section selected.~~

~~AGENCY NOTE: This calculation assumes tomographic sections are contiguous, without overlap of sections or gaps between sections.~~

~~EXAMPLE: The measurement is made with an ion chamber with an effective length of 100 millimeters and a calibration factor of 1.99. The thickness of the tomographic section from subsection (c)(1) of this Section is 10 millimeters. The average exposure reading from subsection (c)(2) of this Section is determined to be 306 mR. The MSAD is calculated as follows:~~

$$\text{MSAD} = (306 \times 0.78 \times 10^{-3}) \times 1.99 \times 100 / 10$$

$$\text{MSAD} = 4.7 \text{ rad}$$

- 2) ~~If the tomographic sections overlap, the MSAD must be multiplied by a fraction which is the thickness of the tomographic section divided by the scan increment.~~

~~EXAMPLE: Calculate the corrected MSAD for scan overlap technique, in a continuation of the above example, assume a scan increment of 5 millimeters.~~

$$\text{Corrected MSAD} = \text{MSAD} \times (T / \text{scan increment})$$

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~~Corrected MSAD = 4.7 X (10 / 5)~~

~~Corrected MSAD = 9.4 rad~~

(Source: Repealed at 38 Ill. Reg. 12031, effective May 29, 2014)

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- 1) Heading of the Part: Access to Facilities for Treatment, Storage, or Disposal Low-Level Radioactive Waste
- 2) Code Citation: 32 Ill. Adm. Code 609
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
609.10	Amendment
609.20	Amendment
609.30	Amendment
609.40	Amendment
609.50	Amendment
609.60	Amendment
609.70	Amendment
609.80	Amendment
609.90	Amendment
609.100	Amendment
609.APPENDIX A	Amendment
609.TABLE A-1	Amendment
609.TABLE A-2	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 8 and 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/8 and 9], the Radioactive Waste Tracking and Permitting Act [420 ILCS 37], the Central Midwest Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141] and the federal Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99-240)
- 5) Effective Date of Rule: May 29, 2014
- 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 rule, including any material incorporated by reference is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection

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- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 4238; February 14, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: IEMA made 2 nonsubstantive grammatical changes.
- 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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments are being proposed to change all references to the Illinois Department of Nuclear Safety (Department) to the Illinois Emergency Management Agency (Agency) in accordance with Executive Order #12 (2003), remove all reference to the Tracking System Operator since the Department/Agency assumed operation of the system back in 2000, update the Tracking System process to reflect actual practice, update the electronic data transmission file structure to include a missing data element and update the data element definition table to add additional proper shipping name identification numbers.
- 16) Information and questions regarding this adopted rule shall be directed to:

Traci Burton  
Paralegal Assistant  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois 62704

217/785-9860

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

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## TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY  
SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

## PART 609

ACCESS TO FACILITIES FOR TREATMENT, STORAGE,  
OR DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE

## Section

609.10	Purpose and Applicability
609.20	Definitions
609.30	Prohibited Activities
609.40	Permit Requirements and Application Procedures
609.50	Waste Shipment Tracking Process
609.60	Standards for Issuance of Transaction Reference Number
609.65	Transaction Reference Number and Waste Shipment Tracking Process (Repealed)
609.70	Suspension, Revocation or Voluntary Termination of Permits
609.80	Penalties
609.90	Exemptions
609.100	Administrative Appeal and Hearing
609.APPENDIX A	Electronic Data Transmission
609.TABLE A-1	Detailed listing of data elements
609.TABLE A-2	Data element definitions

**AUTHORITY:** Implementing and authorized by Sections 8 and 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/8 and 9], the Radioactive Waste Tracking and Permitting Act [420 ILCS 37], the Central Midwest Low-Level Radioactive Waste Compact Act [45 ILCS 140], the Radioactive Waste Compact Enforcement Act [45 ILCS 141] and the federal Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99-240).

**SOURCE:** Adopted at 20 Ill. Reg. 13944, effective October 11, 1996; amended at 24 Ill. Reg. 18191, effective December 1, 2000; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 38 Ill. Reg. 12088, effective May 29, 2014.

**Section 609.10 Purpose and Applicability**

- a) This Part establishes one of the systems for the regulation of the use of facilities in the State of Illinois to:

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- 1) Collect, store, treat or dispose of low-level radioactive waste;
  - 2) Maintain a data base as to the location of all such waste in the State of Illinois; and
  - 3) Implement some of the requirements, prohibitions and mandates of the Compact, the Radioactive Waste [Compact Enforcement Act \[45 ILCS 141\]](#), the Radioactive Waste Tracking and Permitting Act [\[420 ILCS 37\]](#) and the Illinois Low-Level Radioactive Waste Management Act [\[420 ILCS 20\]](#).
- b) This Part establishes a system for monitoring and tracking shipments of low-level radioactive waste into, out of or within the State of Illinois for the purpose of tracking the points of origin of the shipments, as transported to the places of destination of the shipments.
- c) This Part establishes an enforcement and verification system directed to the movements of low-level radioactive waste into, out of or within the State of Illinois.
- d) This Part applies to any generator, broker, owner or operator of any treatment or disposal ~~facility~~[Facility](#), or to any person who sends low-level radioactive waste into, within or out of the State of Illinois.
- e) This Part does not apply to:
- 1) Shipments of low-level radioactive waste that are sent or transported through the State of Illinois but do not originate in the State of Illinois and are not accepted for treatment, storage, collection or disposal at a location in the State of Illinois;
  - 2) Naturally occurring radioactive materials, unless required to be licensed by the [Agency](#)~~Department~~;
  - 3) Radioactive materials exempt from licensing by the [Agency](#)~~Department~~ based upon regulatory or statutory determinations; and

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- 4) Radioactive materials authorized for disposal under 32 Ill. Adm. Code 340.1030 and 340.1050.
- f) This Part does not relieve any person from compliance with any other state, Commission or Federal requirements, including transport or licensing requirements, pertaining to the packaging, transportation, disposal, storage or delivery of low-level radioactive materials or wastes.
- g) This Part does not relieve any person from compliance with any order, directive or rule of the Central Midwest Interstate Low-Level Radioactive Waste Commission, pursuant to its authority under the provisions of the Central Midwest Radioactive Waste Compact Act [45 ILCS 140].

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.20 Definitions**

Except ~~when~~where otherwise indicated, or ~~when~~where the context clearly requires a different definition, the following terms shall have the following meanings for purposes of this Part.

"Acceptance" means taking possession of ~~waste~~Waste. Waste is not "accepted" for purposes of this Part, if it is delivered to a ~~facility~~Facility, and the owner or operator of the ~~facility~~Facility refuses to take possession and promptly so informs both the person sending the ~~waste~~Waste and the ~~Agency~~Department's Tracking System Operator of ~~the~~such refusal.

"Agency" means the Illinois Emergency Management Agency.

*"Broker" means any person who takes possession of low-level radioactive waste for purposes of consolidation and shipment. [420 ILCS 20/3]*

"Carrier" means a person who transports ~~low-level radioactive waste~~Low-Level Radioactive Waste into, out of or within the State of Illinois.

"Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"Compact" means the Central Midwest Interstate Low-Level Radioactive Waste

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Compact.

"Consolidated Waste" means ~~waste~~Waste from more than one generator that has been consolidated into a single shipment of ~~waste~~Waste. However, separate containers of waste would not be classified as "consolidated waste".

~~"Department" means the Illinois Department of Nuclear Safety.~~

*"Dispose" or "Disposal" means the isolation of waste from the biosphere in a permanent ~~facility~~Facility designed for that purpose. [45 ILCS 141/15]*

"Electronic Data Transmission" ~~or "(EDT)"~~ means files that are comprised of a variety of record types, which are used based on the type and source of the shipment of low-level radioactive waste (original shipment versus a consolidated shipment, in or out-of-state shipment, etc.). These files are ASCII files with ~~comma~~pipe delimited records.

*"Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, that is used or is being developed by the owners or operators for the generation, collection, treatment, storage or disposal of low-level radioactive waste. [45 ILCS 141/15]*

*"Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity. [420 ILCS 20/3]*

*"Low-Level Radioactive Waste" ~~or "(LLRW)"~~ or "Waste" means radioactive waste not classified as:*

~~(1)~~ high-level radioactive waste,

~~(2)~~ transuranic waste,

~~(3)~~ spent nuclear fuel, or

~~(4)~~ by-product material as defined in Section 11e(2) of the Atomic Energy Act (42 USC 2021).

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*This definition shall apply notwithstanding any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control. [45 ILCS 141/15]*

"Permit" means the license authority issued by the ~~Agency~~Department upon application which authorizes the person identified by that number to either send ~~waste~~Waste to a ~~facility~~Facility for treatment, storage, consolidation or disposal or to receive ~~waste~~Waste at a ~~facility~~Facility for treatment, storage, consolidation or disposal.

*"Person" means any individual, corporation, business enterprise or other legal entity, public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise or legal entity. [45 ILCS 141/15]*

*"Region" means the geographical area of the State of Illinois and the Commonwealth of Kentucky. [45 ILCS 141/15]*

"Regional Facility" means any ~~facility~~Facility as defined in the Radioactive Waste Compact Enforcement Act that is located in Illinois and established by Illinois pursuant to designation of Illinois as a host state by the Commission.

"Shipper" means a person, whether located within or outside of the Region that offers ~~waste~~Waste for transportation into, within or out of the State of Illinois.

*"Storage" means the temporary holding of radioactive material for treatment or disposal. [45 ILCS 141/15]*

~~"Tracking System Operator" or "TSO" means the operator of the electronic data collection and transmission system which is used by the Department to track the movement of Waste into, out of and within the State of Illinois. These ministerial duties are performed under the direction and control of the Department.~~

"Transaction Reference Number" means a number issued by the ~~Agency~~TSO under this Part that acknowledges the shipper's submittal of, and the ~~Agency's~~TSO's acceptance as complete of, shipment specific information required under this Part.

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"Transport" means the movement of ~~waste~~Waste into, within or out of the State of Illinois.

*"Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume. [45 ILCS 141/15]*

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.30 Prohibited Activities**

- a) Unless the shipment of the ~~waste~~Waste is authorized by the Central Midwest Interstate Low-Level Radioactive Waste Commission, no person shall:
- 1) Send ~~waste~~Waste from any point located outside of the State of Illinois to any ~~facility~~Facility located within the State of Illinois, regardless of its origin.
  - 2) Accept at any ~~facility~~Facility in the State of Illinois any ~~waste~~Waste from outside the Region, regardless of origin.
  - 3) Deposit at any Regional Facility in the State of Illinois any ~~waste~~Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.
  - 4) Accept at any Regional Facility in the State of Illinois any ~~waste~~Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

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- 5) Send any ~~waste~~Waste from the State of Illinois outside the State of Illinois, other than ~~waste~~Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.
- 6) Dispose of any ~~waste~~Waste in the State of Illinois other than at a ~~regional disposal facility~~Regional Disposal Facility.
- b) No person shall send to any ~~facility~~Facility in Illinois or accept at any ~~facility~~Facility in Illinois any ~~waste~~Waste that has as its place of origin the ~~disposal facility~~Disposal Facility located at Maxey Flats, Kentucky.
- c) No generator, broker, ~~facility~~Facility or other person shall send any ~~waste~~Waste into, out of or within the State of Illinois or accept any ~~waste~~Waste without complying with the requirements of this Part, including all ~~Agency~~Department ~~Tracking System Operator~~ notification requirements.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.40 Permit Requirements and Application Procedures**

Each person who ships ~~waste~~Waste into, out of or within the State of Illinois or accepts ~~waste~~Waste shall apply to the ~~Agency~~Department for a Permit.

- a) A person applying for a Permit shall submit the application to the Illinois ~~Emergency Management Agency~~Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704. The person shall provide to the ~~Agency~~Department at the time of the application the following information in writing, on paper bearing the name, current address and current telephone number of the person making the application and signed in ink by a person authorized to make the application:
  - 1) The name of a contact person for the applicant and the current address and phone number of that contact person if different from that of the applicant.
  - 2) The radioactive materials license number currently issued to the applicant

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and the name of the entity issuing the license.

- 3) The name and location of the applicant's ~~facility that~~ Facility which would be recorded under any assigned Permit.
- b) A person shall be eligible to receive a Permit only if the person is:
- 1) A generator or broker registered by the ~~Agency~~ Department under Section 4 of the Low-Level Radioactive Waste Management Act ~~[420 ILCS 20/4];~~
  - 2) A ~~facility~~ Facility licensed by the ~~Agency~~ Department under Section 8 of the Low-Level Radioactive Waste Management Act ~~[420 ILCS 20/8];~~
  - 3) A generator, broker, treatment ~~facility~~ Facility or other person located outside of the State of Illinois. The out-of-state entity must be a party to an agreement with the Compact ~~that~~ which is in effect on the date of the Permit application, or as otherwise authorized by the Commission. The agreement with the Compact must provide that ~~waste~~ Waste from the unaffiliated state or regional compact is currently permitted to be treated, stored or disposed of at a ~~facility~~ Facility in the Region and that the Commission has not revoked the permission granted to ~~that~~ such person, state or regional compact allowing these shipments;
  - 4) A generator, broker, treatment ~~facility~~ Facility or other person located outside of the State of Illinois that is allowed to send ~~waste~~ Waste for treatment or storage in Illinois, pursuant to an agreement entered into by the Commission;
  - 5) A generator, broker, treatment ~~facility~~ Facility or other person located outside of the State of Illinois that is allowed to send ~~waste~~ Waste for disposal in Illinois, pursuant to an agreement entered into by the Commission and approved by law in Illinois;
  - 6) A generator, broker, treatment ~~facility~~ Facility or other person located in the Commonwealth of Kentucky; or
  - 7) A generator that is an agency of the United States government that is located in the Region.

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- c) A generator applying for a Permit must certify to the ~~Agency~~Department in the written application for the Permit that it will make lawful and suitable arrangements for the final disposition of the ~~waste~~Waste, or that it will retrieve and reclaim physical possession of ~~such wastes~~~~such~~ Waste in the event final disposition or storage has not been arranged.
- d) Within 14 calendar days from the receipt by the ~~Agency~~Department of the application, the ~~Agency~~Department will issue, in writing, a Permit to an eligible applicant whose application complies with all of the relevant requirements of this Section. Denial by the ~~Agency~~Department of any application within this same time period shall also be in writing, citing the reason for ~~the~~~~such~~ action.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.50 Waste Shipment Tracking Process**

- a) ~~Each person sending a shipment of waste to a broker who will transport the waste to the broker's Facility in Illinois shall telefax a copy of the shipment manifest to the TSO or contact the TSO at 1-800-274-9784 and provide the TSO with the following information at the time of shipment:~~
- 1) ~~Consignor name;~~
  - 2) ~~Consignee name;~~
  - 3) ~~Tractor or trailer numbers if known;~~
  - 4) ~~Number of containers;~~
  - 5) ~~For each container:~~
    - A) ~~The container number;~~
    - B) ~~Waste type code;~~
    - C) ~~Total activity and the unit of measure;~~

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- ~~D)~~ ~~Prominent isotope;~~
- ~~E)~~ ~~The activity of the prominent isotope and unit of measure; and~~
- ~~6)~~ ~~Date of the shipment.~~
- b) ~~Illinois brokers shall provide the TSO with an EDT file containing the information regarding the received shipment formatted and containing the information as prescribed in Appendix A of this Part. All EDT file submittals shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic database.~~
- ae) Each person sending a shipment of waste into, within or out of the State of Illinois ~~that is not specified in subsection (a) of this Section~~ shall provide the Agency TSO with an EDT file formatted and containing the information ~~as~~ prescribed in Appendix A ~~of this Part~~ at the time of the shipment. All EDT file submittals shall be made in a manner that allows the Agency TSO to incorporate the transmission into the Agency's TSO's electronic data base. Waste brokers may provide the EDT file on behalf of the generator.
- bd) All instate receiving ~~facilities~~Facilities that store waste for decay in storage shall report to the Agency TSO the placement of waste into decay in storage according to the procedures outlined in Appendix A ~~of this Part~~. The receiving ~~facilities~~Facilities shall also report to the Agency TSO when the containers are removed from the decay in storage inventory utilizing the procedures identified in Appendix A ~~of this Part~~.
- ce) All instate receiving ~~facilities~~Facilities that process waste ~~in a manner such~~ that no waste, either direct or residual, is attributable back to the shipper shall report those affected containers according to the procedures identified in Appendix A ~~of this Part~~.
- df) Each person needing to correct information previously provided to the Agency TSO pursuant to this Section shall provide those corrections to the Agency Department in writing addressed to the Supervisor Chief, Division of Low-Level Radioactive Waste Management and Decommissioning Unit, Illinois Emergency Management Agency Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704 or at ema.LLRWTRACK@illinois.gov.

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- g) ~~If the tracking system is not functioning at the time the shipper is ready to transmit an EDT file pursuant to this Section, the shipper may proceed with the shipment and shall:~~
- 1) ~~Telefax a copy of the shipment manifest to the TSO; and~~
  - 2) ~~Transmit the EDT file information to the TSO when the tracking system is functional.~~

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.60 Standards for Issuance of Transaction Reference Number**

- a) Based upon transmitted information required by Section 609.50 ~~of this Part~~, the ~~Agency~~~~TSO~~ shall issue a Transaction Reference Number upon determining that the:
- 1) Applicant has complied with the requirements of this Part;
  - 2) Activity undertaken is not prohibited by any provision of the Compact, the Radioactive Waste Compact Enforcement Act or this Part;
  - 3) Activity has received approval from the Commission, if so required under the provisions of the Compact; and
  - 4) Information reporting requirements of this Part have been met.
- b) The ~~Agency~~~~TSO~~ shall issue the Transaction Reference Number to the shipper within 7 days after the receipt of information.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.70 Suspension, Revocation or Voluntary Termination of Permits**

- a) The ~~Agency~~~~Department~~ may revoke or suspend any Permit issued under this Part, for any reason, including but not limited to any of the following conditions:

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- 1) The individual to whom the Permit was issued is determined by the AgencyDepartment to no longer be alive or to have been adjudged legally incompetent.
  - 2) The person to whom the Permit was issued, if other than an individual, is determined by the AgencyDepartment to no longer be legally in existence.
  - 3) Any person eligible for a Permit pursuant to Section 609.40(b)(1) ~~of this Part~~ is no longer registered by the AgencyDepartment under Section 4 of the Low-Level Radioactive Waste Management Act ~~[420 ILCS 20/4]~~.
  - 4) Any person eligible for a Permit pursuant to Section 609.40(b)(2) ~~of this Part~~ is no longer licensed by the AgencyDepartment under Section 8 of the Low-Level Radioactive Waste Management Act ~~[420 ILCS 20/8]~~.
  - 5) The person is no longer eligible for a permit under Section 609.40(b)(3), (4) or (5) ~~of this Part~~.
  - 6) Falsification of any information in an application for a Permit.
  - 7) Failure to notify the AgencyDepartment of any change in the information previously provided to the AgencyDepartment in an application for a Permit.
  - 8) If the Commission has revoked the permission granted to such person under any compact region or unaffiliated state agreements to treat, store or dispose of wasteWaste at a facilityFacility in the Region.
  - 9) For any violation of the Radioactive Waste Compact Enforcement Act or for violation of any condition imposed by any approval or interstate agreement of the Commission.
- b) The AgencyDepartment shall notify the Commission of any suspension, emergency suspension or revocation of a Permit. In addition, all alleged violations ~~thatwhich~~ could affect the retention, classification or validity of a Permit shall be reported to the Commission by the AgencyDepartment. The notification shall be in writing, on a quarterly basis, including all reported and alleged violations, as well as the particular instances in which the

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~~AgencyDepartment~~ concluded that official action under this Part was either not merited or not necessary.

- c) Any pending action by the ~~AgencyDepartment~~ to suspend or revoke a Permit shall be initiated by written notice to the Permit holder or applicant, specifying the reasons for ~~thatsuch~~ action and the right to a hearing on the determination of the ~~AgencyDepartment~~, pursuant to the terms of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. No suspension or revocation shall take effect prior to the issuance of a final order from the administrative hearing proceeding, except as outlined in subsection (d)~~of this Section~~.
- d) The ~~AgencyDepartment~~ may also issue a preliminary Summary Suspension Order against any person holding a particular Permit who is also subject to a pending administrative hearing ~~thatwhich~~ could result in the revocation or suspension of the same Permit, provided that:
- 1) The ~~AgencyDepartment~~ finds that the public interest, safety or welfare requires ~~such~~ immediate action; and
  - 2) Specific, factual reasons for ~~thesuch~~ emergency action are also included in the ~~Agency'sDepartment's~~ written "Notice of Hearing", advising the Permit holder of the pending administrative proceeding.

AGENCY NOTE: Any ~~such~~ subsequent hearing proceedings shall be promptly instituted and determined.

- e) A party to whom a Permit has been issued may voluntarily terminate the Permit by mailing to the ~~AgencyDepartment~~ written notice that the particular authorization is being voluntarily terminated. The termination shall be effective upon receipt by the ~~AgencyDepartment~~ of ~~thesaid~~ notice. The notice shall set forth the name and address of the person to whom the Permit was issued.
- f) No person shall voluntarily terminate a Permit if the person to whom the Permit has been issued has offered a shipment of ~~wasteWaste~~ for transportation into, within or out of the State of Illinois and that shipment of ~~wasteWaste~~ has not either been returned to the shipper or been accepted at a ~~facilityFacility~~ properly authorized to dispose of that shipment of ~~wasteWaste~~.

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(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.80 Penalties**

- a) The AgencyDepartment may impose a civil penalty on any person who sends, receives or accepts wasteWaste in violation of any provision of this Part or the Radioactive Waste Compact Enforcement Act.
- b) Civil penalties imposed under this Part shall not exceed \$100,000 per occurrence. For a continuing violation, the AgencyDepartment may consider each day in which the violation continues as a separate occurrence.
- c) In determining the amount of a civil penalty imposed under this Part, the AgencyDepartment will consider the following:
  - 1) Whether the violation was the result of willful, reckless or negligent conduct.
  - 2) The previous history of compliance with the provisions of the Radioactive Waste Compact Enforcement Act and this Part.
  - 3) Whether the violation was voluntarily reported to the AgencyDepartment.
  - 4) The amount and type of the radioactive material involved.
  - 5) Whether mitigative actions were taken.
  - 6) The recommendations, if any, of the Commission.
- d) The AgencyDepartment will notify the Commission when it initiates a civil penalty action and request the Commission's recommendations, if any, as to the civil penalty the AgencyDepartment seeks to impose. The AgencyDepartment shall also notify the Commission of any imposition of a civil penalty by the AgencyDepartment.
- e) Imposition of a civil penalty shall be by written order, specifying the reasons for and amount of the penalty. The order shall include a notice of the right to an administrative appeal and hearing, in accordance with the provisions of Section

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609.100 ~~of this Part~~. The order shall be served either personally or by registered or certified mail. Notice of the order shall be effective as of the date of ~~such~~ personal service or receipt of the mailed notice.

- f) Unless the right of administrative appeal and hearing, provided in Section 609.100 ~~of this Part~~, is exercised, any civil penalty imposed shall be payable within 60 days after the effective date of notice of imposition of ~~the~~~~such~~ penalty.
- g) The ~~Agency~~~~Department~~ will inform the Attorney General and the Commission of any failure to pay any civil penalty imposed under this Part. Any person who refuses to pay a civil penalty assessed under this Part shall be liable in an amount not to exceed 4 times the amount of the penalty not paid.
- h) Section 30(d) of the Radioactive Waste Compact Enforcement Act ~~[45 ILCS 141/30(d)]~~ provides a criminal penalty for any person who intentionally violates Section 20(a)(1), (a)(2), (a)(3), (a)(4) or (a)(6) of that Act. If the ~~Agency~~~~Department~~ becomes aware of a possible intentional violation of those Sections of the Act, the ~~Agency~~~~Department~~ shall make a report to the Attorney General or State's Attorney for criminal prosecution of the offender.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.90 Exemptions**

- a) Any person may apply to the ~~Agency~~~~Department~~ for an exemption from the requirements of this Part.
- b) A request for an exemption shall be in writing and shall state with particularity the reasons why granting ~~such~~ an exemption would be consistent with the provisions of this Part and the Compact. A copy of the request shall be filed with the Commission.
- c) Exemptions shall only be granted by the ~~Agency~~~~Department~~ upon an express finding by the ~~Agency~~~~Department~~ that granting the exemption would be consistent with the provisions of this Part and the Compact. In making ~~those~~~~such~~ determinations, the ~~Agency~~~~Department~~ shall consider the recommendations, if any, of the Commission.

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- d) Exemptions granted under this Part may be limited in scope or duration, or may be conditional, providing that thesuch limits or conditions are consistent with the Compact.
- e) Any exemption granted under this Part shall not be in conflict with any provision of the Illinois Low-Level Radioactive Waste Management Act ~~[420 ILCS 20]~~, the Radioactive Waste Tracking and Permitting Act ~~[420 ILCS 37]~~, the Central Midwest Interstate Low-Level Radioactive Waste Compact Act ~~[45 ILCS 140]~~, the Radioactive Waste Compact Enforcement Act ~~[45 ILCS 141]~~, or the federal Low-Level Radioactive Waste Policy Amendment Act of 1985 (42 USC 2021b et seq.)~~[P.L. 99-240]~~.
- f) The AgencyDepartment shall provide the Commission with written notice of any exemption granted pursuant to this Part.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

**Section 609.100 Administrative Appeal and Hearing**

- a) Any person may petition the AgencyDepartment for reconsideration of any:
  - 1) Denial by the AgencyDepartment to issue a Permit to thatsuch person; ~~or~~
  - 2) Summary suspension of a Permit issued to thatsuch person; or
  - 3) Civil penalty imposed on thatsuch person.
- b) TheSuch petition shall be made in writing, shall be directed to the ChiefManager, BureauOffice of RadiationEnvironmental Safety, Illinois Emergency Management AgencyDepartment of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois, 62704, and shall state concisely and with particularity the reasons for the petition. The AgencyDepartment shall provide a copy of the petition to the Commission.
- c) Any person petitioning the AgencyDepartment for reconsideration has the right to a hearing before the AgencyDepartment. The request for such-a hearing shall be filed with the petition. PetitionsSuch petitions shall be filed within 30 calendar days after notice of the:

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- 1) Denial of a Permit;
  - 2) Summary suspension of a Permit; or
  - 3) Imposition of a civil penalty.
- d) Failure of a petitioner to comply with the requirements of this Part with respect to petitions for reconsideration or requests for a hearing shall be grounds for denial of the petitioner's request.
- e) All hearings under this Part, as well as administrative hearings ordered by the ~~Agency that~~Department which could result in the revocation or suspension of a previously issued Permit to a person, shall be governed by the procedures set forth in the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and in 32 Ill. Adm. Code 200. The ~~Agency~~Department shall provide notice of these hearings to the Commission.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

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**Section 609.APPENDIX A Electronic Data Transmission**

Any person required under Section 609.50(b), (c), (d) or (e) ~~of this Part~~ to report shipment information to the ~~Agency Tracking System Operator (TSO)~~ shall prepare an Electronic Data Transmission (EDT) file for submittal to the ~~Agency TSO~~. This EDT file contains the pertinent information regarding the shipment in general (consignee, consignor, etc.) and the waste in detail (waste type, volume, activity, isotopes, etc.). The files ~~shall be~~ submitted to the ~~Agency TSO~~ in electronic format via ~~email to the address ema.LLRWTRACK@illinois.gov a modem over standard phone lines to a toll free telephone number.~~

## A) EDT FILE RECORD TYPE DESCRIPTION

- a) The information regarding the shipment of low-level radioactive waste (LLRW) contained in the EDT file is provided using the five different types of records. Each record type focuses on a specific aspect of the shipment. The record types are ~~as follows described below~~:
  - 1) The "M" (Manifest) record contains the summary information about the waste shipment. This information is summary level information that is normally contained on the shipping papers prepared to accompany the shipment.
  - 2) The "C" (Container) record contains information about the waste container. This information details for each container comprised in the shipment the contents of that container.
  - 3) The "W" (Waste Type) record contains information about the waste ~~type type(s)~~ in the container. Detailed information regarding the waste form contained in each container is provided using the "W" record.
  - 4) The "I" (Isotope) record contains information about the isotopes contained in each waste type in each container. Each specific isotope contained in each waste type reported in each container is identified, along with the associated activity information.
  - 5) The "P" (Pointer) record contains cross-reference information about each original container ~~that which~~ has been consolidated into

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the current container. This record is used by a broker or processor to identify which original containers are currently packaged in a consolidated container. The use of the "P" record prevent the unnecessary report of information already contained in the [AgencyTSO](#) data base.

- b) The record types described in [paragraphsubsection](#) (A)(a) of this Appendix are further subdivided based on the specific reporting requirements for the various shipment scenarios. These specific record types include:
- 1) **"M01"** – This record type indicates that the record contains summary information about an original LLRW shipment. This record type shall always be followed by one or more container ("C05") records.
  - 2) **"M02"** – This record type indicates that the record contains summary information about a consolidated LLRW shipment. This record type shall always be used when all information on the containers being consolidated has already been reported to and verified by the [AgencyTSO](#), and shall always be followed by one or more container ("C02") records.
  - 3) **"M03"** – This record type indicates that the record contains summary information about a consolidated LLRW shipment originating out of the State of Illinois. This record type shall always be accompanied by at least one original shipment ("M01") record, and followed by one or more container ("C02") records.
  - 4) **"C02"** – This record type indicates that the record contains information about a specific container in a consolidated LLRW shipment. This record type is used in conjunction with the "M02" record types, and shall always be followed by one or more consolidated container ("P01") records. There shall be one "C02" record for each container in the shipment.
  - 5) **"C04"** – This record type indicates that the record contains information about a container [thatwhich](#) has been depleted (stored

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for decay to background, incinerated with no residue attributed to the generator or shipper, or ownership transferred from the generator to the receiving entity). It is not used in conjunction with any other record. There shall be one "C04" record for each depleted container reported.

- 6) **"C05"** – This record type indicates that the record contains information about a specific container in an original LLRW shipment. This record type is used in conjunction with the "M01" record type, and shall always be followed by one or more waste type ("W01") records. There shall be one "C05" record for each container in the shipment.
  - 7) **"P01"** – This record type indicates that the record contains information about a container ~~that~~ which has been consolidated. This record type is used in conjunction with the "C02" record type. There is one "P01" record for each previous container consolidated in the current container.
  - 8) **"W01"** – This record type indicates that the record contains information about a specific waste type within an original container. This record type is used in conjunction with the "C05" record type, and shall always be followed by one or more isotope "I05" records. There is one "W01" record for each waste type in the container.
  - 9) **"I05"** – This record type indicates that the record contains information about a specific isotope within a waste type within an original container. This record type is used in conjunction with the "W01" record type. There shall be one "I05" record for each isotope in each waste type present in the container.
- c) A detailed listing of the data elements that comprise these various record types is shown on Table A-1 of this Part. Table A-2 of this Part provides the data element definitions as well as the field size, type and format, and usage codes.

## B) SHIPMENT SCENARIOS AND EDT FILE FORMAT REQUIREMENTS

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- a) For purpose of defining the EDT file format requirements, the various transaction scenarios can be combined into the following groupings:
- 1) Original ~~shipment~~ Shipment (both in-state and out-of-state).
  - 2) Consolidated or continuing shipment by an Illinois shipper or a consolidated or continuing shipment of Illinois generated LLRW to a ~~facility~~ Facility in Illinois by an out-of-state shipper.
  - 3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a ~~facility~~ Facility located in Illinois.
  - 4) Report of depleted containers.
- b) Original ~~shipments~~ Shipments are prepared and sent by the generator of the LLRW. Consolidated or ~~continuing shipments~~ Continuing Shipments are those shipments sent from a broker, collector, processor or storer of LLRW.
- c) The following defines the record type requirements for the shipment scenarios listed in this ~~paragraph~~ Section B.
- 1) Original ~~shipment~~ Shipment (both in-region and out-of-region)- Each EDT file for an original shipment of LLRW sent into, out ~~offrom~~, or within the State of Illinois shall contain a "M01" record. There shall be a "C05" record for each container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type.
  - 2) Consolidated or continuing shipment by an Illinois shipper or a consolidated or continuing shipment of Illinois generated LLRW to a ~~facility~~ Facility in Illinois by an out-of-state shipper. Each EDT file for a ~~consolidated~~ Consolidated or ~~continuing shipment~~ Continuing Shipment of Illinois generated LLRW shall contain a "M02" record. There shall be a "C02" record for each

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container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.

- 3) Consolidated or ~~continuing shipment~~Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a ~~facility~~Facility located in Illinois:
  - A) Since the Tracking System will have no record of the out-of-state generated LLRW received by an out-of-state ~~facility~~Facility, the out-of-state ~~facility~~Facility needs to report those records for the LLRW it ships into Illinois. This is accomplished by providing information comparable to that provided for an original shipment as part of the EDT file for the shipment into Illinois.
  - B) For each incoming shipment of LLRW to the out-of-state ~~facility~~Facility of out-of-state generated LLRW represented on the shipment to an Illinois ~~facility~~Facility, there will be a "M01" record followed by a "C05" record for each original container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type. For the consolidated or continuing shipment by an out-of-state shipper of out-of-state generated LLRW to an Illinois ~~facility~~Facility there will be a "M03" record followed by a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.
- 4) Report of Depleted Containers:

Illinois ~~facilities~~Facilities that deplete LLRW need to report those depleted containers to the ~~Agency~~TSO in order for that waste to be removed from the tracking system. For purposes of the tracking system, LLRW is depleted when it has been stored for decay, incinerated with no residue attributed back to the original

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generator, or otherwise had the ownership of the waste transferred (as in the melting of contaminated metal into usable shielding blocks). The ~~facilities~~Facilities report the depleted containers to the ~~Agency~~TSO using an EDT file composed of one "C04" record for each container depleted.

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

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**Section 609.TABLE A-1 Detailed listing of data elements****TABLE A-1**

<b>Record Type "MO1"</b>	<b>Record Type "MO2"</b>	<b>Record Type "MO3"</b>
Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)
Manifest Number (MANIF_NUM)	Manifest Number (MANIF_NUM)	Manifest Number (MANIF_NUM)
Consignor's Permit (CNSGNOR_ID)	Consignor's Permit (CNSGNOR_ID)	Consignor's Permit (CNSGNOR_ID)
Consignee's Permit (CNSGNEE_ID)	Consignee's Permit (CNSGNEE_ID)	Consignee's Permit (CNSGNEE_ID)
Total Container Count (TOT_CNTRS)	Total Container Count (TOT_CNTRS)	Total Container Count (TOT_CNTRS)
Total Activity (TOT_ACTVY)	Total Activity (TOT_ACTVY)	Total Activity (TOT_ACTVY)
Activity Unit of measure (ACTVY_MEAS)	Activity Unit of measure (ACTVY_MEAS)	Activity Unit of measure (ACTVY_MEAS)
Total volume (TOT_VOLUME)	Total volume (TOT_VOLUME)	Total volume (TOT_VOLUME)
Volume unit of measure (VOL_MEAS)	Volume unit of measure (VOL_MEAS)	Volume unit of measure (VOL_MEAS)
Total weight (TOT_WEIGHT)	Total weight (TOT_WEIGHT)	Total weight (TOT_WEIGHT)
Actual ship date (ACT_SHIP)	Actual ship date (ACT_SHIP)	Actual ship date (ACT_SHIP)
EPA manifest number (EPA_MANIF)	EPA manifest number (EPA_MANIF)	EPA manifest number (EPA_MANIF)
Total source material weight (TOT_SRC_WT)	Total source material weight (TOT_SRC_WT)	Total source material weight (TOT_SRC_WT)
Total special nuclear material weight (TOT_SNM_WT)	Total special nuclear material weight (TOT_SNM_WT)	Total special nuclear material weight (TOT_SNM_WT)
Total H-3 activity (H3_ACT)	Total H-3 activity (H3_ACT)	Total H-3 activity (H3_ACT)
Total TC-99 activity (TC99_ACT)	Total TC-99 activity (TC99_ACT)	Total TC-99 activity (TC99_ACT)
Total I-129 activity (I129_ACT)	Total I-129 activity (I129_ACT)	Total I-129 activity (I129_ACT)

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Total C-14 activity (C14_ACT)	Total C-14 activity (C14_ACT)	Total C-14 activity (C14_ACT)
Exclusive use indicator (EXCLUS_USE)	Exclusive use indicator (EXCLUS_USE)	Exclusive use indicator (EXCLUS_USE)
Carrier Code (CARRIER_CODE)	Carrier Code (CARRIER_CODE)	Carrier Code (CARRIER_CODE)
Carrier Name (CARRIER_NAME)	Carrier Name (CARRIER_NAME)	Carrier Name (CARRIER_NAME)
Carrier Address 1 (CARRIER_ADDR1)	Carrier Address 1 (CARRIER_ADDR1)	Carrier Address 1 (CARRIER_ADDR1)
Carrier Address 2 (CARRIER_ADDR2)	Carrier Address 2 (CARRIER_ADDR2)	Carrier Address 2 (CARRIER_ADDR2)
Carrier City (CARRIER_CITY)	Carrier City (CARRIER_CITY)	Carrier City (CARRIER_CITY)
Carrier State (CARRIER_STATE)	Carrier State (CARRIER_STATE)	Carrier State (CARRIER_STATE)
Carrier Zip (CARRIER_ZIP)	Carrier Zip (CARRIER_ZIP)	Carrier Zip (CARRIER_ZIP)
Carrier Zip4 (CARRIER_ZIP4)	Carrier Zip4 (CARRIER_ZIP4)	Carrier Zip4 (CARRIER_ZIP4)
Carrier Contact (CARRIER_CONTACT)	Carrier Contact (CARRIER_CONTACT)	Carrier Contact (CARRIER_CONTACT)
Carrier Contact Phone (CARRIER_PHONE)	Carrier Contact Phone (CARRIER_PHONE)	Carrier Contact Phone (CARRIER_PHONE)

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TABLE A-1 (continued)

<b>Record Type "CO2"</b>	<b>Record Type "CO4"</b>	<b>Record Type "CO5"</b>
Record Type (REC_TYPE)	Record Type (REC_TYPE)	Record Type (REC_TYPE)
Consignor's Permit (CNSGNOR_ID)	Holding facility permit (PERMIT_NUM)	Consignor's Permit (CNSGNOR_ID)
Manifest Number (MANIF_NUM)	Consignor's Permit (CNSGNOR_ID)	Manifest Number (MANIF_NUM)
Container Number (CNTR_NUM)	Manifest Number (MANIF_NUM)	Container Number (CNTR_NUM)
Container volume (CNTR_VOL)	Container Number (CNTR_NUM)	Container Volume (CNTR_VOL)
Volume Unit of Measure (VOL_MEAS)		Volume Unit of Measure (VOL_MEAS)
Container type (CNTR_TYPE)		Container type (CNTR_TYPE)
Container activity (CNTR_ACTVY)		Container activity (CNTR_ACTVY)
Activity units of measure (ACTVY_MEAS)		Activity units of measure (ACTVY_MEAS)
Container Alpha (CNTR_ALPHA)		Container Alpha (CNTR_ALPHA)
Alpha less than indicator (ALPHA_SIGN)		Alpha less than indicator (ALPHA_SIGN)
Container Beta (CNTR_BETA)		Container Beta (CNTR_BETA)
Beta less than indicator (BETA_SIGN)		Beta less than indicator (BETA_SIGN)
Container disposition (CNTR_DISP)		Container disposition (CNTR_DISP)
Over pack indicator (OP_FLAG)		Over pack indicator (OP_FLAG)
Surface radiation (SURF_RADIA)		Surface radiation (SURF_RADIA)
Surface radiation units (RAD_MEAS)		Surface radiation units (RAD_MEAS)
Rad less than indicator (RAD_SIGN)		Rad less than indicator (RAD_SIGN)
DOT Label (DOT_LABEL)		DOT Label (DOT_LABEL)

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Container weight (CNTR_WGT)		Container weight (CNTR_WGT)
DOT UN ID number (DOT_UN_ID)		DOT UN ID number (DOT_UN_ID)
Transport Index (TRANS_INDEX)		Transport index (TRANS_INDX)
Cert. of Compliance (CERT_NUM)		Cert. of compliance (CERT_NUM)

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TABLE A-1 (continued)

<b>Record Type "WO1"</b>
Record Type (REC_TYPE)
Consignor's Permit (CNSGNOR_ID)
Manifest Number (MANIF_NUM)
Container Number (CNTR_NUM)
Waste Type (WASTE_TYPE)
Waste activity (WST_ACTVY)
Activity units of measure (ACTVY_MEAS)
Waste Classification (WASTE_CLAS)
Waste volume (WASTE_VOL)
<u>Volume unit of measure</u> (VOL_MEAS)
Waste code (WASTE_CODE)
Physical form (PHYS_FORM)
SSS media (SSS_MEDIA)
SSS vendor (SSS_VENDOR)
SSS brand (SSS_BRAND)
Chelating agent 1 (CHE_AGENT1)
% of chelating agent 1 (CHE_PCT1)
Chelating agent 2 (CHE_AGENT2)
% of chelating agent 2 (CHE_PCT2)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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LSA/SCO indicator (LSA_SCO)
--------------------------------

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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TABLE A-1 (continued)

<b>Record Type "I05"</b>
Record Type (REC_TYPE)
Consignor's Permit (CNSGNOR_ID)
Manifest Number (MANIF_NUM)
Container Number (CNTR_NUM)
Waste Type (WASTE_TYPE)
Radionuclide (RADIONUCL)
Radionuclide activity (NUCL_ACTVY)
Activity units of measure (ACTVY_MEAS)
Activity less than indicator (ACTVY_SIGN)
Radionuclide percentage (RADIO_PCT)
% less than indicator (PCT_SIGN)
Special nuclear material grams (SNM_GRAMS)
Chemical form (CHEM_FORM)

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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TABLE A-1 (continued)

<b>Record Type "PO1"</b>
Record Type (REC_TYPE)
Consignor's Permit (CNSNOR_ID)
Manifest Number (MANIF_NUM)
Container Number (CNTR_NUM)
Previous Consignor's Permit (PREV_CNSNR)
Previous manifest number (PREV_MANF)
Previous container number (PREV_CNTR)
Consolidated volume (COMB_VOL)
% of previous container (PREV_PCT)

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

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**Section 609.TABLE A-2 Data element definitions**

TABLE A-2

NAME	DEFINITION	FIELD SIZE	DECIMAL PLACES	FIELD TYPE	FIELD FORMAT	USAGE CODE	CODE DESCRIPTION
ACT_SHIP	The actual shipment date of a LLRW shipment.	8	0	Numeric (Date)	YYYYMMDD	N/A	N/A
ACTVY_MEAS	The units used to measure activity (Curies or Millicuries, Microcuries, Becquerels, Terrabecquerels, Gigabecquerels, Megabecquerels, Kilobecquerels)	1	0	Alpha-Numeric	X	C M U B T G E K	Curies Millicuries Microcuries Becquerels Terrabecquerels Gigabecquerels Megabecquerels Kilobecquerels
ACTVY_SIGN	Indicates whether the activity number is a less than value.	1	0	Alpha-Numeric	X	<  (blank)	Activity value is less than number shown.  Alpha amount is the number shown.
ALPHA_SIGN	Indicates whether the Container Alpha (CNTR_ALPHA) number is a less than value	1	0	Alpha-Numeric	X	<  (blank)	Alpha amount is the number shown.  Alpha amount is the number shown.
BETA_SIGN	Indicates whether the Container Beta (CNTR_BETA)	1	0	Alpha-Numeric	X	<	Beta amount less than number shown.

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	number is a less than value.					(blank)	Beta amount is the number shown.
C14_ACT	The total activity of C-14 within a LLRW shipment. Unit of measure is the manifest record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
CARRIER_CD	Carrier Code	2		Alpha-Numeric	X(2)	N/A	N/A
CARRIER_NAME	Carrier Name	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_ADDR1	Carrier Address 1	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_ADDR2	Carrier Address 2	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_CITY	Carrier City	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_STATE	Carrier State	2		Alpha-Numeric	X(2)	N/A	N/A
CARRIER_ZIP	Carrier Zip Code	5		Alpha-Numeric	X(5)	N/A	N/A
CARRIER_ZIP4	Carrier ZIP Suffix	4		Alpha-Numeric	X(4)	N/A	N/A
CARRIER_CONTACT	Carrier Contact	50		Alpha-Numeric	X(50)	N/A	N/A
CARRIER_PHONE	Carrier Phone	20		Alpha-Numeric	X(20)	N/A	N/A
CERT_NUM	An NRC or host state certificate of compliance number. Refers to a specific container type, i.e., High Integrity Container.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CHE_AGENT1	The primary chelating agent used in a LLRW waste type.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CHE_AGENT2	The secondary chelating agent	16	0	Alpha-Numeric	X(16)	N/A	N/A

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	used in a LLRW waste type.						
CHE_PCT1	The percentage of the primary chelating agent by weight of waste.	5	2	Numeric	999.99	N/A	N/A
CHE_PCT2	The percentage of the secondary chelating agent by weight of waste.	5	2	Numeric	999.99	N/A	N/A
CHEM_FORM	A description of the chemical form of a specific radionuclide within a container.	25	0	Alpha-Numeric	X(25)	N/A	N/A
CNSGNEE_ID	The Tracking System Permit number assigned to the receiving facility of a LLRW shipment.	6	0	Alpha-Numeric	XX9999		Positions 1-2: State abbreviation  Positions 3-6: Sequential number for permits in that state.
CNSGNOR_ID	The Tracking System Permit number assigned to the sending facility of a LLRW shipment.	6	0	Alpha-Numeric	XX9999		Positions 1-2: State abbreviation  Positions 3-6: Sequential number for permits in that state.
CNTR_ACTVY	The total activity of all waste within a LLRW container. Units of measure are indicated by the record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
CNTR_ALPHA	The surface contamination of a LLRW container in alpha	5	0	Numeric	99999	N/A	N/A

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	disintegrations per minute: (dpm)/100 cm <sup>2</sup> .						
CNTR_BETA	The surface contamination of a container in beta disintegrations per minute: (dpm)/100 cm <sup>2</sup> .	5	0	Numeric	99999	N/A	N/A
CNTR_NUM	The unique identification number assigned to each LLRW container within a shipment.	16	0	Alpha-Numeric	X(16)	N/A	N/A
CNTR_TYPE	A code identifying the container type of a LLRW container.	3	0	Alpha-Numeric	XXX	BUW  CTL  DMZ  FBB  FBD  FTL  GCY  HIC  MBC  MDP  MTL  OTH	Bulk unpackaged waste  Concrete tank or liner  Demineralizer  Fiberboard box  Fiber drum  Fiberglass tank  Gas cylinder  High integrity container  Metal box or crate  Metal drum or pail  Metal tank or liner  Other

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						PDP	Plastic drum or pail
						PLT	Pallet
						PTL	Polyethylene tank
						SLC	Sealand container
						UNP	Unpacked components
						WBC	Wooden box or crate
CNTR_VOL	The total volume (outside dimension) of a LLRW container, in cubic feet.	7	2	Numeric	99999.99	N/A	N/A
CNTR_WGT	The total weight of a LLRW container, including the contents, in pounds.	5	0	Numeric	99999	N/A	N/A
COMB_VOL	The post-consolidation volume of a container.	7	2	Numeric	99999.99	N/A	N/A
DOT_LABEL	The USDOT label which applies to a LLRW container.	1	0	Numeric	9	0	Empty
						1	White-I
						2	Yellow-II
						3	Yellow-III
						4	Oxidizer
						5	Spontaneously combustible

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						6	Corrosive
						7	N/A
DOT_UN_ID	The identification number for the proper shipping name of a LLRW container.	6	0	Alpha-Numeric	XXXXXX	<a href="#">UN1219</a>	<a href="#">Isopropanol or Isopropyl alcohol</a>
						<a href="#">UN1280</a>	<a href="#">Propylene oxide</a>
						<a href="#">UN1325</a>	<a href="#">Flammable solids, organic, n.o.s.</a>
						<a href="#">UN1595</a>	<a href="#">Dimethyl sulfate</a>
						<a href="#">UN1671</a>	<a href="#">Phenol, solid</a>
						<a href="#">UN1987</a>	<a href="#">Alcohols, n.o.s.</a>
						<a href="#">UN1993</a>	<a href="#">Flammable liquid, n.o.s.</a>
						<a href="#">UN2029</a>	<a href="#">Hydrazine, anhydrous</a>
						<a href="#">UN2908</a>	<a href="#">Radioactive material, excepted package – emptying packaging</a>
						<a href="#">UN2909</a> <a href="#">UN2910</a>	<a href="#">Radioactive material, excepted package – articles manufactured from natural uranium or{or} depleted uranium or{or} thorium</a>

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						<a href="#">UN2910</a>	Radioactive material, excepted package – empty package <del>for</del> <a href="#">empty packaging</a>
						<a href="#">UN2911</a>	Radioactive material, excepted package – instruments <del>or</del> articles  <del>Radioactive material, excepted package – limited quantity of material</del>
						UN2912	Radioactive material, low specific activity <a href="#">(LSA-I) non-fissile or fissile-excepted, n.o.s.</a> <del>for</del> <del>Radioactive material, LSA, n.o.s.</del>
						UN2913	Radioactive material, surface contaminated object <a href="#">(SCO-I or SCO-II) non-fissile or fissile-excepted</a> <del>for</del> <del>Radioactive material, LSA, n.o.s.</del>
						<a href="#">UN2915</a>	<a href="#">Radioactive material, Type A package non-</a>

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							<u>special form, non-fissile or fissile-excepted</u>
						<u>UN2916</u>	<u>Radioactive material, Type B (U) package non-fissile or fissile-excepted</u>
						<u>UN2917</u>	<u>Radioactive material, Type B (M) package non-fissile or fissile-excepted</u>
						<u>UN2918</u>	<u>Radioactive material, fissile, n.o.s.</u>
						<u>UN2919</u>	<u>Radioactive material, transported under special arrangement, non-fissile or fissile-excepted</u>
						<u>UN2924</u>	<u>Flammable liquids, corrosive, n.o.s.</u>
						<u>UN2928</u>	<u>Toxic solids, corrosive, organic, n.o.s.</u>
						<u>UN2974</u>	<u>Radioactive material, special form, n.o.s.</u>
						<u>UN2977</u>	<u>Radioactive material, uranium hexafluoride, fissile</u>

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						<a href="#">UN2978</a>	<a href="#">Radioactive material, uranium hexafluoride, non-fissile or fissile-excepted</a>
						<a href="#">UN2982</a>	<del>Radioactive material, n.o.s.</del>
						<a href="#">UN3071</a>	<a href="#">Mercaptans, liquid, toxic, flammable, n.o.s. or Mercaptan mixtures, liquid, toxic, flammable, n.o.s., flash point not less than 23 degrees</a>
						<a href="#">UN3077</a>	<a href="#">Environmentally hazardous substances, solid, n.o.s.</a>
						<a href="#">UN3084</a>	<a href="#">Corrosive solids, oxidizing, n.o.s.</a>
						<a href="#">UN3224</a>	<a href="#">Self-reactive solid type C</a>
						<a href="#">UN3265</a>	<a href="#">Corrosive liquid, acidic, organic, n.o.s.</a>
						<a href="#">UN3286</a>	<a href="#">Flammable liquid, toxic, corrosive, n.o.s.</a>
						<a href="#">UN3321</a>	<a href="#">Radioactive material, low specific activity (LSA-II) non-fissile or fissile-excepted</a>

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						<a href="#">UN3322</a>	<a href="#">Radioactive material, low specific activity (LSA-III) non-fissile or fissile-excepted</a>
						<a href="#">UN3327</a>	<a href="#">Radioactive material, Type A package, fissile non-special form</a>
						<a href="#">UN3328</a>	<a href="#">Radioactive material, Type B (U) package, fissile</a>
						<a href="#">UN3329</a>	<a href="#">Radioactive material, Type B (M) package, fissile</a>
						<a href="#">UN3331</a>	<a href="#">Radioactive material, transported under special arrangement, fissile</a>
						<a href="#">UN3332</a>	<a href="#">Radioactive material, Type A package, special form non-fissile or fissile-excepted</a>
						<a href="#">UN3333</a>	<a href="#">Radioactive material, Type A package, special form, fissile</a>
						<a href="#">UN3399</a>	<a href="#">Organometallic substance, liquid, water-</a>

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						<a href="#">UN3439</a> <a href="#">UNEXMT</a> <a href="#">UN-NRM</a>	<a href="#">reactive, flammable</a> <a href="#">Nitriles, toxic, solid, n.o.s.</a> <a href="#">Exempt packaging</a> <a href="#">Non-regulated material</a>
EPA_MANIF	The EPA manifest number assigned to a LLRW shipment which has EPA regulated waste.	12	0	Alpha-Numeric	X(12)	N/A	N/A
EXCLUS_USE	A flag indicating whether a LLRW shipment is an exclusive use shipment, i.e., a shipment which cannot be opened after shipment except by the consignee.	1	0	Alpha-Numeric	X	T F Y N	True False Yes No
H3_ACT	The total activity of H-3 within a LLRW shipment. Unit of measure is indicated by record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
I129_ACT	The total activity of I-129 within a LLRW shipment. Unit of measure is indicated by record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
LSA_SCO	The group notation for a shipment of Low	4	0	Alpha-Numeric	XXXX	LSA1	Low Specific Activity – I

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	Specific Activity material or Surface Contaminated Objects.					LSA2	Low Specific Activity – II
						LSA3	Low Specific Activity – III
						SCO1	Surface Contaminated Objects – I
						SCO2	Surface Contaminated Objects – II
						N/A	N/A
MANIF_NUM	The unique number assigned to a LLRW shipment by the sending or receiving facility	<del>1340</del>	0	Alpha-Numeric	X( <del>1340</del> )	N/A	N/A
NUCL_ACTVY	The activity level for a specific radionuclide within a given LLRW container. Units of measure indicated by the record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
OP_FLAG	A logical flag indicating whether a LLRW container requires disposal in an approved structural overpack.	1	0	Alpha-Numeric	X	T F Y N	True False Yes No
PCT_SIGN	Indicates whether the radionuclide percentage (RADIO_PCT) number is a less than value.	1	0	Alpha-Numeric	X	<  (blank)	Percent amount is less than the number given.  Percent amount is the number given.

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PERMIT_NUM	The Tracking System permit number assigned to the holding facility of a LLRW container.	6	0	Alpha-Numeric	XX9999	N/A	Positions 1-2: State abbreviation.  Positions 3-6: Sequential number for permits in that state.
PHYS_FORM	A code indicating the physical form of LLRW within the container.	1	0	Alpha-Numeric	X	G  L  S	Gas  Liquid  Solid
PREV_CNSNR	The Tracking System permit number assigned to the facility sending a LLRW shipment for depleting.	6	0	Alpha-Numeric	XX9999		Positions 1-2: State abbreviation.  Positions 3-6: Sequential number for permits in that state.
PREV_CNTR	The previous unique identification number of a container which has been consolidated into the current container.	16	0	Alpha-Numeric	X(16)	N/A	N/A
PREV_MANF	The manifest number assigned to the shipment in which the previous container (PREV_CNTR) was received.	10	0	Alpha-Numeric	X(10)	N/A	N/A
PREV_PCT	The percentage of the consolidated container (PREV_CNTR) that has been consolidated into	3	0	Numeric	999	N/A	N/A

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	the current container.						
RAD_MEAS	A code indicating the units used to measure the radiation level of a LLRW container (SURF_RADIA).	1	0	Alpha-Numeric	X	M R	Millirems per hour (mR/hr)  Rems per hour (R/hr)
RAD_SIGN	Indicates whether the radiation level of a LLRW container (SURF_RADIA) is less than the value given.	1	0	Alpha-Numeric	X	<  (blank)	Radiation level less than number given.  Radiation level is the number given.
RADIO_PCT	The percentage of a radionuclide within a LLRW container with respect to all radionuclides within the container.	6	3	Numeric	999.999	N/A	N/A
RADIONUCL	The abbreviated atomic name of a radionuclide within a LLRW container.	8	0	Alpha-Numeric	XXXXXXXX X	N/A	Any valid radionuclide atomic symbol with atomic weight (C12 scale), e.g. C14, TC99, or CA40.
REC_TYPE	The EDT record type of the current record.	3	0	Alpha-Numeric	X99	M01  M02  M03  C02	Original manifest record  Consolidated manifest record  Out of state consolidated manifest record  Consolidated container record



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						67	Florco X
						68	Solid A Sorb
						69	Chemsil 30
						70	Chemsil 50
						71	Chemsil 3030
						72	Dicaperl HP200
						73	Dicaperl HP500
						74	Petroset
						75	Petroset II
						76	Aquaset
						77	Aquaset II
						89	Other Sorbent
						90	Cement
						91	Concrete (Encapsulation)
						92	Bitumen
						93	Vinyl Chloride
						94	Vinyl Ester Styrene
						99	Other solidification
						100	None Required
SSS_VENDOR	The vendor of a particular stabilization,	15	0	Alpha-Numeric	X(15)	N/A	N/A

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	sorbent, solidification media (SSS_MEDIA) within a LLRW waste type.						
SURF_RADIA	The radiation level measure on contact with a LLRW container. Units of measure indicated by the record's RAD_MEAS value.	8	2	Numeric	999999.99	N/A	N/A
TC99_ACT	The total activity of TC-99 within a LLRW shipment. Units of measure indicated by the record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
TOT_ACTVY	The total activity of all containers in a LLRW shipment. Units of measure indicated by the record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A
TOT_CNTRS	The total number of containers in a LLRW shipment.	6	0	Numeric	999999	N/A	N/A
TOT_SNM_WT	The total weight of all radionuclides of special nuclear material within a LLRW shipment, measured in grams.	10	7	Numeric	999.999999 9	N/A	N/A
TOT_SRC_WT	The total weight of source material on a LLRW	9	2	Numeric	9999999.99	N/A	N/A

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	shipment, in pounds.						
TOT_VOLUME	The total volume of all containers in a LLRW shipment, in cubic feet.	10	2	Numeric	99999999.0 0	N/A	N/A
TOT_WEIGHT	The total weight of all containers in a LLRW shipment, in pounds.	10	0	Numeric	9999999999	N/A	N/A
TRANS_INDX	The transportation index for a package label on a LLRW container.	10	0	Alpha-Numeric	X(10)	N/A	N/A
VOL_MEAS	The volume unit of measure.	1	0	Alpha-Numeric	X	F M	Cubic Feet Cubic Meters
WASTE_CLAS	The waste classification of a LLRW waste type.	2	0	Alpha-Numeric	XX	AS AU B C >C	Class A stable Class A unstable Class B Class C Greater than Class C
WASTE_CODE	A code indicating whether the waste in a waste type has been collected or processed.	1	0	Alpha-Numeric	X	C P D (blank)	Collected Processed De-commissioned Neither
WASTE_TYPE	A code indicating the specific type of waste type.	2	0	Alpha-Numeric	XX	20 21 22 23	Charcoal Incinerator ash Soil Gas

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						24	Oil
						25	Aqueous liquid
						26	Filter media
						27	Mechanical filter
						28	EPA Hazardous
						29	Demolition rubble
						30	Cation ion-exchange media
						31	Anion ion-exchange media
						32	Mixed bed ion-exchange media
						33	Contaminated equipment
						34	Organic liquid (except oil)
						35	Glassware or lab ware
						36	<del>Concealed</del> <u>Sealed</u> source/device
						37	Paint or plating
						38	Evaporator bottoms, sludges, concentrates
						39	Compactible trash

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						40	Non-compactible trash
						41	Animal carcasses
						42	Biological material (except animal carcasses)
						43	Activated material
						44	Mixed waste
						59	Other
WASTE_VOL	The volume of the specific waste type (WASTE_TYPE) within a LLRW container, in cubic feet.	7	2	Numeric	99999.99	N/A	N/A
WSTE_ACTVY	The total activity of all radionuclides within a waste type. Units are indicated by the record's ACTVY_MEAS value.	24	10	Scientific	9.9999E99	N/A	N/A

(Source: Amended at 38 Ill. Reg. 12088, effective May 29, 2014)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
140.2	Amendment
140.3	Amendment
140.6	Amendment
140.441	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Article 7 of Public Act 98-104
- 5) Effective Date of Rule: May 30, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule 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*: January 24, 2014; 38 Ill. Reg. 2529
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Nonsubstantive technical changes.
- 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 emergency rule currently in effect? Yes
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
140.12	Amendment	37 Ill. Reg. 19971; December 20, 2013
140.440	Amendment	37 Ill. Reg. 19971; December 20, 2013

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.11	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.16	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.71	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.402	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.459	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.461	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.462	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.464	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.930	Amendment	38 Ill. Reg. 4559; February 21, 2014
140.Table J	New Section	38 Ill. Reg. 4559; February 21, 2014
140.Table M	Repeal	38 Ill. Reg. 4559; February 21, 2014

- 15) Summary and Purpose of Rule: The amendments establish the health benefits service package covered by the medical assistance program of the Department of Healthcare and Family Services for individuals eligible as ACA Adults as described in 305 ILCS 5/5-2(18) and under Former Foster Care as described in 305 ILCS 5/5-2(19).
- 16) Information and questions regarding this adopted rule 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  
HFS.Rules@illinois.gov.

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

## 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
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**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

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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 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

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maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 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.

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3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, 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.

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Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. 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;

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amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency 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.

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Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. 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

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30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, 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

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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 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; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014.

## SUBPART A: GENERAL PROVISIONS

**Section 140.2 Medical Assistance Programs**

- a) Under the Medical Assistance Programs, the Department pays participating providers for necessary medical services, specified in Section 140.3 through 140.7 for:
  - 1) persons eligible for financial assistance under the Aid to the Aged, Blind or Disabled-State Supplemental Payment (AABD-SSP) and Temporary Assistance to Needy Families (TANF) programs (Medicaid-MAG);
  - 2) persons who would be eligible for financial assistance but who have

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resources in excess of the Department's eligibility standards and who have incurred medical expenses greater than the difference between their income and the Department's standards (Medicaid-MANG);

- 3) individuals under age 18 who do not qualify for TANF/TANF-MANG and infants under age one year (see Section 140.7);
  - 4) pregnant women who would not be eligible for TANF/TANF-MANG if the child were born and who do not qualify as mandatory categorically needy (see Section 140.9);
  - 5) persons who are eligible for Title IV-E adoption assistance/foster care assistance from another State and who are living in Illinois;
  - 6) noncitizens who have an emergency medical condition (see 89 Ill. Adm. Code 120.310); however, payment is not included for care and services related to an organ transplant procedure;
  - 7) persons eligible for medical assistance under the Aid to the Aged, Blind or Disabled (AABD) program who reside in specified Supportive Living Facilities (SLFs), as described at 89 Ill. Adm. Code 146, Subpart B; ~~and~~
  - 8) persons eligible for FamilyCare as described in 89 Ill. Adm. Code 120.32<sub>2</sub>;
  - 9) beginning January 1, 2014, persons eligible as ACA Adults as described in 89 Ill. Adm. Code 120.10(h); and
  - 10) beginning January 1, 2014, persons eligible as Former Foster Care as described in 89 Ill. Adm. Code 120.10(i).
- b) "Necessary medical care" is that which is generally recognized as standard medical care required because of disease, disability, infirmity or impairment.
  - c) The Department may impose prior approval requirements, as specified by rule, to determine whether the medical care is necessary and eligible for payment from the Department in individual situations. Such requirements shall be based on recommendations of technical and professional staff and advisory committees.

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- d) When recipients are entitled to Medicare benefits, the Department shall assume responsibility for their deductible and coinsurance obligations, unless the recipients have income and/or resources available to meet these needs. The total payment to a provider from both Medicare and the Department shall not exceed either the amount that Medicare determines to be a reasonable charge or the Department standard for the services provided, whichever is applicable.
- e) The Department shall pay for services and items not allowed by Medicare only if they are provided in accordance with Department policy for recipients not entitled to Medicare benefits.
- f) The Department may contract with qualified practitioners, hospitals and all other dispensers of medical services for the provision and reimbursement of any and all medical care or services as specified in the contract on a prepaid capitation basis (i.e., payment of a fixed amount per enrollee made in advance of the service); volume purchase basis (i.e., purchase of a volume of goods or services for a price specified in the contract); ambulatory visit basis (i.e., one comprehensive payment for each visit regardless of the services provided during that visit) or per discharge basis (i.e., one comprehensive payment per discharge regardless of the services provided during the stay). Such contracts shall be based either on formally solicited competitive bid proposals or individually negotiated rates with providers willing to enter into special contractual arrangements with the State.
- g) The Department may require that recipients of medical assistance under any of the Department's programs exercise their freedom of choice by choosing to receive medical care under the traditional fee for service system or through a prepaid capitation plan or under one of the other alternative contractual arrangements described in subsection (f) of this Section. The categories of recipients who may choose or be assigned to an alternative plan will be specified in the contract. Recipients required to make such a choice will be notified in writing by the Department. If a recipient does not choose to exercise his/her freedom of choice, the Department may assign that recipient to a prepaid plan. Under such a plan, recipients would obtain certain medical services or supplies from a single source or limited source. The Department will notify recipients in writing if they are assigned to a prepaid plan. Recipients enrolled in or assigned to a prepaid plan will receive written notification advising them of the services which they will receive from the plan. Covered services not provided by the plan will be reimbursed by the Department on a fee for service basis. Recipients will receive a

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medical eligibility card, which will apply to such services.

- h) The Department may enter into contracts for the provision of medical care on a prepaid capitation basis from a Health Maintenance Organization (HMO) whereby the recipient who chooses to receive medical care through an HMO must stay in the HMO for a certain period of time, not to exceed six months (the enrollment period). Upon written notice, the recipient may choose to disenroll from such an HMO at any time within the first month of each enrollment period. The Department will send the recipient a notice at least 30 days prior to the end of the enrollment period, which gives the recipient a specified period of time in which to inform the Department if the recipient does not wish to re-enroll in the HMO for a new enrollment period. The recipient may then disenroll at the end of the enrollment period only if the recipient responds to the notice and indicates in writing a choice to disenroll. Failure to respond to the notice will result in automatic re-enrollment for a new enrollment period. Recipients shall also be allowed to disenroll at any time for cause.
- i) The Department may enter into contracts for the provision of medical care on a prepaid capitation basis from a Health Maintenance Organization whereby the recipient who chooses to receive medical care through an HMO may choose to disenroll at any time, upon written notice.
- j) The Department shall pay for services under the Maternal and Child Health Program, a primary health care program for pregnant women and children (see Subpart G).
- k) Services covered for persons who are confined or detained as described in 89 Ill. Adm. Code 120.318(b) shall be limited as described in Section 140.10.

(Source: Amended at 38 Ill. Reg. 12141, effective May 30, 2014)

**Section 140.3 Covered Services Under Medical Assistance Programs**

- a) As described in this Section, medical services shall be covered for:
  - 1) recipients of financial assistance under the AABD (Aid to the Aged, Blind or Disabled), TANF (Temporary Assistance to Needy Families), or Refugee/Entrant/Repatriate programs;

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- 2) recipients of medical assistance only under the AABD program (AABD-MANG);
  - 3) recipients of medical assistance only under the TANF program (TANF-MANG);
  - 4) individuals under age 18 not eligible for TANF (see Section 140.7), pregnant women who would be eligible if the child were born and pregnant women and children under age eight who do not qualify as mandatory categorically needy (see Section 140.9);
  - 5) disabled persons under age 21 who may qualify for Medicaid or in-home care under the Illinois Home and Community-Based Services Waiver for Medically Fragile Technology Dependent Children; ~~and~~
  - 6) ~~individuals~~Individuals 19 years of age or older eligible under the KidCare Parent Coverage Waiver as described at 89 Ill. Adm. Code 120.32 except for:
    - A) Services provided only through a waiver approved under section 1915(c) of the Social Security Act; and
    - B) Termination of pregnancy;:-
  - 7) beginning January 1, 2014, ACA Adults as described in 89 Ill. Adm. Code 120.10(h). Notwithstanding any rule to the contrary in Title 89, the services that shall be covered are services for which the Department obtains federal approval and receives federal matching funds; and
  - 8) beginning January 1, 2014, Former Foster Care as described in 89 Ill. Adm. Code 120.10(i).
- b) The following medical services shall be covered for recipients under age 21 who are included under subsection (a):
- 1) Inpatient hospital services;

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- 2) Hospital outpatient and clinic services;
- 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment;
- 4) Encounter rate clinic visits;
- 5) Physician services;
- 6) Pharmacy services;
- 7) Home health agency visits;
- 8) Laboratory and x-ray services;
- 9) Group care services;
- 10) Family planning services and supplies;
- 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
- 12) Transportation to secure medical services;
- 13) EPSDT services pursuant to Section 140.485;
- 14) Dental services;
- 15) Chiropractic services;
- 16) Podiatric services;
- 17) Optical services and supplies;
- 18) Subacute alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396;

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- 19) Hospice services;
  - 20) Nursing care pursuant to Section 140.472;
  - 21) Nursing care for the purpose of transitioning children from a hospital to home placement or other appropriate setting pursuant to 89 Ill. Adm. Code 146, Subpart D; ~~and~~
  - 22) Telehealth services pursuant to Section 140.403; ~~and~~;
  - 23) Preventive services.
- c) Effective July 1, 2012, the following medical services shall be covered for recipients age 21 or over who are included under subsection (a):
- 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;
  - 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;
  - 5) Physician services;
  - 6) Pharmacy services;
  - 7) Home health agency visits;
  - 8) Laboratory and x-ray services;
  - 9) Group care services;
  - 10) Family planning services and supplies;

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- 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
- 12) Transportation to secure medical services;
- 13) Subacute alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396;
- 14) Hospice services;
- 15) Dental services, pursuant to Section 140.420;
- 16) Podiatric services, pursuant to Section 140.425 for individuals with a diagnosis of diabetes;
- 17) Optical services and supplies; ~~and~~
- 18) Telehealth services pursuant to Section 140.403; ~~and~~.
- 19) Preventive services.

(Source: Amended at 38 Ill. Reg. 12141, effective May 30, 2014)

**Section 140.6 Medical Services Not Covered**

The following services are not covered under the Department's medical assistance programs:

- a) Services available without charge;
- b) Services prohibited by State or Federal law;
- c) Experimental procedures;
- d) Research oriented procedures;
- e) Medical examinations required for entrance into educational or vocational programs;

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- f) Autopsy examinations;
- ~~g)~~ Preventive services, except those provided through the Medicare program for children through age 20, and required school examinations;
- ~~h)~~ Routine examinations;
- ~~g)j)~~ Artificial insemination;
- ~~h)j)~~ Abortion, except under the conditions stated in Section 140.413(a)(1) in accordance with Rule 4.03;
- ~~i)k)~~ Medical or surgical procedures performed for cosmetic purposes;
- ~~j)l)~~ Medical or surgical transsexual treatment;
- ~~k)m)~~ Diagnostic and/or therapeutic procedures related to primary infertility/sterility;
- ~~l)n)~~ Acupuncture;
- ~~m)o)~~ Subsequent treatment for venereal disease, when such services are available through State and/or local health agencies;
- ~~n)p)~~ Medical care provided by mail or telephone;
- ~~o)q)~~ Unkept appointments;
- ~~p)r)~~ Non-medically necessary items and services provided for the convenience of recipients and/or their families;
- ~~q)s)~~ Preparation of routine records, forms and reports;
- ~~r)t)~~ Visits with persons other than a recipient, such as family members or group care facility staff.

(Source: Amended at 38 Ill. Reg. 12141, effective May 30, 2014)

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## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.441 Pharmacy Services Not Covered**

Items excluded from coverage include the following:

- a) Drug products manufactured by drug manufacturers not meeting the rebate requirements of Section 140.440(d);
- b) Anorectic drugs or combinations including such drugs;
- c) Biologicals and drugs available without charge from the Illinois Department of Public Health or other agencies;
- ~~d)~~ ~~Any vaccine, drug or serum which is provided primarily for preventive purposes, e.g., influenza vaccine;~~
- ~~d)e)~~ Drugs for injection in a practitioner's office unless the cost of the drug per injection (excluding administration) exceeds \$25.00;
- ~~e)f)~~ Drugs that have been classified by the Food and Drug Administration (FDA) as ineffective or unsafe in a final order;
- ~~f)g)~~ Drugs that the Food and Drug Administration has proposed in a notice of opportunity for hearing to withdraw labeled indications (pursuant to section 107(c)(3) of the Drug Amendments of 1962 (P.L. 87-781) and section 505(e) of the Federal Food, Drug and Cosmetic Act (21 USC 355(e)) and any identical, related or similar drug products (determined by the FDA in accordance with 21 CFR 310.6);
- ~~g)h)~~ Items identified as Group Care Restricted Items (see Section 140.449(b)) are not covered when provided to recipients living in licensed long-term care facilities;
- ~~h)i)~~ Sickroom Needs and Medical Equipment Items are not covered as pharmacy items. A pharmacy that desires to provide the items must enroll as a provider of medical equipment; ~~and~~
- ~~i)j)~~ Miscellaneous supplies that are stocked and dispensed by some pharmacies are

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not covered. These items include, but are not limited to, dental products, hair products, facial tissues, infant disposable diapers, sanitary pads, tampons, soap or other personal hygiene products, proprietary food supplements or substitutes, sugar or salt substitutes, household products, or infant formula for routine feeding; and-

- j)k) Effective July 1, 2012, blood factor, when a patient has not had a comprehensive examination at a federally-funded Hemophilia Treatment Center during the 365 days preceding the date of service.

(Source: Amended at 38 Ill. Reg. 12141, effective May 30, 2014)

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

<u>Section Numbers:</u>	<u>Emergency Action:</u>
147.5	Repeal
147.125	Repeal
147.150	Repeal
147.175	Repeal
147.200	Repeal
147.205	Repeal
147.310	New Section
147.315	New Section
147.320	New Section
147.325	New Section
147.330	New Section
147.335	New Section
147.340	New Section
147.346	New Section
147.355	Repeal
147. TABLE A	Repeal
147. TABLE B	Repeal
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: May 30, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including 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*: January 17, 2014; 38 Ill. Reg. 1590
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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- 11) Differences Between Proposal and Final Version: The following changes were made: In subsection 147.310(c)(1) of Section 147.310, changed to now read as follows: "The base year resident days, which are calculated by multiplying the number of Medicaid residents in each nursing facility based on MDS comprehensive assessments for Medicaid residents on March 31, 2012, multiplied by 365 days."

In subsection 147.310(f)(2) of Section 147.310, changed to now read as follows: "Effective for dates of service on or after January 1, 2015, subject to the requirement of P.A. 98-0104 that the Department submit a rule by January 1, 2014, which establishes a reimbursement methodology that is reflective of the intensity of care and services requirements of the low need residents in the lowest RUG-IV groups, the Department will calculate quarterly the value of a per diem increase of \$1.00 multiplied by 365 divided by total facility resident days for each resident reporting in the low four RUG groups PA1, PA2, BA1, or BA2 as of September 30, 2013. This value of this increase will be applied to the per diem rate of each nursing facility in which total resident occupancy is at least 70 percent Medicaid on a quarterly basis."

In subsection 147.315(c)(6) of Section 147.315, deleted reference to "~~OBRE~~" and replaced with "OBRA".

In Section 147.320, the definition Minimum Data Set (MDS) deleted reference to "~~CMMS~~" and replaced with "federal CMS".

In subsection 147.325(a) of Section 147.325, deleted all references to "~~CMMS~~" and replaced with "federal CMS"

In subsection 147.330(h)(3) of Section 147.330, added "Urinary (H0200C) and/or bowel training (H0500)" under the Category column.

In subsection 147.335(a)(7)(B) of Section 147.335, changed to now read as follows: "The rate add-on for ventilator service is \$208 per day."

In subsection 147.335(b)(8)(A) of Section 147.325, changed to now read as follows: "The payment amount for Tier 1 is \$264.17 per day."

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace emergency rule currently in effect? Yes
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The proposed rulemaking establishes a new nursing component reimbursement methodology based on Resource Utilization Group RUG-IV 48 methodology pursuant to Public Act 97-0689, Save Medicaid Access and Resources Together (SMART) Act, and Public Act 98-104. Statutory authority requiring the Department to establish and implement this evidence-based payment methodology can also be found at Public Act 96-1530. This rule also defines best practice quality metrics the Department will adopt and measure.
- 16) Information and questions regarding this adopted rule 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 Amendments begins on the next page:

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## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 147

## REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

## Section

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

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- 147.335 [Enhanced Care Rates](#)~~Specialized Care—Behavioral Emergencies (Repealed)~~
- 147.340 [Minimum Date Set On-Site Reviews](#)~~Discharge Planning (Repealed)~~
- 147.345 [Quality Incentives](#)~~Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness (Repealed)~~
- [147.346 Appeals of Nursing Rate Determination](#)
- 147.350 Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing Facilities
- 147.355 Reimbursement for Residents with Exceptional Needs [\(Repealed\)](#)
- 147.TABLE A Staff Time (in Minutes) and Allocation by Need Level [\(Repealed\)](#)
- 147.TABLE B MDS-MH Staff Time (in Minutes and Allocation by Need Level) [\(Repealed\)](#)
- 147.TABLE C Comprehensive Resident Assessment (Repealed)
- 147.TABLE D Functional Needs and Restorative Care (Repealed)
- 147.TABLE E Service (Repealed)
- 147.TABLE F Social Services (Repealed)
- 147.TABLE G Therapy Services (Repealed)
- 147.TABLE H Determinations (Repealed)
- 147.TABLE I Activities (Repealed)
- 147.TABLE J Signatures (Repealed)
- 147.TABLE K Rehabilitation Services (Repealed)
- 147.TABLE L Personal Information (Repealed)

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

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669,

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effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17 Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18913, effective November 4, 2005; amended at 30 Ill. Reg. 15141, effective September 11, 2006; expedited correction at 31 Ill. Reg. 7409, effective September 11, 2006; amended at 31 Ill. Reg. 8654, effective June 11, 2007; emergency amendment at 32 Ill. Reg. 415, effective January 1, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 3114, effective February 13, 2008; emergency suspension withdrawn in part at 32 Ill. Reg. 4399, effective February 26, 2008 and 32 Ill. Reg. 4402, effective March 11, 2008 and 32 Ill. Reg. 9765, effective June 17, 2008; amended at 32 Ill. Reg. 8614, effective May 29, 2008; amended at 33 Ill. Reg. 9337, effective July 1, 2009; emergency amendment at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days; emergency amendment modified in response to the objection of the Joint Committee on Administrative Rules at 34 Ill. Reg. 1421, effective January 5, 2010, for the remainder of the 150 days; emergency expired February 27, 2010; amended at 34 Ill. Reg. 3786, effective March 14, 2010; amended at 35 Ill. Reg. 19514, effective December 1, 2011; amended at 36 Ill. Reg. 7077, effective April 27, 2012; emergency amendment at 38 Ill. Reg. 1205, effective January 1, 2014, for a maximum of 150 days; Sections 147.335(a)(7)(B) and 147.355(b) of the emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3385, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5898, effective March 7, 2014; emergency amendment modified in response to JCAR Objection at 38 Ill. Reg. 6707, effective

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March 7, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 12173, effective May 30, 2014.

**Section 147.5 Minimum Data Set-Mental Health (MDS-MH) Based Reimbursement System (Repealed)**

- a) ~~For Class I Institution for Mental Diseases (IMDs), until data can be collected and the payment methodology implemented using the Illinois Minimum Data Set-Mental Health (IL MDS-MH), appropriate for the care needs of the IMD resident population, as described in Table B of this Part, the nursing component shall be the rate in effect on July 1, 2006. The payment methodology using the IL MDS-MH shall be implemented on July 1, 2010.~~
- b) ~~To receive payment based on Table B, Class I IMDs shall obtain software that produces the Mental Health Assessment Protocols, outcome measures, and quality indicators, which are part of the MDS-MH system, and train staff to utilize this clinical information in resident treatment and care planning.~~
- e) ~~The nursing component of the rate shall be calculated annually and may be adjusted semi-annually. The determination of rates shall be based upon a composite of MDS-MH data collected from each eligible resident in accordance with Table B for those eligible residents who are recorded in the Department's Medicaid Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the six-month period preceding the rate period. Residents for whom MDS-MH resident identification information is missing or inaccurate, or for whom there is no current MDS-MH record for that period, shall be placed in the lowest MDS-MH acuity level for calculation purposes for that rate period. The nursing component of the rate may be adjusted on a semi-annual basis if any of the following conditions are met:~~
  - 1) ~~Total variable nursing time for a rate period as calculated in subsection (d)(1) of this Section exceeds total variable nursing time calculated for the previous rate period by more than five percent.~~
  - 2) ~~Total variable nursing time for a rate period as calculated in subsection (d)(1) of this Section exceeds:~~

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- A) ~~total variable nursing time as calculated for the annual rate period by more than 10 percent;~~
  - B) ~~total variable nursing time as recalculated and adjusted for the annual period by more than five percent.~~
- 3) ~~Total variable nursing time for a rate period as calculated in subsection (d)(1) of this Section declines from the total variable nursing time as calculated for the annual period by more than five percent. No semi-annual nursing component rate reduction shall exceed five percent from the annual rate determination.~~
- d) ~~Per diem reimbursement rates for nursing care in nursing facilities consist of three elements: variable time reimbursement; fringe benefit reimbursement; and reimbursement for supplies, consultants, medical directors and nursing directors.~~
- 1) ~~Variable Time Reimbursement. Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the MDS-MH is associated with an amount of time and staff level (Table B). Reimbursement is developed by multiplying the time for each service by the wages of the type of staff performing the service, except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:~~
- A) ~~The mean wages for the applicable staff levels (licensed staff, RNs, LPNs, certified nursing assistants (CNAs), social workers), as reported on the cost reports and determined by regional rate area, will be the mean wages.~~
  - B) ~~Fringe benefits shall be calculated in accordance with Section 147.150(e)(1)(B).~~

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- ~~C) The base wage shall be calculated in accordance with Section 147.150(c)(1)(C).~~
- ~~D) Special minimum wage factor shall be calculated in accordance with Section 147.150(c)(1)(D).~~
- ~~E) Beginning July 1, 2010, Class I IMDs shall be paid a rate based upon the sum of the following:
  - ~~i) The facility MDS-MH system based rate multiplied by a ratio the numerator of which is the quotient obtained by dividing the funds appropriated specifically to pay for rates based upon the MDS-MH methodology by the total number of Medicaid patient days utilized by facilities covered by the MDS-MH based system and the denominator of which is the difference between the weighted mean rate obtained by the MDS-MH methodology and the weighted mean rate direct care rate for IMDs in effect on July 1, 2006.~~
  - ~~ii) The facility rate in effect on July 1, 2006, multiplied by one minus the ratio computed in subsection (d)(1)(E)(i).~~~~
- ~~2) Vacation, sick leave and holiday time shall be calculated in accordance with Section 147.150(c)(2).~~
- ~~3) Special supplies, consultants and the Director of Nursing shall be calculated in accordance with Section 147.150(c)(3).~~
- e) **Determination of Facility Rates**  
~~An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wages for each assessment item (see subsection(d)(1) of this Section), adding the amounts for vacation, sick and holiday time (see Section 147.150(c)(2)), and supplies, consultants, and the Director of Nursing (see Section 147.150(c)(3)). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.~~

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- f) ~~In order to code any item on the MDS-MH and receive subsequent reimbursement according to Table B, Class I IMDs shall follow all criteria and specific guidelines in the IL MDS-MH manual (Hirdes et al., RAI-MH Training Manual and Resource Guide 2.0, Toronto, Ontario Joint Policy and Planning Committee, 2003).~~
- g) ~~In order for services to qualify for reimbursement according to Table B, Class I IMDs shall maintain a minimum ratio for Psychiatric Rehabilitation Services Coordinator staff of one for every 20 residents.~~
- h) ~~The Department shall not pay for any new admissions to the Class I IMDs who are age 60 years or older or do not have a severe mental illness as determined by the State's mental health pre-admission screening program.~~
- i) ~~Service providers under Section L, Service Utilization/Treatments, of the MDS-MH shall be coded in column A when services are delivered by staff employed by the facility. Column B shall be coded for services delivered by outside individuals not employed by the facility. The Medicaid rate shall reflect only those services delivered by staff that is employed by the facility.~~
- j) ~~The Medicaid rate determined by Table B for Class I IMDs shall be the combination of a nursing component and socio-development component.~~
- k) ~~The Department of Healthcare and Family Services and the Department of Human Services Division of Mental Health shall have the right of entry and inspection to all Class I IMD facilities in order to assess resident mix, monitor data quality, develop service quality indicators, and conduct studies, such as staff time samples, in order to test and refine the payment method.~~

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.125 Nursing Facility Resident Assessment Instrument (Repealed)**

- a) ~~Except as specified in subsection (b) of this Section, all Medicaid-certified nursing facilities shall comply with the provisions of the current federal Long Term Care Resident Assessment Instrument User's Manual, version 2. (Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore,~~

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~~Maryland 21244 (December 2005), and the Resident Assessment Instrument-Mental Health Illinois version 2 (July 2003), adopted from Minimum Data Set-Mental Health version 2. This incorporation by reference includes no later amendments or editions.)~~

- b) ~~Nursing facilities shall, in addition, comply with the following requirements:~~
- ~~1) Complete a full Minimum Data Set (MDS) assessment, which includes required items A through R, in addition to any State required items, for each resident quarterly, regardless of the resident's payment source. Facilities are not required to complete and submit the MDS Quarterly Assessment Form. When completing the full MDS assessment for quarterly submittal to the Department, it is not necessary to also complete the Resident Assessment Protocols (RAPs) or Section T. RAPs and Section T are only required with the comprehensive assessment described in the current federal Long Term Care Resident Assessment Instrument User's Manual, which includes assessments completed at admission, annually, for a significant change or for a significant correction of a prior MDS.~~
  - ~~2) Transmit electronically to the State MDS database the MDS for all assessments within 31 days after the completion date of the assessment. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, the rate set will be based on the MDS received two quarters prior to the rate effective date and MDS not received within 31 days will be given a default rate.~~
- e) ~~While a new rate system referenced in Section 147.150 is under development, Medicaid-certified Class I IMDs shall electronically submit both the MDS pursuant to subsections (a) and (b) of this Section and the Illinois Minimum Data Set-Mental Health (IL MDS-MH) as specified by the Department at the following frequencies:~~
- ~~1) Complete a full IL MDS-MH within 14 days after admission for each resident, regardless of the resident's payment source.~~

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- 2) ~~Complete a full IL MDS-MH at 90 days after admission for each resident, regardless of the resident's payment source.~~
- 3) ~~Complete a full IL MDS-MH at six months after admission for each resident, regardless of the resident's payment source, and every six months thereafter.~~
- 4) ~~Transmit electronically to the Department's IL MDS-MH database, the IL MDS-MH for all required assessments within 31 days after the completion date of the assessment.~~

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.150 Minimum Data Set (MDS) Based Reimbursement System (Repealed)**

- a) ~~Public Act 94-0964 requires the Department to implement, effective January 1, 2007, a payment methodology for the nursing component of the rate paid to nursing facilities. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, reimbursement for the nursing component shall be calculated using the Minimum Data Set (MDS). Increased reimbursement under this payment methodology shall be paid only if specific appropriation for this purpose is enacted by the General Assembly.~~
- b) ~~Except as referenced in subsection (c)(1)(E)(iv) of this Section, the nursing component of the rate shall be calculated and adjusted quarterly. The determination of rates shall be based upon a composite of MDS data collected from each eligible resident in accordance with Section 147. Table A for those eligible residents who are recorded in the Department's Medicaid Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the second quarter preceding the rate period. Residents for whom MDS resident identification information is missing or inaccurate, or for whom there is no current MDS record for that quarter, shall be placed in the lowest MDS acuity level for calculation purposes for that quarter.~~
- e) ~~Per diem reimbursement rates for nursing care in nursing facilities consist of three~~

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~~elements: variable time reimbursement; fringe benefit reimbursement; and reimbursement for supplies, consultants, medical directors and nursing directors.~~

- 1) ~~Variable Time Reimbursement.~~  
~~Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and staff level (Section 147. Table A). Reimbursement is developed by multiplying the time for each service by the wages of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:~~
  - A) ~~The mean wages for the applicable staff levels (RNs, LPNs, certified nursing assistants (CNAs), activity staff, social workers), as reported on the cost reports and determined by regional rate area, will be the mean wages.~~
  - B) ~~Fringe benefits will be the average percentage of benefits to actual salaries of all nursing facilities based upon cost reports filed pursuant to 89 Ill. Adm. Code 140.543. Fringe benefits will be added to the mean wage.~~
  - C) ~~The base wage, including fringe benefits, will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected base wage changes.~~
  - D) ~~Special minimum wage factor. The process used in subsection (c)(1)(A) of this Section to determine regional mean wages for RNs, LPNs and CNAs will include a minimum wage factor. For those facilities below 90% of the Statewide average, the wage is replaced by 90% of the Statewide average.~~

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- E) ~~Beginning January 1, 2007, facilities shall be paid a rate based upon the sum of the following:~~
- i) ~~the facility MDS-based rate multiplied by the ratio the numerator of which is the quotient obtained by dividing the additional funds appropriated specifically to pay for rates based upon the MDS nursing component methodology above the December 31, 2006 funding by the total number of Medicaid patient days utilized by facilities covered by the MDS-based system and the denominator of which is the difference between the weighted mean rate obtained by the MDS-based methodology and the weighted mean rate in effect on December 31, 2006.~~
  - ii) ~~the facility rate in effect on December 31, 2006, which is defined as the facility rate in effect on December 31, 2006 plus the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569(a)(1), multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). The exceptional care reimbursement per diem effective January 1, 2007 computed in 89 Ill. Adm. Code 140.569 shall be included in the nursing component of the June 30, 2006 rate unless the total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section is more than a five percent drop from the total variable nursing time calculated for the June 30, 2006 rate quarter. Then the facility will receive for the rate period zero percent of the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569.~~
  - iii) ~~Until October 1, 2009, for facilities in which the number of ventilator care residents in any quarter has increased over the number used to compute the exceptional care per diem as specified in 89 Ill. Adm. Code 140.569(a)(1), the rate computed in subsections (c)(1)(E)(i) and (c)(1)(E)(ii) shall~~

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~~add the sum of total variable time reimbursement for the ventilator care add-on, vacation time, the average facility special patient need factors, and supply, consultant, and Director of Nursing factors for each resident receiving ventilator care in excess of the number used to compute the exceptional care per diem as specified in 89 Ill. Adm. Code 140.569(a)(1) divided by the total number of residents used to compute the MDS portion of the paid rate for that quarter. The resulting ventilator add-on shall be multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). This addition to the rate shall apply for each quarter regardless of the facility's eligibility for use of that quarter's MDS rate for computation of the paid facility rate as defined in subsection (b) of this Section.~~

- ~~iv) The calculations referenced in subsections (c)(1)(E)(i) and (ii) of this Section shall only change annually.~~
- ~~F) The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2007 is \$60 million. The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2008 is \$50 million. The annual amount of new funds for MDS reimbursement methodology beginning January 1, 2009 is \$84 million. Subject to approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, the annual amount of new funds for MDS reimbursement methodology, beginning May 1, 2011, is \$222.5 million.~~
- 2) ~~Vacation, Sick Leave and Holiday Time.~~  
~~The time to be added for vacation, sick leave, and holidays will be determined by multiplying the total of variable time by 5%.~~
- 3) ~~Special Supplies, Consultants and the Director of Nursing.~~  
~~Reimbursement will be made for health care and program supplies, consultants required by the Department of Public Health (including the Medical Director), and the Director of Nursing by applying a factor to~~

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~~variable time and vacation, sick leave and holiday time. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830.)~~

- ~~A) Supplies will be updated for inflation using the General Services Inflator (see 89 Ill. Adm. Code 140.551). Health care and program salaries shall be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for supplies will be the Statewide mean of the ratio of total facility health care and programs supply costs to total facility health care and programs salaries.~~
  - ~~B) The Director of Nursing and the consultants will be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for the Director of Nursing and consultant costs shall be the Statewide mean of the ratio of all facilities' Director of Nursing and consultant costs to total facility health care and programs salaries.~~
  - ~~C) These costs shall be updated pursuant to cost reports as referenced in 89 Ill. Adm. Code 153.125(f).~~
- d) ~~Determination of Facility Rates.~~  
~~An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wages for each assessment item (see subsection (c)(1) of this Section), adding the amounts for vacation, sick and holiday time (see subsection (c)(2) of this Section), and supplies, consultants, and the Director of Nursing (see subsection (c)(3) of this Section). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.~~
- e) ~~A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect July 1, 2003 shall be provided for a period not exceeding December 31, 2006, as follows:~~

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- 1) ~~MDS-based rate adjustments under this Section shall not be effective until the attainment of a threshold. The threshold shall be attained at the earlier of either:~~
  - A) ~~when all nursing facilities have established a rate (sum of all components) which is no less than the rate effective June 30, 2002,~~  
~~or~~
  - B) ~~January 1, 2007.~~
- 2) ~~For a facility that would receive a lower nursing component rate per resident day under the payment methodology effective July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be held at the level in effect on June 30, 2003 until a higher nursing component rate of reimbursement is achieved by that facility.~~
- 3) ~~For a facility that would receive a higher nursing component rate per resident day under the payment methodology in effect on July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be adjusted based on the payment methodology in effect July 1, 2003.~~
- 4) ~~Notwithstanding subsections (c)(2) and (3) of this Section, the nursing component rate per resident day for the facility shall be adjusted in accordance with subsection (c)(1)(E) of this Section.~~

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.175 Minimum Data Set (MDS) Integrity (Repealed)**

- a) ~~The Department shall conduct reviews to determine the accuracy of resident assessment information transmitted in the Minimum Data Set (MDS) that are relevant to the determination of reimbursement rates. Such reviews may, at the discretion of the Department, be conducted electronically or in the facility.~~

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- b) ~~The Department shall quarterly select, at random, a number of facilities in which to conduct on-site reviews. The Department may select facilities for on-site review based upon facility characteristics, past performance, or the Department's experience. This may include, but is not limited to, analysis of case mix profile of nursing facilities in regard to frequency in distribution of the residents in identified reimbursement categories. In addition, the Department may use findings of the licensing and certification survey conducted by IDPH indicating the facility is not accurately assessing residents. It may also include resident assessments submitted by the provider that do not meet submission deadlines, facilities with a high percentage of corrections and facilities with high submission error rates.~~
- e) ~~Electronic review. The Department shall conduct quarterly an electronic review of MDS data for eligible individuals to identify facilities for on-site review.~~
- d) ~~On-site review. The Department shall conduct an on-site review of MDS data for eligible individuals.~~
- 1) ~~On-site reviews may be conducted with respect to residents or facilities that are identified pursuant to subsection (b) or (c) of this Section. Such review may include, but shall not be limited to, the following:~~
- A) ~~Review of resident records and supporting documentation, as identified in Section 147.200, observation and interview, to determine the accuracy of data relevant to the determination of reimbursement rates.~~
  - B) ~~Review and collection of information necessary to assess the need for a specific service or care area.~~
  - C) ~~Review and collection of information from the facility that will establish the direct care staffing level. The amount of staff available in the facility shall be sufficient to carry out the number and frequency of restorative programs identified for reimbursement.~~

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- 2) ~~The number of residents in any selected facility for whom information is reviewed may, at the sole discretion of the Department, be limited or expanded.~~
  - 3) ~~Upon the conclusion of any review, the Department shall conduct a meeting with facility management to discuss preliminary conclusions of the review. If facility management disagrees with those preliminary conclusions, facility management may, at that time, provide additional documentation to support their position.~~
- e) ~~Corrective action. Upon the conclusion of the review and the consideration of any subsequent supporting documentation provided by the facility, the Department shall notify the facility of its final conclusions, both with respect to accuracy of data and recalculation of the facility's reimbursement rate.~~
- 1) ~~Data Accuracy~~
    - A) ~~Final conclusions with respect to inaccurate data shall be referred to the Department of Public Health.~~
    - B) ~~The Department, in collaboration with the Department of Public Health, shall make available additional training in the completion of resident assessments and the coding and transmission of MDS records.~~
  - 2) ~~Recalculation of Reimbursement Rate. The Department shall determine if reported MDS data or facility staffing data that were subsequently determined to be unverifiable would cause the direct care component of the facility's rate to be calculated differently when using the accurate data. No change in reimbursement required as a result of a review shall take effect before July 1, 2004. Prior to the record review of residents receiving skills training, the following components of this Part will be reviewed to ensure compliance:~~
    - A) ~~Skills training shall be provided by staff that are paid by the facility and have been trained in leading skills groups by a Department approved trainer.~~

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- B) ~~A private room shall be available with no other programs or activities going on at the same time. The environment shall be conducive to learning in terms of comfort, noise, and other distractions.~~
- C) ~~Schedules shall be presented that identify residents and reflect the facility's ability to provide the sessions in increments of a minimum of 30 minutes for each skills training (not including time to assemble and settle). The sessions shall be scheduled at least three times per week.~~
- D) ~~Training shall utilize a well-developed, structured curriculum and specific written content developed in advance to guide each of the sessions.~~
- 3) ~~In the event one or more of these components are not in place, the recalculated rate may be extrapolated to the entire population receiving this service.~~
- 4) ~~When problems are noted in 30 percent of the population of residents receiving skills training during the record review, the recalculated rate may be extrapolated to the entire population receiving this service. When the recalculated rate has been extrapolated to the entire population, the facility shall obtain prior approval from the Department before future reimbursement for skills training is allowable. The Department shall have up to 90 days to determine this approval.~~
- 5) ~~When problems are noted in 30 percent of coded responses to the sample population for other services areas, the review may be expanded to up to 100 percent for those service areas. The original sample population is defined as 20%, or no less than 10, of the eligible residents pursuant to Section 147.150(b).~~
- 6) ~~In addition, the facilities with widespread problems in restorative and psychosocial adaptation may be subject to follow up reviews to ensure problems are corrected.~~

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- 7) ~~A facility's rate will be subject to change if the recalculation of the direct care component rate, as a result of using MDS data that are verifiable:~~
- A) ~~Increases the rate by more than one percent. The rate is to be changed, retroactive to the beginning of the rate period, to the recalculated rate.~~
  - B) ~~Decreases the rate by more than one percent. The rate is to be changed, retroactive to the beginning of the rate period, to the recalculated rate.~~
  - C) ~~Decreases the rate by more than ten percent in addition to the rate change specified in this subsection (e)(7). The direct care component of the rate shall be reduced, retroactive to the beginning of the rate period, by \$1 for each whole percentage decrease in excess of two percent.~~
- 8) ~~Any evidence or suspicion of deliberate falsification or misrepresentation of MDS data shall be referred to the Department's Inspector General and the Department of Public Health.~~
- f) ~~Appeals. Facilities disputing any rate change may submit an appeal request pursuant to 89 Ill. Adm. Code 140.830.~~

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.200 Minimum Data Set (MDS) On-Site Review Documentation (Repealed)**

- a) ~~Pursuant to Section 147.175, Department staff shall conduct on-site reviews of Minimum Data Set (MDS) data to determine the accuracy of resident information that is relevant to the determination of reimbursement rates.~~
- 1) ~~Department staff shall request in writing the current charts of individual residents needed to begin the review process. Current charts and completed MDSs for the previous 15 months shall be provided to the review team within an hour after this request. Additional documentation~~

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~~regarding reimbursement areas for the identified Assessment Reference Date (ARD) timeframe shall be provided to the review team within four hours after the initial request.~~

- ~~2) When further documentation is needed by the review team to validate an area, the team will identify the area of reimbursement requiring additional documentation and provide the facility with the opportunity to produce that information. The facility shall provide the team with the additional documentation within 24 hours after the initial request. All documentation that is to be considered for validation must be provided to the team prior to exit.~~
  - ~~3) Pursuant to 89 Ill. Adm. Code 140.12(f), the facility shall provide Department staff with access to residents, professional and non-licensed direct care staff, facility assessors, clinical records and completed resident assessment instruments, as well as other documentation regarding residents' care needs and treatments.~~
  - ~~4) Failure to provide timely access to records may result in suspension or termination of a facility's provider agreement in accordance with 89 Ill. Adm. Code 140.16(a)(4).~~
  - ~~5) Some states may have regulations that require supportive documentation elsewhere in the record to substantiate the resident's status on particular MDS items used to calculate payment under the State's Medicaid system (RAI Manual, page 1-24). These additional documentation requirements shall be met for reimbursement.~~
  - ~~6) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with medical peer review organizations to provide utilization review and quality assurance.~~
- b) ~~There shall be documentation in the resident's record to support an MDS coded response indicating that the condition or activity was present or occurred during the observation or look back period. Directions provided by the RAI User's Manual (as described in Section 147.125) are the basis for all coding of the MDS.~~

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~~Section S is reserved for additional State defined items. All documentation requirements pertain to the MDS 2.0 and Section S items.~~

- e) ~~Each nursing facility shall ensure that MDS data for each resident accurately and completely describes the resident's condition, as documented in the resident's clinical records, maintained by the nursing facility, and the clinical records shall be current, accurate and in sufficient detail to support the reported resident data.~~
- d) ~~Documentation guidance has been compiled from the RAI Manual, instructions that are present on the MDS 2.0 form itself, RAI MH, and Illinois additional documentation requirements. If later guidance is released by CMS that contradicts or augments guidance provided in this Section, the more current information from CMS becomes the acceptable standard. If additional ICD-9 codes are published, they will be reviewed for appropriateness.~~
- e) ~~Documentation from all disciplines and all portions of the resident's clinical record may be used to verify an MDS item response. All supporting documentation shall be found in the facility during an on-site visit.~~
- f) ~~All conditions or treatments shall have been present or occurred within the designated observation period. Documentation in the clinical record shall consistently support the item response and reflect care related to the symptom/problem. Documentation shall apply to the appropriate observation period and reflect the resident's status on all shifts. In addition, the problems that are identified by the MDS item responses that affect the resident's status shall be addressed on the care plan. Insufficient or inaccurate documentation may result in a determination that the MDS item response submitted could not be validated.~~
- g) ~~Disease Diagnoses. Throughout Table A, when a diagnosis is required, the following must be met:~~
  - 1) ~~Code only those diseases or infections that have a relationship to the resident's current ADL (Activities of Daily Living) status, cognitive status, mood or behavior status, medical treatments, nursing monitoring or risk of death as directed in the RAI Manual.~~

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- 2) ~~The disease conditions require a physician documented diagnosis in the clinical record. It is good clinical practice to have the resident's physician provide supporting documentation for any diagnosis.~~
  - 3) ~~Do not include conditions that have been resolved or no longer affect the resident's functioning or care plan. One of the important functions of the MDS assessment is to generate an updated, accurate picture of the resident's health status.~~
- h) ~~Activities of Daily Living (ADL).~~
- 1) ~~Facilities shall maintain documentation that supports the coding of Section G, Physical Functioning, and Structural Problems on the MDS during the look back period. The documentation shall show the MDS coded level of resident self performance and support has been met.~~
  - 2) ~~Documentation shall be dated within the look back period and must contain information from all three shifts that clearly supports the level of self performance and support needed.~~
  - 3) ~~When there is a widespread lack of supporting documentation as described in subsections (h)(1) and (2), the ADL scores for the residents lacking documentation will be reset to zero.~~
  - 4) ~~When there is an occasional absence of documentation for residents in the sample, ADL scores will be based on the observation and/or interview of the resident and facility staff at the time of the review. If the resident has been discharged and there is no documentation to support the ADL coding, ADL scores will be reset to one.~~
- i) ~~Restorative services are programs under the direction and supervision of a licensed nurse and are provided by nursing staff. The programs are designed to promote the resident's ability to adapt and adjust to living as independently and safely as possible. The focus is on achieving and/or maintaining optimal physical, mental, and psychosocial functioning. A program is defined as a specific approach that is organized, planned, documented, monitored, and evaluated. Although therapists may participate in designing the initial program, members of~~

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~~nursing staff are still responsible for the overall coordination and supervision of restorative nursing programs. Staff completing the programs shall be communicating progress, maintenance, regression and other issues/concerns to the licensed nurse overseeing the programs. To qualify for reimbursement, the provision of restorative programs shall meet the following criteria for each program identified for reimbursement:~~

- 1) ~~When programs are designed using verbal cueing as the only intervention, documentation and/or observation must support the following:
  - A) ~~Without such cueing the resident would be unable to complete the required ADL task.~~
  - B) ~~The verbal interventions are aimed at providing the resident with instructions for completing the task in such a way that promotes the resident's safety and awareness.~~
  - C) ~~Verbal interventions that are simply reminders to complete the task may not be the sole content of the program.~~~~
- 2) ~~Documentation shall clearly define the resident's need for the program and the defined program shall correspond to the identified need of the resident. Observation and/or interview shall also support the need for the program.~~
- 3) ~~The clinical record shall identify a restorative nursing plan of care to assist the resident in reaching and/or maintaining his or her highest level of functioning. Staff completing the programs shall be aware of the program and the resident's need for the program.~~
- 4) ~~Documentation must support that the program was reevaluated and goals and interventions were revised as necessary to assist the resident in reaching and/or maintaining his or her highest level of functioning.~~
- 5) ~~Documentation shall contain objective and measurable information so that progress, maintenance or regression can be recognized from one report to the next.~~

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- ~~6) Goals shall be resident specific, realistic, and measurable. Goals shall be revised as necessary. Revisions shall be made based on the resident's response to the program.~~
- ~~7) The resident's ability to participate in the program shall be addressed.~~
- ~~8) Written evidence of measurable objectives and interventions shall be in the restorative plan of care and be individualized to the resident's problems and needs. There shall be evidence the objectives and interventions were reviewed quarterly and revised as necessary.~~
- ~~9) There shall be evidence of quarterly evaluation written by a licensed nurse in the clinical record. The evaluation must assess the resident's progress and participation in the program since the last evaluation. It shall contain specific information that includes the resident's response to the program (i.e., amount of assistance required, devices used, the distance, the progress made, how well the resident tolerated the program). An evaluation shall be documented on each restorative program the resident is receiving.~~
- ~~10) There shall be written evidence that staff carrying out the programs have been trained in techniques that promote resident involvement in the activity.~~
- ~~11) If volunteers or other staff were assigned to work with specific residents, there shall be written evidence of specific training in restorative techniques that promote the resident's involvement in the restorative program.~~
- ~~12) There shall be documentation to support that the programs are ongoing and administered as planned outside the look-back period, unless there is written justification in the clinical record that supports the need to discontinue the program. Observation and/or interviews must also support that the programs are ongoing and administered as planned.~~
- ~~13) If a restorative program is in place when a care plan is being revised, it is appropriate to reassess progress, goals, duration and frequency as part of~~

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~~the care planning process. The results of this reassessment shall be documented in the record.~~

- ~~14) The actual number of minutes per day spent in a restorative program shall be documented for each resident and for each restorative program during the look back period.~~
  - ~~15) The Department designated endurance assessment must be completed quarterly on each resident receiving two or more restorative programs. A licensed nurse must complete this assessment.~~
  - ~~16) A resident coded as totally dependent in an ADL function will only be reimbursed for one quarter for the following corresponding restorative programs: bed mobility, transfer, walking, dressing/grooming, and/or eating/swallowing.~~
  - ~~17) A resident scoring and/or receiving hospice services shall not be eligible for the following restorative programs: bed mobility, transfer, walking, dressing/grooming, eating and/or other restoratives.~~
  - ~~18) When multiple restoratives are coded in a facility, the staff levels must support the ability to deliver these programs based on the number and frequency of programs coded.~~
  - ~~19) All restorative programs shall meet the specifications of the RAI Manual for the individual restoratives.~~
- j) ~~Passive Range of Motion (PROM).~~
- ~~1) The restorative program shall meet the definition of PROM as identified in the RAI Manual.~~
  - ~~2) The PROM program shall address the functional limitations identified in section G4 of the MDS.~~

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- 3) ~~There shall be evidence that the program is planned and scheduled. PROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.~~
- k) ~~Active Range of Motion (AROM):~~
- 1) ~~The restorative program meets the definition of AROM as identified in the RAI Manual.~~
  - 2) ~~The AROM programs shall address the functional limitations identified in section G4 of the MDS.~~
  - 3) ~~There shall be evidence that the program is planned and scheduled. AROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.~~
  - 4) ~~AROM does not include exercise groups with more than four residents assigned per supervising helper or caregiver.~~
- l) ~~Splint/Brace Assistance. A splint or brace is defined as an appliance for the fixation, union, or protection of an injured part of the body.~~
- m) ~~Dressing or Grooming Restorative. Grooming programs, including programs to help the resident learn to apply make-up, may be considered restorative nursing programs when conducted by a member of the activity staff. These programs shall have goals, objectives, and documentation of progress and be related to the identified deficit.~~
- n) ~~Scheduled Toileting:~~
- 1) ~~The program shall have documentation to support that all the requirements identified in the RAI Manual are met.~~
  - 2) ~~The description of the plan shall be documented, including: frequency, reason, and response to the program.~~

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- 3) ~~The plan shall be periodically evaluated and revised, as necessary, including documentation of the resident's response to the plan.~~
  - 4) ~~This does not include a "check and change" program or routine changing of the resident's incontinent briefs, pads or linens when wet, when there is no participation in the plan by the resident.~~
  - 5) ~~There shall be documentation to support the deficit in toileting and/or the episodes of incontinence.~~
  - 6) ~~A resident scoring S1 = 1 (meets Subpart S criteria) shall have a corresponding diagnosis of cerebral vascular accident (CVA) or multiple sclerosis to qualify for reimbursement in scheduled toileting.~~
- o) ~~Continence Care.~~
- 1) ~~Documentation shall support that catheter care was administered during the look back period.~~
  - 2) ~~The type and frequency of the care shall be documented.~~
  - 3) ~~Documentation shall support that the RAI requirements for a bladder retraining program were administered during the look back period.~~
  - 4) ~~The resident's level of incontinence shall be documented during the look-back period to support the bladder retraining program.~~
  - 5) ~~Bladder scanners cannot be the sole content of the bladder retraining program.~~
- p) ~~Pressure Ulcer Prevention.~~
- 1) ~~Documentation shall support the history of resolved ulcer in the identified timeframe and/or the use of the coded interventions during the identified timeframe.~~
  - 2) ~~Interventions and treatments shall meet the RAI definitions for coding.~~

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- 3) ~~Documentation shall support a specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.~~
- 4) ~~There shall be documentation that the resident was assessed related to his or her risk for developing ulcers. A resident assessed to be at high risk shall have interventions identified in the plan of care.~~
- e) ~~Moderate Skin Care/Intensive Skin Care.~~
  - 1) ~~Interventions and treatments shall meet the RAI definitions for coding.~~
  - 2) ~~Documentation of ulcers shall include staging as the ulcers appear during the look-back period.~~
  - 3) ~~Documentation of ulcers shall include a detailed description that includes, but is not limited to, the stage of the ulcer, the size, the location, any interventions and treatments used during the look-back period.~~
  - 4) ~~Documentation of burns shall include, but is not limited to, the location, degree, extent, interventions and treatments during the look-back period.~~
  - 5) ~~Documentation of open lesions shall include, but is not limited to, location, size, depth, any drainage, interventions and treatments during the look-back period.~~
  - 6) ~~Documentation of surgical wounds shall include, but is not limited to, type, location, size, depth, interventions and treatment during the look-back period.~~
  - 7) ~~All treatments involving M5e, M5f, M5g, and M5h shall have a physician's order with the intervention and frequency.~~
  - 8) ~~Documentation to support that the intervention was delivered during the look-back period shall be included.~~

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- 9) ~~Documentation of infection of the foot shall contain a description of the area and the location.~~
- 10) ~~Documentation shall support a specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.~~
- 11) ~~Documentation for items coded in M4 shall include documentation of an intervention, treatment, and/or monitoring of the problem or condition identified.~~
- r) ~~IV Therapy.~~
  - 1) ~~Documentation shall include the date delivered, type of medication and method of administration.~~
  - 2) ~~Documentation shall support monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse as required in subsection (y) of this Section.~~
- s) ~~Injections. Documentation shall include the drug, route given and dates given.~~
- t) ~~Oxygen Therapy. Documentation shall include a physician's order and the method of administration and date given.~~
- u) ~~Chemotherapy. Documentation shall support the resident was monitored for response to the chemotherapy.~~
- v) ~~Dialysis. Documentation shall support the resident was monitored for response to the dialysis.~~
- w) ~~Blood Glucose Monitoring.~~
  - 1) ~~Documentation shall support that RAI criteria for coding a diagnosis was met, including a physician documented diagnosis.~~

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- 2) ~~Documentation shall support coding of a therapeutic diet being ordered and given to the resident.~~
  - 3) ~~Documentation shall support coding of a dietary supplement being ordered and given to the resident during the look-back period. There shall be evidence to support it was not part of a unit's daily routine for all residents.~~
  - 4) ~~Documentation shall support the coding that injections were given the entire seven days of the look-back period.~~
- x) ~~Infectious Disease.~~
- 1) ~~Documentation shall support that the criteria defined in the RAI Manual for coding this subsection were met.~~
  - 2) ~~Documentation shall support the active diagnosis by the physician and shall include signs and symptoms of the illness.~~
  - 3) ~~Interventions and treatments shall be documented.~~
  - 4) ~~Documentation shall support that all RAI requirements for coding a Urinary Tract Infection (UTI) are met.~~
  - 5) ~~Administration of maintenance medication to prevent further acute episodes of UTI is not sufficient to code I2j.~~
- y) ~~Acute Medical Conditions.~~
- 1) ~~Documentation shall support that the RAI requirements for coding these areas are met.~~
  - 2) ~~Documentation shall support monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse.~~
  - 3) ~~There shall be evidence that the physician has evaluated and identified the medically unstable or acute condition for which clinical monitoring is needed.~~

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- 4) ~~There shall be evidence of significant increase in licensed nursing monitoring.~~
  - 5) ~~There shall be evidence that the episode meets the definition of acute, which is usually of sudden onset and time limited course.~~
- z) ~~Pain Management.~~
- 1) ~~There shall be documentation to support the resident's pain experience during the look back period and that interventions for pain were offered and/or given.~~
  - 2) ~~Residents shall be assessed in a consistent, uniform and standardized process to measure and assess pain.~~
- aa) ~~Discharge Planning.~~
- 1) ~~Social services shall document monthly the resident's potential for discharge, specific steps being taken toward discharge, and the progress being made.~~
  - 2) ~~Social service documentation shall demonstrate realistic evaluation, planning, and follow through.~~
  - 3) ~~Discharge plans shall address the current functional status of the resident, medical nursing needs, and the availability of family and/or community resources to meet the needs of the resident.~~
- bb) ~~Nutrition.~~
- 1) ~~Documentation shall support coding of tube feeding during the look back period.~~
  - 2) ~~Intake and output records and caloric count shall be documented to support the coding of K6.~~

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- 3) ~~Documentation of a planned weight change shall include a diet order and a documented purpose or goal that is to facilitate weight gain or loss.~~
  - 4) ~~Documentation of a dietary supplement shall include evidence that resident received the supplement and that it was ordered and given between meals.~~
- ee) ~~Hydration.~~
- 1) ~~Documentation shall support that the resident passes two or fewer bowel movements per week, or strains more than one of four times when having a bowel movement during the look-back period to support the coding of H2b.~~
  - 2) ~~Documentation shall support that the resident received a diuretic medication during the look-back period to support the coding of O4e.~~
  - 3) ~~Documentation shall include frequency of episodes and accompanying symptoms to support the coding of vomiting.~~
  - 4) ~~Documentation shall include signs and symptoms, interventions and treatments used to support the coding of volume depletion, dehydration or hypovolemia.~~
  - 5) ~~There shall be documentation of temperature to support the coding of fever.~~
  - 6) ~~There shall be documentation to support the coding of internal bleeding that shall include the source, characteristics and description of the bleeding.~~
  - 7) ~~There shall be documentation that interventions were implemented related to the problem identified.~~
- dd) ~~Psychosocial Adaptation. Psychosocial adaptation is intended for residents who require a behavior symptom evaluation program or group therapy to assist them in dealing with a variety of mood or behavioral issues. The criteria for~~

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~~reimbursement in this area requires both an intervention program and the identification of mood or behavioral issues. Residents shall be assessed for mood and behavioral issues and interventions shall be implemented to assist the resident in dealing with the identified issues. To qualify for reimbursement in this area, the facility must meet the following criteria:~~

- ~~1) Criteria for a special behavior symptom evaluation program.
  - ~~A) There must be documentation to support that the program is an ongoing and comprehensive evaluation of behavior symptoms.~~
  - ~~B) Documentation must support the resident's need for the program.~~
  - ~~C) The documentation must show that the purpose of the program is to attempt to understand the "meaning" behind the resident's identified mood or behavioral issues.~~
  - ~~D) Interventions related to the identified issues must be documented in the care plan.~~
  - ~~E) The care plan shall have interventions aimed at reducing the distressing symptoms.~~~~
- ~~2) Criteria for group therapy.
  - ~~A) There is documentation the resident regularly attends sessions at least weekly.~~
  - ~~B) Documentation supports that the therapy is aimed at helping reduce loneliness, isolation, and the sense that one's problems are unique and difficult to solve.~~
  - ~~C) This area does not include group recreational or leisure activities.~~
  - ~~D) The therapy and interventions are addressed in the care plan.~~~~

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- E) ~~This must be a separate session and cannot be conducted as part of skills training.~~
- 3) ~~Criteria for indicators of depression.~~
- A) ~~There must be documentation to support that identified indicators occurred during the look back period.~~
  - B) ~~The documentation shall support the frequency of the indicators as coded during the look back period.~~
  - C) ~~There shall be documentation to support that interventions were implemented to assist the resident in dealing with these issues.~~
- 4) ~~Criteria for sense of initiative/involvement.~~
- A) ~~There is documentation to support the resident was not involved or did not appear at ease with others or activities during the look back period.~~
  - B) ~~There shall be evidence that interventions were implemented to assist the resident in dealing with these issues.~~
- 5) ~~Criteria for unsettled relationships/past roles.~~
- A) ~~There is documentation to support the issues coded in this area during the look back period.~~
  - B) ~~There shall be evidence that interventions were implemented to assist the resident in dealing with the issues identified.~~
- 6) ~~Criteria for behavioral symptoms.~~
- A) ~~There is documentation to support that the behaviors occurred during the look back period and the interventions used.~~

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- B) ~~Documentation should reflect the resident's status and response to interventions.~~
  - C) ~~Documentation should include a description of the behavior exhibited and the dates it occurred, as well as staff response to the behaviors.~~
  - D) ~~Documentation supporting that the behaviors coded meet the RAI definitions for the identified behavior.~~
  - E) ~~The care plan identifies the behaviors and the interventions to the behaviors.~~
- 7) ~~Criteria for delusions/hallucinations.~~
- A) ~~There is documentation to support that the delusions or hallucinations occurred during the look back period.~~
  - B) ~~Documentation contains a description of the delusion or hallucinations the resident was experiencing.~~
  - C) ~~There is documentation to support the interventions used.~~
- ee) ~~Psychotropic Medication Monitoring.~~  
~~Documentation shall support the facility followed the documentation guidelines as directed by 42 CFR 483.25(l), Unnecessary drugs (State Operations Manual F-tag F329).~~
- ff) ~~Psychiatric Services (Section S).~~
- 1) ~~There shall be evidence the resident met IDPH Subpart S criteria during the look back period.~~
  - 2) ~~There shall be evidence a pre-admission screening completed by a Department of Human Services Division of Mental Health screening entity was completed on the resident that identifies the resident as having a serious mental illness (SMI).~~

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- 3) ~~Ancillary provider services are services that are provided by direct non-facility psychiatric service providers in order to meet 77 Ill. Adm. Code 300, Subpart S requirements.~~
  - 4) ~~Psychiatric rehabilitation services that are provided by non-facility providers or an outside entity shall meet the needs of the SMI resident as determined by the resident's individual treatment plan (ITP).~~
  - 5) ~~Facilities must ensure compliance with 77 Ill. Adm. Code 300.4050 when utilizing non-facility or outside ancillary providers.~~
  - 6) ~~Adjustments in the rate for utilization of ancillary providers shall be calculated based upon Department claims data for ancillary provider billing.~~
- gg) ~~Skills Training. Skills training is specific methods for assisting residents who need and can benefit from this training to address identified deficits and reach personal and clinical goals. To qualify for reimbursement, the provision of skills training shall meet all of the following criteria:~~
- 1) ~~Skills and capabilities shall be assessed with the use of a standardized skills assessment, a cognitive assessment and an assessment of motivational potential. The assessment of motivational potential will assist in determining the type and size of the group in which a resident is capable of learning.~~
  - 2) ~~Addresses identified skill deficits related to goals noted in the treatment plan.~~
  - 3) ~~Skills training shall be provided by staff that are paid by the facility and have been trained in leading skills groups by a Department approved trainer.~~
  - 4) ~~Training shall be provided in a private room with no other programs or activities going on at the same time. The environment shall be conducive to learning in terms of comfort, noise, and other distractions.~~

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- 5) ~~Training shall be provided in groups no larger than ten, with reduced group size for residents requiring special attention due to cognitive, motivational or clinical issues, as determined by the skills assessment, cognition and motivational potential. Individual sessions can be provided as appropriate and shall be identified in the care plan.~~
  - 6) ~~Training shall utilize a well developed, structured curriculum and specific written content developed in advance to guide each of the sessions. (Published skills modules developed for the severe mentally ill (SMI) and Mental Illness/Substance Abuse (MISA) populations are available for use and as models.)~~
  - 7) ~~The curriculum shall address discrete sets of skill competencies, breaking skills down into smaller components or steps in relation to residents' learning needs.~~
  - 8) ~~The specific written content shall provide the rationale for learning, connecting skill acquisition to resident goals.~~
  - 9) ~~Training shall employ skill demonstration/modeling, auditory and visual presentation methods, role playing and skill practice, immediate positive and corrective feedback, frequent repetition of new material, practice assignments between training sessions (homework), and brief review of material from each previous session.~~
  - 10) ~~There shall be opportunities for cued skill practice and generalization outside session as identified in the care plan and at least weekly documentation relative to skill acquisition.~~
  - 11) ~~Each training session shall be provided and attended in increments of a minimum of 30 minutes each (not counting time to assemble and settle) at least three times per week. Occasional absences are allowable, with individual coverage of missed material as necessary. However, on-going 1:1 training shall not qualify under this area.~~
- hh) ~~Close or Constant Observations.~~

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- 1) ~~Coding of this item is intended only for interventions applied in response to the specific current significant need of an individual resident. This item shall not be coded for observation conducted as standard facility policy for all residents, such as for all new admissions, or as part of routine facility procedures, such as for all returns from hospital, or as a part of periodic resident headcounts.~~
  - 2) ~~There shall be documentation for the reason for use, confirmation that the procedure was performed as coded with staff initials at appropriate intervals, brief explanation of the resident's condition and reason for terminating the observation.~~
- ii) ~~Cognitive Impairment/Memory Assistance Services.~~
- 1) ~~Documentation shall include a description of the resident's short-term memory problems.~~
  - 2) ~~A method of assessing and determining the short-term memory problem shall be documented.~~
  - 3) ~~Documentation shall include a description of the resident's ability to make everyday decisions about tasks or activities of daily living.~~
  - 4) ~~Documentation shall include a description of the resident's ability to make himself or herself understood.~~
- jj) ~~Dementia Care Unit.~~
- 1) ~~Unit was Illinois Department of Public Health certified during look-back period.~~
  - 2) ~~Resident resided in the unit during the look-back period.~~
  - 3) ~~Activity programming is planned and provided seven days a week for an average of eight hours per day.~~

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- 4) ~~Required assessments were completed on the resident.~~
  - 5) ~~If the resident has a Cognitive Performance Scale (CPS) score of five, care planning shall address the resident's participation in the unit's activities.~~
  - 6) ~~If a particular resident does not participate in at least an average of four activities per day over a one-week period, the unit director shall evaluate the resident's participation and have the available activities modified and/or consult with the interdisciplinary team.~~
  - 7) ~~Documentation shall support staff's efforts to involve the resident.~~
- kk) ~~Exceptional Care Services.~~
- 1) ~~Respiratory Services.~~
    - A) ~~A respiratory therapist shall evaluate the status of the resident at least monthly if the resident has a tracheostomy.~~
    - B) ~~Documentation of respiratory therapy being provided 15 minutes a day shall be present in the clinical record for the look-back period.~~
    - C) ~~Documentation of a physician's orders for the treatments.~~
    - D) ~~Respiratory therapy requires documentation in the record of the treatment and the times given by a qualified professional (respiratory therapist or trained nurse) as defined in the RAI Manual.~~
    - E) ~~Documentation of suctioning includes type, frequency and results of suctioning.~~
    - F) ~~Documentation of trach care includes type, frequency and description of the care provided.~~
  - 2) ~~Weaning From Ventilator.~~

~~Documentation shall be in place to support weaning from the ventilator.~~

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- 3) ~~Morbid Obesity.~~
  - A) ~~A dietician's evaluation shall be completed with evidence of on-going consultation.~~
  - B) ~~On-going monitoring of weight shall be evident.~~
  - C) ~~The psychosocial needs related to weight issues shall be identified and addressed.~~
- 4) ~~Complex Wounds.~~

~~Facilities are to follow documentation guidelines as directed by 42 CFR 483.25(c) (State Operations Manual F-tag F314). All documentation requirements listed in F314 shall be met.~~
- 5) ~~Traumatic Brain Injury (TBI).~~
  - A) ~~Documentation shall support that psychological therapy is being delivered by licensed mental health professionals, as described in the RAI Manual.~~
  - B) ~~Documentation shall support a special symptom evaluation program as an ongoing, comprehensive, interdisciplinary evaluation of behavioral symptoms as described in the RAI Manual.~~
  - C) ~~Documentation shall support evaluation by a licensed mental health specialist in the last 90 days. This shall include an assessment of a mood, behavioral disorder, or other mental health problems by a qualified clinical professional as described in the RAI Manual.~~
  - D) ~~The care plan shall address the behaviors of the resident and the interventions used.~~
- II) ~~Accident/Fall Prevention.~~

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- 1) ~~Documentation shall support that the resident has the risk factor identified on the MDS.~~
  - 2) ~~Documentation shall support that the resident has been assessed for fall risks.~~
  - 3) ~~If the resident is identified as high risk for falls, documentation shall support that interventions have been identified and implemented.~~
- mm) ~~Restraint Free.~~
- 1) ~~There shall be documentation to support the previous use of a restraint and the resident response to the restraint.~~
  - 2) ~~There shall be evidence that the restraint was discontinued.~~
- nn) ~~Clarification and additional documentation requirements are as follows:~~
- 1) ~~Defined actions such as further assessment or documentation, described in the RAI Manual as "good clinical practice", are required by the Department as supporting documentation. Clinical documentation that contributes to identification and communication of a resident's problems, needs and strengths, that monitors his or her condition on an on-going basis, and that records treatments and response to treatment is a matter of good clinical practice and is an expectation of trained and licensed health care professionals (RAI page 1-23).~~
  - 2) ~~The facility shall have in place policies and procedures to address specific care needs of the residents, written evidence of ongoing in-services for staff related to residents' specific care needs and all necessary durable medical equipment to sustain life and carry out the plan of care as designed by the physician. In the absence of these items, a referral will be made to the Illinois Department of Public Health.~~
  - 3) ~~No specific types of documentation or specific forms are mandated, but documentation shall be sufficient to support the codes recorded on the~~

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~~MDS. Treatments and services ordered and coded shall be documented as delivered in the clinical record.~~

- ~~4) When completing a significant change assessment, the guidelines provided in the RAI Manual shall be followed. This includes documenting "the initial identification of a significant change in terms of the resident's clinical status in the progress notes" as described in RAI page 2-7.~~
- ~~5) Documentation used to support coding must be signed or initialed and dated. Changes to documentation shall be done in accordance with professional standards of practice, which includes lining through the error, initialing and dating the changes made.~~

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.205 Reimbursement for Ventilator Dependent Residents (Repealed)**

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

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

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

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.310 Implementation of a Case Mix System~~Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)~~**

- a) P.A. 98-0104 requires the Department to implement, effective January 1, 2014, an evidence-based payment methodology for the reimbursement of nursing services. The methodology shall take into consideration the needs of individual residents, as assessed and reported by the most current version of the nursing facility Minimum Data Set (MDS), adopted and in use by the federal government.
- b) This Section establishes the method and criteria used to determine the resident reimbursement classification based upon the assessments of residents in nursing facilities. Resident reimbursement classification shall be established utilizing the 48-group, Resource Utilization Groups IV (RUG-IV) classification scheme and weights as published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). An Illinois specific default group is established in subsection (f)(3) of this Section and

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identified as AA1 with an assigned weight equal to the weight assigned to group PA1.

- c) The pool of funds available for distribution by case mix shall be determined using the formula contained below. Base rate spending pool shall be:
- 1) The base year resident days, which are calculated by multiplying the number of Medicaid residents in each nursing facility based on MDS comprehensive assessments for Medicaid residents on March 31, 2012, multiplied by 365 days.
  - 2) Each facility's nursing component per diem in effect on July 1, 2012 shall be multiplied by the number determined in subsection (c)(1) of this Section.
  - 3) Thirteen million is added to the result of subsection (c)(2) of this Section, to adjust for the exclusion of nursing facilities defined as Class I IMDs.
- d) For each nursing facility with Medicaid residents as indicated by the MDS data defined in subsection (c)(1) of this Section, weighted days adjusted for case mix and regional wage adjustment shall be calculated. For each nursing facility this calculation is the product of:
- 1) Base year resident days as calculated in subsection (c)(1) of this Section.
  - 2) The nursing facility's regional wage adjustor based on the Health Service Areas (HSA) groupings and adjustors in effect on April 30, 2012.
  - 3) Facility weighted case mix which is the number of Medicaid residents as indicated by the MDS data defined in subsection (c)(1) of this Section multiplied by the associated case weight for the RUG-IV 48-group model using standard RUG-IV procedures for index maximization.
  - 4) The sum of the products calculated for each nursing facility in subsections (d)(1) through (d)(3) of this Section shall be the base year case mix, rate adjusted weighted days.

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- e) The statewide RUG-IV nursing base per diem rate effective on January 1, 2014, shall be the quotient of subsection (c) of this Section divided by the sum calculated under subsection (d)(4) of this Section and is \$83.49.
- f) For services provided on or after:
- 1) January 1, 2014, the Department shall compute and pay a facility-specific nursing component of the per diem rate as the arithmetic mean of the resident-specific nursing components, as determined in subsection (d) of this Section, assigned to Medicaid-enrolled residents on record, as of 30 days prior to the beginning of the rate period, in the Department's Medicaid Management Information System (MMIS), or any successor system, as present in the facility on the last day of the second quarter preceding the rate period. The RUG-IV nursing component per diem for a nursing facility shall be the product of the statewide RUG-IV nursing base per diem rate, the facility average case mix index to be calculated quarterly, and the regional wage adjustor. Transition rates for services provided between January 1, 2014 and December 31, 2014, shall be as follows:
- A) The transition RUG-IV per diem nursing rate for nursing facilities whose rate calculated in this subsection is greater than the nursing component rate in effect July 1, 2012, shall be paid the sum of:
- i) The nursing component rate in effect July 1, 2012; plus
- ii) The difference of the RUG-IV nursing component per diem calculated for the current quarter minus the nursing component rate in effect July 1, 2012, multiplied by 0.88.
- B) The transition RUG-IV per diem nursing rate for nursing facilities whose rate calculated in this subsection is less than the nursing component rate in effect July 1, 2012, shall be paid the sum of:
- i) The nursing component rate in effect July 1, 2012; plus

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- ii) The difference of the RUG-IV nursing component per diem calculated for the current quarter minus the nursing component rate in effect July 1, 2012, multiplied by 0.13.
- 2) Effective for dates of service on or after January 1, 2015, subject to the requirement of P.A. 98-0104 that the Department submit a rule by January 1, 2014, which establishes a reimbursement methodology that is reflective of the intensity of care and services requirements of the low need residents in the lowest RUG-IV groups, the Department will calculate quarterly the value of a per diem increase of \$1.00 multiplied by 365 divided by total facility resident days for each resident reporting in the low four RUG groups PA1, PA2, BA1 or BA2, as of September 30, 2013. The value of this increase will be applied to the per diem rate of each nursing facility in which total resident occupancy is at least 70 percent Medicaid on a quarterly basis.
- 3) The Department shall determine the group to which a resident is assigned using the 48-group RUG-IV classification scheme with an index maximization approach. A resident for whom RUGs resident identification information is missing, or inaccurate, or for whom there is no current MDS record for that quarter, shall be assigned to default group AA1. A resident for whom an MDS assessment does not meet the federal CMS edit requirements as described in the Long Term Care Resident Assessment Instrument (RAI) Users Manual or for whom an MDS assessment has not been submitted within 14 calendar days after the time requirements in Section 147.315 shall be assigned to default group AA1.
- 4) The assessment used for the purpose of rate calculation shall be identified as an Omnibus Budget Reconciliation Act (OBRA) assessment on the MDS following the guidance in the RAI Manual.
- 5) The MDS used for the purpose of rate calculation shall be determined by the Assessment Reference Date (ARD) identified on the MDS assessment.
- g) The Department shall provide each nursing facility with information that identifies the group to which each resident has been assigned.

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(Source: Old Section 147.310 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.310 added at 38 Ill. Reg. 12173, effective May 30, 2014.)

**Section 147.315 Nursing Facility Resident Assessment Instrument Comprehensive Functional Assessments and Reassessments (Repealed)**

- a) A facility shall conduct and electronically submit a Minimum Data Set (MDS) assessment that conforms with the assessment schedule and guidance defined by Code of Federal Regulations, Title 42, section 483.20, and in the RAI Manual, published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (federal CMS), and subsequent updates when issued by federal CMS.
- b) A facility shall complete the MDS Comprehensive Item Set form that includes all items Section A-Z, for each resident quarterly, regardless of the resident's payment source. The Comprehensive Item Set refers to the MDS items that are active on a particular assessment type or tracking form. While a Comprehensive Item Set is required for all assessments including quarterlies, a comprehensive assessment is not required on a quarterly basis. A comprehensive assessment is defined as both the completion of a Comprehensive Item Set as well as completion of the Care Area Assessment (CAA) process and care planning. When completing the Comprehensive Item Set for the quarterly MDS, the CAA process is not required. The federal regulatory requirements at 42 CFR 483.20(d) requires nursing facilities to maintain all resident assessments completed within the previous 15 months in the resident's active clinical record.
- c) A facility shall electronically transmit to the federal CMS database the following MDS assessments in the timeframes identified.
  - 1) The Omnibus Budget Reconciliation Act (OBRA) regulations require nursing facilities that are Medicare or Medicaid certified to conduct initial and periodic assessments for all their residents. The MDS 3.0 is part of that assessment process and is required by federal CMS. The assessment that will be used for the purpose of rate calculations shall be identified as an OBRA assessment on the MDS following the guidance in the RAI Manual.

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- 2) Admission, Annual, Significant Change in Status, and Significant Correction to Prior Comprehensive Assessments shall be completed and transmitted to the federal CMS database no later than 14 calendar days after the care plan completion date. The quarterly assessment shall identify the MDS was transmitted to the federal CMS database no later than 14 calendar days after the MDS completion date.
- 3) An MDS admission assessment and CAAs shall be completed by the 14<sup>th</sup> calendar day from the resident's admission date. This assessment shall include completion of the MDS Comprehensive Item Set as well as completion of the CAA process and care planning. Care plan completion date is 7 calendar days after the MDS/CAA completion date. Transmission date is within 14 calendar days after the care plan completion date.
- 4) An annual assessment shall have an assessment reference date (ARD) within 366 calendar days of the ARD identified on the last comprehensive assessment. This assessment shall include completion of the MDS Comprehensive Item Set as well as completion of the CAA process and care planning. The MDS/CAA completion date is the ARD plus 14 calendar days. The care plan completion date is MDS/CAA completion date plus 7 calendar days. Transmission date is care plan date plus 14 calendar days.
- 5) A significant change assessment shall be completed within 14 calendar days after the identification of a significant change. This assessment shall include completion of the MDS Comprehensive Item Set as well as completion of the CAA process and care planning. The MDS/CAA completion date is 14 calendar days after the determination date plus 7 calendar days. Transmission date is care plan date plus 14 calendar days.
- 6) All quarterly assessments shall have an ARD within 92 calendar days after the previous OBRA assessment. This assessment includes the completion of the MDS Comprehensive Item Set, but does not include the completion of the CAA process and care planning. MDS completion date is ARD plus 14 calendar days. Transmission date is completion date plus 14 calendar days.

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- 7) The significant correction to a prior comprehensive assessment or significant correction to a prior quarterly assessment shall be completed when the interdisciplinary team determines that a resident's prior assessment contains a significant error that has not been corrected by more recent assessments as required by the RAI Manual. Nursing facilities shall document the initial identification of a significant error in a prior assessment in the progress notes.
- d) A facility shall comply with the following:
- 1) All staff completing any portion of the MDS shall enter their signatures, titles, section or portions of sections they completed and the date completed.
  - 2) The signature attests that the information entered by them, to the best of their knowledge, most accurately reflects the resident's status during the timeframes identified.
  - 3) Federal regulations require the RN assessment coordinator to sign and thereby certify that the assessment is completed.
  - 4) When the electronic MDS record submitted to the state from the federal CMS database does not match the facility's copy of the MDS, the items on the MDS submitted will be used for purposes of validation.
  - 5) It is the facility's responsibility to create an electronic transmission file that meets the requirements detailed in the current MDS Data Specification Manual. The facility shall submit MDS assessments under the appropriate authority and timely as defined in the RAI Manual. In addition, the facility is responsible to access the federal CMS database to receive and review validation reports. Records that are rejected or contain errors must be dealt with 30 days prior to the rate period and appropriately to avoid default rate.

(Source: Old Section 147.315 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.315 added at 38 Ill. Reg. 12173, effective May 30, 2014)

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**Section 147.320 Definitions~~Interdisciplinary Team (IDT) (Repealed)~~**

For purposes of this Part, the following terms shall be defined as follows:

"Active Disease Diagnosis" means a physician documented diagnosis (or by a nurse practitioner, physician assistance, or clinical nurse specialist if allowable under State licensure laws) that have a direct relationship to the resident's current functional status, cognitive status, mood or behavior, medical treatments, nursing monitoring or risk of death.

"Assessment Reference Date" means the last day of the Minimum Data Set (MDS) look-back period. The date sets the designated endpoint of the look-back period in the MDS process, and all MDS items refer back in time from that point. This period of time is also called the observation or assessment period.

"Case Mix" means a method of classifying care that is based on the intensity of care and services provided to the resident.

"Case Mix Index" means the weighting factors assigned to each RUG-IV classifications.

"Case Mix Reimbursement System" means a payment system that measures the intensity of care and services required for each resident, and translates these measures into the amount of reimbursement given to the facility for care of a resident.

"Continuous Positive Airway Pressure" or "CPAP" means a respiratory support device that prevents the airways from closing by delivering slightly pressurized air through a mask continually or via electronic cycling throughout the breathing cycle. The mask enables the individual to support his or her own respirations by providing enough pressure when the individual inhales to keep his or her airway open.

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

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"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or herself or some other person. It includes any act that constitutes fraud under applicable federal or State law.

"Index Maximization" means a method to classify a resident who could be assigned to more than one category, to the category with the highest case mix index.

"Minimum Data Set" or "MDS" means the assessment instrument specified by the Centers for Medicare and Medicaid Services (federal CMS) and designated by the "Department". A core set of screening, clinical, and functional status elements, including common definitions and coding categories, forms the foundation of a comprehensive assessment.

"Monitoring" means the ongoing collection and analysis of information (such as observations and diagnostic test results) and comparison to baseline and current data in order to ascertain the individual's response to treatment and care, including progress or lack of progress towards a goal. Monitoring can detect any improvements, complications or adverse consequences of the condition or of the treatments, and support decisions about adding, modifying, continuing or discontinuing any interventions.

"Nursing Monitoring" means clinical monitoring (e.g., serial blood pressure evaluations, medication management, etc.) by a licensed nurse.

"Resource Utilization Group" or "RUG" means the system for grouping a nursing facility's residents according to their clinical and functional status identified in MDS data supplied by a facility.

"Significant Error" means an error in an assessment where a resident's overall clinical status is not accurately represented and the error has not been corrected via submission of a more recent assessment.

"Ventilator or Respirator" means a type of electronically or pneumatically powered closed system mechanical ventilator support devices that ensures

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adequate ventilation in the resident who is, or who may become, unable to support his or her respirations.

(Source: Old Section 147.320 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.320 added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.325 Resident Reimbursement Classifications and Requirements**  
**Comprehensive Program Plan (CPP) (Repealed)**

- a) Resident reimbursement classification shall be based on the Minimum Data Set (MDS), Version 3.0 assessment instrument mandated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (federal CMS) that nursing facilities are required to complete for all residents. When later guidance or clarifications are released by federal CMS that contradicts or augments guidance provided in this Section, the more current information becomes the accepted standard and shall become effective as of the date required by federal CMS. The Department shall establish resident classification according to the 48-group, Version IV or RUG-IV model. Resident classification shall be established based on the individual items identified on the MDS and shall be completed according to the RAI Manual.
- b) Each resident shall be classified based on the information from the MDS submitted according to the categories as identified in Section 147.330 and as defined in the RAI Manual.
- c) General Documentation Requirements
  - 1) A facility shall maintain resident records on each resident in accordance with acceptable professional standards and practices.
  - 2) Supportive documentation in the clinical record used to validate the MDS item responses shall be dated during the specified look-back period or other timeframe as identified in the RAI Manual. Records shall be retained for at least three years from the date of discharge.
  - 3) Supportive documentation entries shall be dated and their authors identified by signature or initials. Signatures are required to authenticate

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all documentation utilized to support MDS item responses. At a minimum, the signature shall include the first initial, last name, and title/credentials. Any time a facility chooses to use initials in any part of the record for authentication of an entry, there shall also be corresponding full identification of the initials on the same form or on a signature legend. Initials may never be used where a signature is required by law (i.e., on the MDS). When electronic signatures are used, the facility shall have policies in place to identify those who are authorized to sign electronically and have safeguards in place to prevent unauthorized use of electronic signatures.

- 4) Each page or individual document in the clinical record shall contain the resident's identification information.
- 5) A multi-page supportive documentation form completed by one staff member may be signed and dated at the end of the form, provided that each page is identified with the resident's identification information and the dates are clearly identified on the form.
- 6) Corrections/Obliterations/Errors/Mistaken Entries. At a minimum, there shall be one line through the incorrect information, the staff's initial, the date of correction was made, and the corrected information. Information that is deemed illegible by Department reviews will not be considered for validation purposes.
- 7) An error correction in the electronic record applies the same principles as for the paper clinical record. Some indication that a previous version of the entry exists shall be evident to the caregiver or other person viewing the entry.
- 8) Late entries shall be clearly labeled as a late entry and contain the current date, time and authorized signature. Amendments are a form of late entry. Amendments shall be clearly labeled as an addendum or amendment and include the current date, time and authorized signature.
- 9) Facilities shall have a written policy and procedures that states who is authorized to make amendments, late entries, and correct errors in the

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electronic health records (EHRs) and clearly dictate how these changes to the EHR are made.

- 10) Resident records shall be complete, accurately documented, readily accessible to Department staff, and systematically organized. At a minimum, the record shall contain sufficient information to identify the resident, a record of the resident's assessments, care plan, record of services provided, and progress notes.
- 11) Documentation from all disciplines and all portions of the resident's clinical record may be used to validate an MDS item response. All supporting documentation shall be produced by a facility during an onsite visit.
- 12) Documentation shall support all conditions or treatments were present or occurred within the look-back period ending on, and including the ARD period. The look-back period shall include observations and events through the end of the day (midnight) of the ARD. Documentation shall apply to the appropriate look-back period and reflect the resident's status on all shifts.
- 13) Documentation in the clinical record shall consistently support the item response and reflect care related to the symptom or problem. Documentation shall reflect the resident's status on all shifts.
- 14) Problems that are identified by the MDS item responses that affect the resident's status shall be addressed on the care plan when deemed appropriate by the interdisciplinary team (IDT) as identified in the RAI Manual.
- 15) Insufficient or inaccurate documentation may result in a determination that the MDS item submitted was not validated.
- 16) Documentation shall support that the services delivered were medically necessary.

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- 17) Documentation shall support an individualized care plan was developed based on the MDS and other assessments and addressed the resident's strengths and needs. In addition, documentation, observation and/or interview shall support services were delivered as identified by the care plan.
  - 18) Clinical documentation that contributes to identification and communication of a resident's problems, needs and strengths that monitors his or her condition on an ongoing basis and that records treatments and response to treatment is a matter of clinical practice and is an expectation of trained and licensed health care professional.
  - 19) When there is a significant change in status assessment done, documentation shall include the identification of the significant change in status in the clinical record.
- d) Disease Diagnosis Requirements
- 1) The disease condition shall require a physician-documented diagnosis in the clinical record during the 60 days prior to and including the ARD.
  - 2) The diagnosis shall be determined to be active as defined in the RAI Manual during the 7-day look-back period. Conditions that have been resolved or no longer affect the resident's current functioning or care plan during the 7-day look-back period shall not be included.
  - 3) Documentation shall support that the active diagnoses have a direct relationship to the resident's current functional status, cognitive status, mood or behavior, medical treatments, nursing monitoring, or risk of death during the look-back period.
  - 4) There shall be specific documentation in the record by a physician stating the disease is active. Including a disease/diagnosis on the resident's clinical record problem list is not sufficient for determining active or inactive status. In the absence of specific documentation that a disease is active, the following indicators may be used to confirm active disease.

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- A) Recent onset or acute exacerbation of the disease or condition indicated by a positive study, test or procedure, hospitalization for acute symptoms and/or recent change in therapy during the 7-day look-back period.
- B) Symptoms and abnormal signs indicating ongoing or decompensating disease in the last 7-day look-back period.
- C) Ongoing therapy with medication or other interventions to manage a condition that requires monitoring for therapeutic efficacy or to monitor potentially severe side effects in the 7-day look-back period. A medication indicates active disease if that medication is prescribed to manage an ongoing condition that requires monitoring or is prescribed to decrease active symptoms associated with a condition.
- D) When documentation of conditions that are generally short term in nature (i.e., fever, septicemia, pneumonia, etc.) are noted over a long period of time by the facility staff, the physician may be interviewed to determine accuracy of the diagnosis. In addition, when questions regarding the validity of the diagnosis are found during review of the documentation the physician may be interviewed.

(Source: Old Section 147.325 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.325 added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.330 Resource Utilization Groups (RUGs) Case Mix Requirements ~~Specialized Care — Administration of Psychopharmacologic Drugs (Repealed)~~**

- a) Activities of Daily Living (ADL)
  - 1) Documentation shall support the ADL coded level as defined in the Resident Assessment Instrument (RAI) Manual.
  - 2) Documentation of ADLs shall support the RAI requirement was met for coding Self Performance and Support during the look-back period. It is

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the responsibility of the person completing the assessment to consider all episodes of the activity that occurred over a 24-hour period during each day of the 7-day look-back period. There shall be signatures/initials of staff providing the ADL assistance and dates to authenticate the services were provided as coded during the look-back period. If using an ADL grid for supporting documentation, the key for self-performance and support provided shall be equivalent to definitions to the MDS key.

- 3) The ADL scores for residents lacking documentation shall be reset to zero.
- b) Extensive Services. Documentation shall support that the following requirements were met during the look-back period based on the MDS items identified.
- 1) Documentation shall support tracheostomy care was completed during the look-back period while a resident in the facility.
  - 2) Documentation shall support the use of a ventilator or respirator during the look-back period while a resident in the facility. Documentation shall support the device was an electrically or pneumatically powered closed-system mechanical ventilator support device that ensures adequate ventilation in the resident who is, or who may become, unable to support his or her own respiration. This does not include BiPAP or CPAP devices or a ventilator or respirator that is used only as a substitute for BiPAP or CPAP.
  - 3) Documentation supports the need for and use of isolation during the look-back period while a resident is in the facility.
  - 4) Documentation shall support the following conditions for "strict isolation" were met during the look-back period:
    - A) The resident has active infection with highly transmissible or epidemiologically significant pathogens that have been acquired by physical contact or airborne or droplet transmission;

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- B) Precautions are over and above standard precautions. That is, transmission-based precautions (contact, droplet, and/or airborne) must be in effect; and
- C) The resident is in a room alone because of active infection and cannot have a roommate even if the roommate has a similar active infection that requires isolation. The resident must remain in his/her room. This requires that all services be brought to the resident (e.g., rehabilitation, activities, dining, etc.).
- 5) Treatment and/or procedures the resident received shall be care planned and reevaluated to ensure continued appropriateness.
- 6) Extensive services are defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL RUG-IV GROUP</u>
<u>Extensive Services – At least one of the following:</u>			
<u>Tracheostomy Care while a resident (O0100E2)</u>	<u>≥ 2</u>	<u>Tracheostomy care and Ventilator/Respirator</u>	<u>ES3</u>
<u>Ventilator or Respirator while a resident (O0100F2)</u>	<u>≥ 2</u>	<u>Tracheostomy care OR Ventilator/Respirator</u>	<u>ES2</u>
<u>Infection Isolation while a resident (O0100M2)</u>	<u>≥ 2</u>	<u>Infection Isolation:</u> <ul style="list-style-type: none"> <li>• <u>Without trach</u></li> <li>• <u>Without Ventilator /Respirator</u></li> </ul>	<u>ES1</u>

- c) Rehabilitation. Documentation shall support the following requirements were met during the look-back period based on the MDS items identified.
- 1) All RAI Manual requirements and definitions shall be met, including the qualifications for therapists.

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- 2) Documentation shall support medically necessary therapies that occurred after admission or readmission to the facility that were:
  - A) Ordered by a physician based on a qualified therapist's (i.e., one who meets Medicare requirements) assessment and treatment plan;
  - B) Documented as delivered in the clinical record; and
  - C) Care planned and periodically evaluated to ensure the resident receives needed therapies and the current treatment plans are effective. Any service provided at the request of the resident or family that is not medically necessary shall not be included, even when performed by a therapist or a therapy assistant. It does not include the services performed when a facility elects to have licensed professionals perform repetitive exercises and other maintenance treatments or to supervise aides performing these maintenance services that are considered restorative care.
- 3) Documentation shall support the therapies were provided while the individual was living and being cared for at the long-term care facility. It does not include therapies that occurred while the person was an inpatient at a hospital or recuperative or rehabilitation center or other long-term care facility, or recipient of home care or community based services.
- 4) Documentation shall support the services were directly and specifically related to an active written treatment plan that is approved by the physician after any needed consultation with a qualified therapist and is based on an initial evaluation performed by a qualified therapist prior to the start of these services in the facility.
- 5) Documentation shall support the services were a level of complexity and sophistication, or the condition of the resident shall be of a nature that requires the judgment, knowledge, and skills of a therapist.
- 6) Documentation shall support the services were provided with expectation, based on the assessment of the resident's restoration potential made by the physician, that the condition of the patient will improve materially in a

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reasonable and generally predictable period of time, or the services shall be necessary for the establishment of a safe and effective maintenance program.

- 7) Documentation shall support the services are considered under accepted standards of medical practice to be specific and effective treatment for the resident's condition.
- 8) Documentation shall support that services are medically necessary for the treatment of the resident's condition. This includes the requirement that the amount, frequency, and duration of the services shall be reasonable and they must be furnished by qualified personnel.
- 9) Documentation shall include the actual minutes of therapy. Minutes shall not be rounded to the nearest 5<sup>th</sup> minute and conversion of units to minutes or minutes to units is not acceptable.
- 10) Documentation shall identify the different modes of therapy (i.e., individual, concurrent, group) and the documentation shall support the criteria for the mode identified is met.
- 11) Documentation shall support that the restorative program include nursing interventions that promote the residents ability to adapt and adjust to living as independently and safely as possible. The program actively focuses on achieving and maintaining optimal physical, mental, and psychosocial functioning.
- 12) Documentation shall include the following components for a restorative program is met:
  - A) There are measurable objectives/interventions established for the performance of the activity;
  - B) A licensed nurse shall evaluate and document the results of the evaluation related to the program on a quarterly basis.

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- C) Documentation includes the actual number of minutes the activity were performed and supports at least 15 minutes in a 24-hour period for a minimum of 6 days; and
- D) Individuals who implement the program shall be trained in the interventions and supervised by a nurse.
- 13) Documentation shall support the requirements identified for coding ADL were met.
- 14) Rehabilitation is defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL Rug-IV Group</u>
<u>At least 5 distinct calendar days (15 min per day minimum) in any combination of Speech, Occupational or Physical Therapy in the last 7 days. (O0400A4, O0400B4, O0400C4) AND 150 minutes or greater of any combination of Speech, Occupational or Physical Therapy in the last 7 days (O0400A1, O0400A2, O0400A3, O0400B1, O0400B2, O0400B3, O0400C1, O0400C2, O0400C3)</u>	<u>15-16</u>	<u>None</u>	<u>RAE</u>
	<u>11-14</u>	<u>None</u>	<u>RAD</u>
	<u>6-10</u>	<u>None</u>	<u>RAC</u>
	<u>2-5</u>	<u>None</u>	<u>RAB</u>
	<u>0-1</u>	<u>None</u>	<u>RAA</u>
<u>OR</u> <u>At least 3 distinct calendar days (15 min per day minimum) in any combination of Speech, Occupational, or Physical Therapy in the last 7 days (O0400A4, O0400B4, O0400C4) AND 45 minutes</u>			

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<p><u>or greater in any combination of Speech, Occupational or Physical Therapy in the last 7 days (O0400A1, O0400A2, O0400A3, O0400B1, O0400B2, O0400B3, O0400C1, O0400C2, O0400C3) AND at least 2 nursing rehabilitation services.</u></p> <p><u>See description of Restorative in subsection (h)</u></p>			
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- d) Special Care High-Documentation shall support the following requirements were met during the look-back period based on the MDS items identified.
- 1) Documentation shall support the requirements and criteria for coding an active disease diagnosis were met.
  - 2) Documentation shall support the ADL scores met the requirements and criteria for coding.
  - 3) Documentation shall include the date completed and the staff member completing the Mood interview when indicated. Documentation shall demonstrate the presence and frequency of clinical mood indicators when staff assessment of mood is utilized. This shall include date observed, a brief description of the symptoms, staff observing, and any interventions.
  - 4) Documentation shall support a diagnosis of coma or persistent vegetative state.
  - 5) Documentation shall support an active diagnosis of Septicemia. Interventions and/or treatments for the diagnosis shall be documented upon delivery.

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- 6) Documentation shall support an active diagnosis of diabetes, and shall support insulin injections were given the entire 7 days of the look-back period and there were orders for insulin changes on 2 or more days during the look-back period.
- 7) Documentation shall support the active diagnosis of Quadriplegia.
- 8) Documentation shall support the active diagnosis of Chronic Obstructive Pulmonary Disease (COPD) and/or asthma with shortness of breath while lying flat. Interventions and/or treatments for the condition shall be documented upon delivery.
- 9) Documentation to support fever shall include a recorded temperature of at least 2.4 degrees higher than the previous recorded baseline temperature and documentation shall support one of the following: pneumonia, vomiting, weight loss, and/or feeding tube with at least 51% of total calories or if 26-50% of the calories there is also fluid intake of 501cc or more per day. Interventions and/or treatments for the condition shall be documented upon delivery.
- 10) Documentation shall support the intervention of parenteral or IV feedings. Documentation shall support the intervention was administered for nutrition or hydration purposes.
- 11) Documentation of respiratory therapy shall include the following:
  - A) Physician orders that include a statement of frequency, duration, and scope of treatment;
  - B) The actual minutes the therapy was provided while a resident is in the facility;
  - C) Evidence that the services are provided by a qualified professional; and

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D) Evidence that the services are directly and specifically related to an active written treatment plan that is based on an initial evaluation performed by qualified personnel.

12) Special Care High is defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL RUG-IV Group</u>
<u>Special Care High (ADL Score of <math>\geq 2</math> or more and at least one of the following:</u>	<u>15-16</u>	<u>Depression</u>	<u>HE2</u>
<u>Comatose (B0100) and completely ADL dependent or ADL did not occur (G0110A1, G0110B1, G0110H1, G0110I1 all = 4 or 8)</u>	<u>15-16</u>	<u>No Depression</u>	<u>HE1</u>
<u>Septicemia (I2100)</u>	<u>11-14</u>	<u>Depression</u>	<u>HD2</u>
<u>Diabetes (I2900) with both of the following:</u>	<u>11-14</u>	<u>No Depression</u>	<u>HD1</u>
<u>• Insulin injections for all 7 days (N0350A = 7)</u>	<u>6-10</u>	<u>Depression</u>	<u>HC2</u>
<u>• Insulin order changes on 2 or more days (N0350B <math>\geq 2</math>)</u>	<u>6-10</u>	<u>No Depression</u>	<u>HC1</u>
<u>Quadruplegia (I5100) with ADL score <math>\geq 5</math>(ADLs as above)</u>	<u>2-5</u>	<u>Depression</u>	<u>HB2</u>
<u>Asthma or COPD (I6200) AND shortness of breath while lying flat (J1100C)</u>	<u>2-5</u>	<u>No Depression</u>	<u>HB1</u>
<u>Fever (J1550A) and one of the following:</u>		<u>(Note: See description of depression indicators in subsection (k))</u>	
<u>• Pneumonia (I2000)</u>			
<u>• Vomiting (J1550B)</u>			
<u>• Weight Loss (K0300 = 1 or 2)</u>			
<u>• Feeding Tube (K0510B1 or K0510B2) with at least 51%</u>			

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<u>of total calories (K0710A3 = 3) OR 26% to 50% through parenteral/enteral intake (K0710A3 = 2) and fluid intake is 501cc or more per day (K0710B3 = 2)</u> <u>Parenteral/IV Feeding (K0510A1 or K0510A2)</u> <u>Respiratory Therapy for all 7 days (O0400D2 = 7)</u> <u>If a resident qualifies for Special Care High but the ADL score is a 1 or less, then the resident classifies as Clinically Complex</u>			
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- e) Special Care Low – Documentation shall support the following requirements were met during the look-back period based on the MDS items identified.
- 1) Documentation shall support the requirements and criteria for coding disease diagnosis were met. This includes an active diagnosis of Cerebral Palsy, Multiple Sclerosis, or Parkinson's.
  - 2) Documentation shall support an active diagnosis of respiratory failure and the administration of oxygen therapy while a resident. Documentation shall include the date and method of delivery. Documentation shall support a need for the use of oxygen.
  - 3) Documentation shall support the requirements and criteria for coding ADLs were met.
  - 4) Documentation shall include the date, and staff completing the Mood interview. Documentation shall demonstrate the presence and frequency of clinical mood indicators when staff assessment of mood is utilized. This shall include date observed, a brief description of the symptom, any interventions implemented and identification of staff observing.

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- 5) Documentation shall support the presence of a feeding tube and the proportion of calories received through the tube feeding.
- 6) Documentation shall support the presence of 2 or more Stage 2 pressure ulcers or any Stage 3 or 4 pressure ulcer as defined in the RAI Manual. Documentation shall include observation date, location, and measurement and description of the ulcer. Other factors related to the ulcer shall be noted including: condition of the tissue surrounding the area (color, temperature, etc.), exudates and drainage present, fever, presence of pain, absence or diminished pulses, and origin of the wound (such as pressure, injury or contributing factors) if known. Interventions and/or treatments for the ulcer shall be documented as delivered.
- 7) Documentation shall support the presence of 2 or more venous or arterial ulcers as defined in the RAI Manual. Documentation shall include observation date, location, and measurement and description of the ulcer. Interventions and/or treatment for the ulcer shall be documented as delivered.
- 8) Documentation shall support the presence of a Stage 2 pressure ulcer and a venous or arterial ulcer. Documentation shall include observation date, location, and measurement and description of the ulcer. Interventions and/or treatments for the ulcer shall be documented as delivered.
- 9) Documentation shall support 2 or more of the following interventions when ulcers are noted: pressure relieving devices, turning and repositioning, nutrition and/or hydration, ulcer care, application of dressing and/or application of ointments. Documentation shall support the interventions identified were implemented during the look-back period.
- 10) Documentation and/or observation shall support the use of pressure relieving devices for the resident. This does not include egg crate cushions, doughnuts or rings.
- 11) Documentation for a turning and repositioning program shall include specific approaches for changing the resident's position and realigning the body and the frequency it is to be implemented. Documentation shall

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support the program was implemented and is monitored and reassessed to determine the effectiveness of the intervention.

- 12) Documentation shall support the nutrition and/or hydration interventions were delivered. These shall be based on an individual assessment of the resident's nutritional deficiencies and needs. Vitamins and mineral supplements shall only be coded on the MDS when noted through a thorough nutritional assessment.
- 13) Documentation for ulcer care shall support the care was delivered. Documentation shall include the date delivered, type of care delivered, and identification of the staff delivering the care.
- 14) Documentation shall support the application of non-surgical dressing and shall include date applied and identification of the staff delivering the care. This does not include application of a band-aid.
- 15) Documentation shall support the application of ointments or medications were actually applied to somewhere other than the feet. This includes only ointments or medications used to treat and/or prevent skin conditions. Documentation shall include name and description of the ointment used, date applied, and identification of the staff delivering the care.
- 16) Documentation of infections of the foot and/or presence of diabetic foot ulcers or open lesions to the foot shall include a description of the area.
- 17) Documentation shall support interventions and/or treatments for the problems noted were implemented. Documentation shall define the intervention and treatment, the date delivered and the identification of the staff delivering the care.
- 18) Documentation shall support the application of dressing to the feet was actually delivered. Documentation shall include the date applied and identification of the staff delivering the care.

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- 19) Documentation shall support the reason for and the administration of radiation while a resident. Documentation shall include the date of administration and identification of the staff delivering the care.
- 20) Documentation shall support dialysis was administered while a resident. Documentation shall include type of dialysis, date delivered, and identification of the staff delivering the care.
- 21) Special Care Low is defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL RUG-IV Group</u>
<u>Special Care Low-ADL score of 2 or more and at least one of the following:</u>	<u>15-16</u>	<u>Depression</u>	<u>LE2</u>
<u>Cerebral Palsy (I4400) with ADL score <math>\geq</math> 5</u>	<u>15-16</u>	<u>No Depression</u>	<u>LE1</u>
<u>Multiple Sclerosis (I5200) with ADL score <math>\geq</math> 5</u>	<u>11-14</u>	<u>Depression</u>	<u>LD2</u>
<u>Parkinson's disease (I5300) with ADL score <math>\geq</math> 5</u>	<u>11-14</u>	<u>No Depression</u>	<u>LD1</u>
<u>Respiratory Failure (I6300) and oxygen therapy while a resident (O0100C2)</u>	<u>6-10</u>	<u>Depression</u>	<u>LC2</u>
<u>Feeding Tube (K0510B1 or K0510B2) with at least 51% of total calories (K0710A3 = 3)</u>	<u>6-10</u>	<u>No Depression</u>	<u>LC1</u>
<u>OR 26% to 50% through parenteral/enteral intake (K0710A3 = 2) and fluid intake is 501cc or more per day (K0710B3 = 2)</u>	<u>2-5</u>	<u>Depression</u>	<u>LB2</u>
<u>2 or more Stage 2 pressure ulcers (M0300B1) with 2 or more skin treatments</u>	<u>2-5</u>	<u>No Depression</u>	<u>LB1</u>
<ul style="list-style-type: none"> <li><u>• Pressure relieving device for chair (M1200A) and/or bed (M1200B)</u></li> <li><u>• Turning/Repositioning (M1200C)</u></li> <li><u>• Nutrition or hydration intervention (M1200D)</u></li> <li><u>• Ulcer care (M1200E)</u></li> <li><u>• Application of dressing (M1200G)</u></li> </ul>		<u>Note: See description of depression indicators</u>	

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<ul style="list-style-type: none"> <li>• <u>Application of ointments (M1200H)</u></li> <li><u>Any Stage 3 or 4 pressure ulcer (M0300C1, D1, F1) with 2 or more skin treatments-See above list</u></li> <li><u>2 or more venous/arterial ulcers (M1030) with 2 or more skin treatments-See above list</u></li> <li><u>One Stage 2 pressure ulcer (M0300B1) and one venous/arterial ulcer (M1030) with 2 or more skin treatments-See above list</u></li> <li><u>Foot infection (M1040A), Diabetic foot ulcer (M1040B) or other open lesion of foot (M1040C) with application of dressing to feet (M1200I)</u></li> <li><u>Radiation treatment while a resident (O0100B2)</u></li> <li><u>Dialysis treatment while a resident (O0100J2)</u></li>   <li><u>If a resident qualifies for Special Care Low but the ADL score is 1 or less-then the resident classifies as Clinically Complex</u></li> </ul>			
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- f) Clinically Complex – Documentation shall support the following requirements were met during the look-back period based on the MDS items identified.
- 1) Documentation shall support the requirements and criteria for coding disease diagnosis were met. This shall include documentation of an active diagnosis of pneumonia that includes current symptoms and any interventions.
  - 2) Documentation shall also support an active diagnosis of hemiplegia or hemiparesis.
  - 3) Documentation shall support the requirements and criteria for coding ADLs were met.
  - 4) Documentation shall include the date completed, and staff completing the Mood interview when indicated. Documentation shall demonstrate the

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presence and frequency of clinical mood indicators when staff assessment of mood is utilized. This shall include date observed, brief description of the symptom, any interventions, and identification of staff observing.

- 5) Documentation shall support the presence of open lesions other than ulcers. The documentation shall include, but is not limited to, an entry noting the observation date, location, measurement and description of the lesion and any interventions. Documentation of interventions shall include at least one of the following: surgical wound care, application of non-surgical dressing to an area other than the feet and/or application of ointments to an area other than the feet. Documentation shall include all the types of interventions, dates delivered, and the staff delivering the interventions.
- 6) Documentation shall support the presence of a surgical wound. The documentation shall include an entry noting the observation date, origin of the wound, location, measurement and description, and any interventions. Documentation of interventions shall include at least one of the following: surgical wound care, application of non-surgical dressing to an area other than the feet and/or application of ointments to an area other than the feet. Documentation shall include the type of intervention, dates delivered, and the staff delivering the interventions.
- 7) Documentation shall support the presence of a burn. Documentation shall include an entry noting the observation date, location, measurement and description, and any interventions.
- 8) Documentation shall support the administration of a chemotherapy agent while a resident in the facility. Documentation shall include the name of the agent, date delivered and the staff delivering.
- 9) Documentation shall support the administration of oxygen while a resident in the facility. This shall include the date and method of delivery. Additionally, documentation shall support a need for the use of oxygen.
- 10) Documentation shall support the administration of an IV medication while a resident in the facility. The documentation shall include the name of the

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medication, date delivered, method of delivery, and identification of staff delivering.

- 11) Documentation shall support the resident received a transfusion while a resident was at the facility. Documentation shall include the date received, reason and identification of staff delivering the care.
- 12) Clinically Complex is defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL RUG -IV Group</u>
<u>Clinically Complex-At least one of the following:</u>	<u>15-16</u>	<u>Depression</u>	<u>CE2</u>
<u>Pneumonia (I2000)</u>	<u>15-16</u>	<u>No Depression</u>	<u>CE1</u>
<u>Hemiplegia/hemiparesis (I4900) with ADL score <math>\geq 5</math></u>	<u>11-14</u>	<u>Depression</u>	<u>CD2</u>
<u>Surgical wounds (M1040E) or open lesion (M1040D) with any of the following selected skin treatments:</u>	<u>11-14</u>	<u>No Depression</u>	<u>CD1</u>
<u>• Surgical wound care (M1200F)</u>	<u>6-10</u>	<u>Depression</u>	<u>CC2</u>
<u>• Application of non-surgical dressing (M1200G) not to feet</u>	<u>6-10</u>	<u>No Depression</u>	<u>CC1</u>
<u>• Application of ointment (M1200H) not to feet</u>	<u>2-5</u>	<u>Depression</u>	<u>CB2</u>
<u>Burns (M1040F)</u>	<u>2-5</u>	<u>No Depression</u>	<u>CB1</u>
<u>Chemotherapy while a resident (O0100A2)</u>	<u>0-1</u>	<u>Depression</u>	<u>CA2</u>
<u>Oxygen therapy while a resident (O0100C2)</u>	<u>0-1</u>	<u>No Depression</u>	<u>CA1</u>
<u>IV Medication while a resident (O0100H2)</u>			
<u>Transfusions while a resident (O0100I2)</u>			

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<u>If a resident qualifies for Special Care High or Special Care Low, but the ADL score of 1 or 0, then the resident classifies in Clinically Complex CA1 or CA2</u>			
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- g) Behavioral Symptoms and Cognitive Performance – Documentation shall support the following requirements were met during the look-back period based on the MDS items identified.
- 1) Documentation shall include the date completed, and staff completing the Mood interview. Documentation shall demonstrate the presence and frequency of clinical mood indicators when staff assessment of mood is utilized. This shall include date observed, brief description of the symptom, any interventions and identification of staff observing.
  - 2) Documentation shall include the date and staff completing the Brief Interview for Mental Status (BIMS).
  - 3) Documentation shall support the occurrence of a hallucination and/or delusion that include the date observed, description, and name of staff observing.
  - 4) Documentation shall include the date observed, staff observing, frequency, and description of resident's specific physical, verbal or other behavioral symptom. Documentation shall include any interventions and the resident's response.
  - 5) Documentation shall include the date observed, staff observing, frequency and description of the behavior of rejection of care. Rejection of care shall meet all of the coding requirements. Residents, who have made an informed choice about not wanting a particular treatment, procedure, etc., shall not be identified as "rejecting care". Documentation shall include any interventions and the resident's response.
  - 6) Documentation shall include the date observed, staff observing, frequency and description of any wandering behavior. Documentation shall support

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a determination for the need for environmental modifications (door alarms, door barriers, etc.) that enhance resident safety and the resident's response to any interventions. Care plans shall address the impact of wandering on resident safety and disruption to others and shall focus on minimizing these issues.

- 7) Documentation shall identify how the coded behavior affected the resident, staff and/or others. Care plan interventions shall address the safety of the resident and others and be aimed at reducing distressing symptoms.
- 8) Documentation supports presence of a restorative program. This shall include, but is not limited to, the following: Documentation of the actual number of minutes the program was provided that equals 15 minutes, in a 24-hour period, a restorative care plan that contains measurable objectives, and goals that are specific, realistic and measurable. In addition, documentation shall support the programs are delivered 6-7 days a week, supervised by a licensed nurse, a quarterly evaluation is completed by a licensed nurse, and staff are trained in skilled techniques to promote the resident's involvement in the activity.
- 9) Behavioral Symptoms and Cognitive Performance is defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL RUG-IV GROUP</u>
<u>Behavioral Symptoms and Cognitive Performance</u>	<u>2-5</u>	<u>2 or more Restorative Nursing Programs</u>	<u>BB2</u>
<u>BIMS score of 9 or less AND an ADL score of 5 or less</u>	<u>2-5</u>	<u>0-1 Restorative Nursing Programs</u>	<u>BB1</u>
<u>OR</u>	<u>0-1</u>		<u>BA2</u>
<u>Defined as Impaired Cognition by Cognitive Performance Scale AND an ADL score of 5 or less</u>	<u>0-1</u>	<u>2 or more Restorative Nursing Programs</u>	<u>BA1</u>
<u>Hallucinations (E0100A)</u>		<u>0-1 Restorative Nursing Programs</u>	
<u>Delusions (E0100B)</u>			

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<u>Physical Behavioral symptom directed toward others (E0200A = 2 or 3)</u> <u>Verbal behavioral symptom directed towards others (E0200B = 2 or 3)</u> <u>Other behavioral symptom not directed towards others (E0200C = 2 or 3)</u> <u>Rejection of care (E08002 or 3)</u> <u>Wandering (E0900 = 2 or 3)</u>			
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h) Reduced Physical Function

- 1) Documentation shall support the ADL coded level.
- 2) Documentation shall support presence of a restorative program. This shall include, but is not limited to, documentation of the actual number of minutes the program was provided that equals 15 minutes, in a 24-hour period, 6-7 days a week, a restorative care plan that contains measureable objectives, and goals that are specific, realistic and measurable, documentation that supports the programs are supervised by a licensed nurse, a quarterly evaluation is completed by a licensed nurse and staff are trained in skilled techniques to promote the resident's involvement in the activity.
- 3) Reduced Physical Function is defined as indicated in the following chart.

<u>Category (Description)</u>	<u>ADL Score</u>	<u>End Splits or Special Requirements</u>	<u>IL RUG-IV Group</u>
<u>Reduced Physical Function</u>	<u>15-16</u>	<u>2 or more Restorative</u>	<u>PE2</u>
<u>List of Restorative Programs</u>			
<u>Passive (O0500A = 6 or 7) or Active (O0500B = 6 or 7) ROM</u>	<u>15-16</u>	<u>0-1 Restorative</u>	<u>PE1</u>
<u>Splint or brace assistance (O0500C = 6 or 7)</u>	<u>11-14</u>	<u>2 or more Restorative</u>	<u>PD2</u>
<u>Bed Mobility (O0500D = 6 or 7)</u>	<u>11-14</u>	<u>0-1 Restorative</u>	<u>PD1</u>

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<u>and/or walking training (O0500F = 6 or 7)</u>	<u>6-10</u>	<u>2 or more Restorative</u>	<u>PC2</u>
<u>Transfer training (O0500E = 6 or 7)</u>			
<u>Dressing and/or grooming training (O0500G = 6 or 7)</u>	<u>6-10</u>	<u>0-1 Restorative</u>	<u>PC1</u>
<u>Eating and/or swallowing training (O0500H = 6 or 7)</u>	<u>2-5</u>	<u>2 or more Restorative</u>	<u>PB2</u>
<u>Amputation/prostheses care (O0500I = 6 or 7)</u>	<u>2-5</u>	<u>0-1 Restorative</u>	<u>PB1</u>
<u>Communication training (O0500J = 6 or 7)</u>	<u>0-1</u>	<u>2 or more Restorative</u>	<u>PA2</u>
<u>Urinary (H0200C) and/or bowel training (H0500)</u>	<u>0-1</u>	<u>0-1 Restorative</u>	<u>PA1</u>
<u>No Clinical Conditions</u>			
<u>These programs count as one service even if both are provided</u>			

- i) Illinois Specific Classification – This is assigned to a resident for whom RUGs resident identification information is missing or inaccurate, or for whom there is no current MDS record for that quarter. In addition, a resident for whom an assessment is necessary to determine group classification is incomplete or has not been submitted within 14 calendar days of the time requirements in Section 147.315 shall be assigned the default group.

<u>An assessment that is missing and/or submitted more than 14 days late from the due date</u>	<u>N/A</u>		<u>AA1</u>
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- j) Additional Scoring Indicators

<u>ADL</u>	<u>Self-Performance</u>	<u>Support</u>	<u>ADL Score</u>
<u>Bed Mobility (G0110A)</u>	<u>Coded -, 0, 1, 7, or 8</u>	<u>Any Number</u>	<u>0</u>
<u>Transfer (G0110B)</u>	<u>Coded 2</u>	<u>Any Number</u>	<u>1</u>

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<u>Toilet Use (G0110I)</u>	<u>Coded 3</u>	<u>-, 0, 1, or 2</u>	<u>2</u>
	<u>Coded 4</u>	<u>-, 0, 1, or 2</u>	<u>3</u>
	<u>Coded 3 or 4</u>	<u>3</u>	<u>4</u>
<u>Eating (G0110H)</u>	<u>Coded -, 0, 1, 2, 7 or 8</u>	<u>-, 0, 1 or 8</u>	<u>0</u>
		<u>2 or 3</u>	<u>2</u>
	<u>Coded -, 0, 1, 2, 7 or 8</u>	<u>-, 0 or 1</u>	<u>2</u>
	<u>Coded 3 or 4</u>	<u>2 or 3</u>	<u>3</u>
	<u>Coded 3</u>	<u>2 or 3</u>	<u>4</u>
	<u>Coded 4</u>		

- k) Depression – Additional Scoring Indicator – The depression end split is determined by either the total severity score from the resident interview in Section D0200 (PHQ-9) or from the total severity score from the caregiver assessment of Mood D0500 (PHQ9-OV).

<u>Resident</u>	<u>Staff</u>	<u>Description</u>
<u>D0200A</u>	<u>D0500A</u>	<u>Little interest or pleasure in doing things</u>
<u>D0200B</u>	<u>D0500B</u>	<u>Feeling down, depressed or hopeless</u>
<u>D0200C</u>	<u>D0500C</u>	<u>Trouble falling or staying asleep, sleeping too much</u>
<u>D0200D</u>	<u>D0500D</u>	<u>Feeling tired or having little energy</u>
<u>D0200E</u>	<u>D0500E</u>	<u>Poor appetite or overeating</u>
<u>D0200F</u>	<u>D0500F</u>	<u>Feeling bad or failure or let self or others down</u>
<u>D0200G</u>	<u>D0500G</u>	<u>Trouble concentrating on things</u>
<u>D0200H</u>	<u>D0500H</u>	<u>Moving or speaking slowly or being fidgety or restless</u>
<u>D0200I</u>	<u>D0500I</u>	<u>Thoughts of better off dead or hurting self</u>
	<u>D0500J</u>	<u>Short tempered, easily annoyed</u>

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<u>Residents that were interviewed D0300 (Total Severity Score) <math>\geq</math> 10 but not 99</u>
<u>Staff Assessment-Interview not conducted D0600 (Total Severity Score ) <math>\geq</math> 10</u>

- 1) Restorative Nursing – Additional Scoring Indicators  
Activities that are individualized to the resident's needs, planned, monitored, evaluated, and documented in the resident's clinical record. These are nursing interventions that promote the resident's ability to adapt and adjust to living as independently and safely as possible. The concept actively focuses on achieving and maintaining optimal physical, mental, and psychosocial functioning. The program shall be performed for a total of at least 15 minutes during a 24 hour-period. Measurable objective and interventions shall be documented in the care plan. There shall be evidence of periodic evaluation by the licensed nurse. A registered nurse or licensed practical nurse shall supervise the activities. This does not include groups with more than 4 residents per supervising staff.

Restorative Nursing Programs-2 or more required to be provided 6 or more days a week

Passive Range of Motion (O0500A) and/or Active Range of Motion (O0500B)\*  
These are exercises performed by the resident or staff that are individualized to the resident's needs, planned, monitored, and evaluated. Movement by a resident that is incidental to dressing, bathing, etc. does not count as part of a formal restorative program. Staff must be trained in the procedures.

Splint or Brace Assistance (O0500C) – This includes verbal and physical guidance and direction that teaches the resident how to apply, manipulate, and care for a brace or splint; or there is a scheduled program of applying and removing a splint or brace. The resident's skin and circulation under the device should be assessed and the limb repositioned in correct alignment.

The following activities include repetition, physical or verbal cueing, and/or task segmentation provided by any staff member under the supervision of a licensed nurse.

Bed Mobility Training (O0500D) and/or walking training (O0500F)\* – Bed Mobility – Activities provided to improve or maintain the resident's self-performance in moving to and from a lying position, turning side to side and

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position self in bed. Walking – Activities provided to improve or maintain the resident's self-performance in walking, with or without assistive devices.

Transfer Training (O0500E) – Activities provided to improve or maintain the resident's self-performance in moving between surfaces or planes either with or without assistive devices.

Dressing and/or grooming training (O0500G) – Activities provided to improve or maintain the resident's self-performance in dressing and undressing, bathing and washing, and performing other personal hygiene tasks.

Eating and/or swallowing training (O0500H) – Activities provided to improve or maintain the resident's self-performance in feeding oneself food and fluids, or activities used to improve or maintain the resident's ability to ingest nutrition and hydration by mouth.

Amputation/Prosthesis (O0500I) – Activities provided to improve or maintain the resident's self-performance in putting on and removing prosthesis, caring for the prosthesis, and providing appropriate hygiene at the site where the prostheses attaches to the body.

Communication training (O0500J) – Activities provided to improve or maintain the resident's self-performance in functional communication skills or assisting the resident in using residual communication skills and adaptive devices.

No count days required for current toileting program or trial (H0200C) and/or bowel training program (H0500)\* – This is a specific approach that is organized, planned, documented, monitored, and evaluated that is consistent with the nursing facility's policies and procedures and current standards of practice. The program is based on an assessment of the resident's unique voiding pattern. The individualized program requires notations of the resident's response to the program and subsequent evaluations as needed. It does not include simply tracking continence status, changing pads or wet garments, and random assistance with toileting or hygiene.

\*Count as one service even if both are provided.

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- m) Cognitive Impairment – Additional Scoring Indicators  
Cognitive impairment is determined by either the summary score from the resident interview in Section C0200-C0400 (BIMS) or from the calculation of Cognitive Performance Scale if the BIMS is not conducted.

Brief Interview for Mental Status (BIMS)  
BIMS summary score (C0500  $\geq$  9)

- n) Cognitive Performance Scale – Additional Scoring Indicators

Cognitive Performance Scale is based off staff assessment. The RUG-IV Cognitive Performance Scale (CPS) is used to determine cognitive impairment. The resident is cognitively impaired if one of the three following conditions exists.

B0100 Coma (B0100 = 1) and completely ADL dependent or ADL did not occur (G0110A1, G0110B1, G0110H1, G0110I1 all = 4 or 8)

C1000 Severely impaired cognitive skills (C1000 = 3)

B0700, C0700, C1000 Two or more of the following impairment indicators are present:

B0700 > 0 Problem being understood

C0700 = 1 Short term memory problem

C1000 > 0 Cognitive skills problem

And

One or more of the following severe impairment indicators are present:

B0700  $\geq$  2 Severe problem being understood

C1000  $\geq$  2 Severe cognitive skills problem

(Source: Old Section 147.330 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.330 added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.335 Enhanced Care Rates~~Specialized Care – Behavioral Emergencies~~**  
**(Repealed)**

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An additional enhance rate is applied for certain categories of residents that are in need of more resources.

- a) Ventilator Services – The following criteria shall be met to be eligible for enhanced rates.
- 1) Ventilators are defined as any type of electrical or pneumatically powered closed mechanical system for residents who are, or who may become, unable to support their own respiration. It does not include Continuous Positive Airway Pressure (CPAP) or Bi-level Positive Airway Pressure (BiPAP) devices. When ventilators are used to deliver CPAP or BiPAP they shall not be counted as ventilator services for enhanced rates.
  - 2) Ventilators set to PEEP or CPAP to aid in weaning a resident from the ventilator are included. The weaning process shall be documented in the clinical record. Ventilators used to deliver CPAP or BiPAP services for the resident with Sleep Apnea are not included.
  - 3) Nursing facility shall notify the Department using a Department designated form that includes a physician order sheet that identifies the need and delivery of ventilator services. A facility shall also use the designated form to notify the Department when a resident is no longer receiving ventilator services. In addition, a Section S item response of the MDS may be used.
  - 4) The following criteria shall be met in order for a facility to qualify for ventilator care reimbursement.
    - A) A facility shall establish admission criteria to ensure the medical stability of patients prior to transfer from an acute care setting.
    - B) Facilities shall be equipped with technology that enables it to meet the respiratory therapy, mobility and comfort needs of its patients.
    - C) Clinical assessment of oxygenation and ventilation-arterial blood gases or other methods of monitoring carbon dioxide and oxygenation shall be available on-site for the management of

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residents. Documentation shall support clinical monitoring of oxygenation stability was completed at least twice a day.

- D) Emergency and life support equipment, including mechanical ventilators, shall be connected to electrical outlets with back-up generator power in the event of a power failure.
- E) Ventilators shall be equipped with internal batteries to provide a short term back-up system in case of a total loss of power.
- F) An audible, redundant ventilator alarm system shall be required to alert staff of a ventilator malfunction, failure or resident disconnect. A back-up ventilator shall be available at all times.
- G) Facilities licensed under the Nursing Home Care Act shall have a minimum of one RN on duty for 8 consecutive hours, 7 days per week, as required by 77 Ill. Adm. Code 300.1240. For facilities licensed under the Hospital Licensing Act, an RN shall be on duty at all times, as required by 77 Ill. Adm. Code 250.910. Additional RN staff may be determined necessary by the Department, based on the Department's review of the ventilator services.
- H) Licensed nursing staff shall be on duty in sufficient numbers to meet the needs of residents as required by 77 Ill. Adm. Code 300.1230. For facilities licensed under the Nursing Home Care Act, the Department requires that an RN shall be on call, if not on duty, at all times.
- I) No less than one licensed respiratory care practitioner licensed in Illinois shall be available at the facility or on call 24-hours a day to provide care, monitor life support systems, administer medical gases and aerosol medications, and perform diagnostic testing as determined by the needs and number of the residents being served by a facility. The practitioner shall evaluate and document the respiratory status of a ventilator resident on no less than a weekly basis.

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- J) A pulmonologist, or physician experienced in the management of ventilator care, shall direct the care plan for ventilator residents on no less than a twice per week basis.
- K) At least one of the full-time licensed nursing staff members shall have successfully completed a course in the care of ventilator dependent individuals and the use of the ventilators, conducted and documented by a licensed respiratory care practitioner or a qualified registered nurse who has at least one-year experience in the care of ventilator dependent individuals.
- L) All staff caring for ventilator dependent residents shall have documented in-service training in ventilator care prior to providing such care. In-service training shall be conducted at least annually by a licensed respiratory care practitioner or qualified registered nurse who has at least one-year experience in the care of ventilator dependent individuals. Training shall include, but is not limited to, status and needs of the resident, infection control techniques, communicating with the ventilator resident, and assisting the resident with activities. In-service training documentation shall include name and title of the in-service director, duration of the presentation, content of presentation, and signature and position description of all participants.
- M) Documentation shall support the resident has a health condition that requires medical supervision 24-hours a day of licensed nursing care and specialized services or equipment.
- N) The medical records shall contain physician's orders for respiratory care that includes, but is not limited to, diagnosis, ventilator settings, tracheostomy care and suctioning, when applicable.
- O) Documentation shall support the resident receive tracheostomy care at least daily.
- 5) To be eligible to receive ventilator add-on, facilities shall also be required to implement the established written protocols on the following areas:

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- A) Pressure Ulcers. A facility shall have established policies and procedures on assessing, monitoring and prevention of pressure ulcers, including development of a method of monitoring the occurrence of pressure ulcers. Staff shall receive in-service training on those areas.
- i) Documentation shall support the resident has been assessed quarterly for their risk for developing pressure ulcers.
  - ii) Documentation shall support that interventions for pressure ulcer prevention were implemented and include, but are not limited to, a turning and repositioning schedule, use of pressuring reducing devices, hydration and nutritional interventions and daily skin checks.
- B) Pain. A facility shall have established policies and procedures on assessing the occurrence of pain, including development of a method of monitoring the occurrence of pain. Staff shall receive in-service training on this area.
- i) Documentation shall support the resident has been assessed quarterly for the presence of pain and the risk factors for developing pain.
  - ii) Documentation shall support an effective pain management regime is in place for the resident.
- C) Immobility. A facility shall have established policies and procedures to assess the possible effects of immobility. These shall include, but not be limited to, range of motion techniques, contracture risk. Staff shall receive in-service training on this area.
- i) Documentation shall support the resident's risk for contractures were assessed quarterly and interventions are in place to reduce the risk.

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- ii) Effects of immobility will be monitored and interventions implemented as needed.
  - D) Risk of infection. A facility shall have established policies and procedures on assessing risk for developing infection and prevention techniques. These shall include, but are not limited to proper hand washing techniques, aseptic technique in delivery care to a resident, and proper care of equipment and supplies. Staff shall receive in-service training on this area.
    - i) Documentation shall support the resident was given oral care every shift to reduce the risk of infection.
    - ii) Documentation shall support the facility has a method to monitor and track infections.
  - E) Social Isolation. A facility shall have a method of assessing a resident's risk for social isolation. Interventions shall be in place to involve a resident in activities when possible.
  - F) Ventilator Weaning. A facility shall have a method of routinely assessing a resident's weaning potential and interventions implemented as needed. Documentation shall support the weaning process and the use of mechanical ventilation for a portion of each day for stabilization.
  - G) Policies shall include monitoring expectations of the ventilator resident, routine maintenance of equipment and specific staff training related to ventilator settings and care.
  - H) In order to maintain quality standards and reduce cross contamination, the facility shall have a policy for cleaning and maintaining equipment.
- 6) Department staff shall conduct on-site visits on a random or targeted basis to ensure both facility and resident compliance with requirements. All records shall be accessible to determine that the needs of a resident are

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being met and to determine the appropriateness of ventilator services. In addition to the requirements of this subsection, Department review shall include, at a minimum, the following:

- A) The tracking of Ventilator Associated Pneumonia;
  - B) Documentation to track hospitalizations, reason for hospitalizations, and interventions aimed at reducing hospitalizations for ventilator residents;
  - C) Ventilator weaning;
- 7) An enhanced payment shall be added to the rate determined by the methodology currently in place:
- A) Payment shall be made for each individual resident receiving ventilator services;
  - B) The rate add-on for ventilator service is \$208 per day.
- b) Traumatic Brain Injury (TBI) – The following criteria shall be met to be eligible for enhanced rates.
- 1) A facility shall meet all the criteria set forth in this subsection for TBI care to a resident in order to receive the enhanced TBI reimbursement rate identified.
  - 2) TBI is a nondegenerative, noncongenital insult to the brain from an external mechanical force, possibly leading to permanent or temporary impairment of cognitive, physical, and psychosocial functions, with an associated diminished or altered state of consciousness.
  - 3) The following criteria shall be met in order for a facility to qualify for TBI reimbursement.
    - A) The facility shall have written policies and procedures for care of the residents with TBI and behaviors that include, but are not

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limited to, monitoring for behaviors, identification and reduction of agitation, safe and effective interventions for behaviors, and assessment of risk factors for behaviors related to safety of residents, staff and staff shall be in-serviced on these policies.

- B) The facility shall have staff to complete the required physical (PT), occupational (OT) or speech therapy (SP), as needed. Additionally, a facility shall have staffing sufficient to meet the behavior, physical and psychosocial needs of the resident.
- C) Staff shall receive in-service for the care of a TBI resident and dealing with behavior issues identifying and reducing agitation, and rehabilitation for the TBI resident. In-service training shall be conducted at least annually. In-service documentation shall include name and title of the in-service director, duration of the presentation, content of presentation, and signature and position description of all participants.
- D) The facility environment shall be such that it is aimed at reducing distractions for the TBI resident during activities and therapies. This shall include, but not be limited to, avoiding overcrowding, loud noises, lack of privacy, seclusion and social isolation.
- E) Care plans on all residents shall address the physical, behavioral and psychosocial needs of the TBI residents. Care plans shall be individualized to meet the resident's needs, and shall be revised as necessary.
- F) The facility shall use the "Rancho Los Amigos Cognitive Scale" to determine the level of cognitive functioning. The assessment shall be completed quarterly by a trained rehabilitation registered nurse. Based on the level of functioning, and the services and interventions implemented, a resident will be placed in 1 of 3 tiers of payments. Tier 3 is the highest reimbursement. By completing a Department designated form, facilities will be responsible for notifying the Department of the applicable tier in which a resident is placed.

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G) Documentation found elsewhere in the resident records shall support the scoring on the Rancho Los Amigos Scale as well as the delivery of coded interventions.

4) Admission Criteria

A) Documentation by a neurologist that the resident has a severe and extensive TBI diagnosis.

B) The diagnosis meets RAI Manual requirements for coding.

C) There shall be documentation the diagnosis has resulted in significant deficits and disabilities that required intense rehabilitation therapy. In addition, documentation from the neurologist shall identify the resident has the ability to benefit from rehabilitation and a potential for independent living.

D) Diagnostic testing shall support the presence of a severe and extensive TBI as a result of external force as defined in subsection (b)(2).

E) Documentation the resident was assessed using the Rancho Los Amigos Cognitive Scale and scored a Level IV-X. Residents scoring a Level I, II or III on the Rancho Los Amigos Cognitive Scale shall not be eligible for TBI reimbursement.

F) Documentation the resident is medically stable and has been assessed for potential behaviors and safety risk to self, staff and others.

5) Documentation supports the Tier I requirements are as follows:

A) Tier I shall not exceed 6 months.

B) The resident shall have previously scored in Tier II or Tier III.

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- C) The resident has received intensive rehabilitation and is preparing for discharge to the community. The resident shall receive intervention and training focusing on independent living skills, prevocational training and employment support. This includes, but is not limited to, community support options, substance abuse counseling, as appropriate, time management and goal setting.
- D) Resident scores a Level VIII-X on the Rancho Los Amigos Cognitive Scale (Purposeful, Appropriate, and stand-by assistance to Modified Independence).
- E) No behaviors or Behaviors present, but less than 4 days (E0200A-C<2 AND E0500A-C=0 AND E0800< 2 and E1000A+B=0). If behaviors are present, resident receives behavior management training to address the specific behaviors identified.
- F) Cognition. Brief Interview for Mental Status (BIMS) is 13-15 (Cognitively intact, C0500).
- G) Activities of daily living (ADL) functioning. All ADL tasks shall be coded less than 3 (Section G).
- H) An assessment shall be completed quarterly to identify the resident's needs and risk factors related to independent living. This assessment shall include, but is not limited to, physical development and mobility, communication skills, cognition level, food preparation and eating behaviors, personal hygiene and grooming, health and safety issues, social and behavioral issues, ADL potential with household chores, transportation, vocational skills and money management.
- I) Discharge Potential. There is an active discharge plan in place (Q0400A=1) or referral has been made to the local contact agency (Q0600=1). There shall be weekly documentation by a licensed social worker related to discharge potential and progress. This shall include working with the resident on community resources and prevocational employment options.

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- J) The resident shall receive interventions and/or training related to their specific discharge needs.
- 6) Documentation supports the Tier II requirements are as follows:
- A) Tier II shall not exceed 12 months.
- B) Resident has reached a plateau in rehabilitation ability, but still requires services related to the TBI. Resident shall have previously scored in Tier III. The resident continues to receive restorative nursing services.
- C) Resident scores a Level IV-VII on the Rancho Los Amigos Cognitive Scale (Confusion, may or may not be appropriate).
- D) Cognition. BIMS is less than 13 (C0500) or Cognitive Skills for decision making are moderately to severely impaired (C1000=2 or 3).
- E) Resident has behaviors (E0300=1 or E1000=1) and these behaviors impact resident (E0500A-C=1) or impact others (E0600A-C=1). Behaviors shall be tracked daily and interventions implemented. There shall be documentation of weekly meetings with interdisciplinary staff to discuss behaviors, effectiveness of interventions and to implement revisions as necessary.
- F) ADL function (Section G) 3 or more ADL require limited or extensive assistance.
- G) Resident is on 2 or more of the following restorative: Bed Mobility (O0500D=1), Transfer (O0500E=1), Walking (O0500F=1), Dressing/Grooming (O0500G=1), Eating (O0500H=1) or Communication (O0500J=1).
- H) Resident receives either Psychological (O0400E2>1) or Recreational Therapy (O0400F2>1) at least 2 or more days a week.

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Documentation shall include a summary of the sessions, resident's progress and potential goals, and identify any revisions needed.

I) Documentation shall support one to one meeting with a licensed social worker at least twice a week to discuss potential needs, goals and any behavior issues.

J) Documentation of at least quarterly oversight of care plan by a neurologist.

K) Documentation the resident has received instruction and training at least twice per week that includes, but is not limited to, behavior modification, anger management, time management goal setting, life skills and social skills.

L) Behavioral rehabilitation assessment and evaluations shall be completed quarterly and shall include cognition, behaviors, interventions and outcomes.

M) Documentation shall support the residents requires intensive counseling, behavioral management and neuro-cognitive therapy. The resident behaves in such a manner as to indicate an inability, without ongoing supervision and assistance of others, they would be unable to satisfy the need for nourishment, personal care, medical care, shelter, self-protection and safety.

7) Documentation supports the Tier III requirements are as follows:

A) Tier III shall not exceed 9 months.

B) The injury resulting in a TBI diagnosis must have occurred within the prior 6 months to score in Tier III.

C) Includes the acutely diagnosed resident with extensive deficits in physical functioning and identifies intensive rehabilitation needs.

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- D) Resident scores an IV-VII on the Rancho Los Amigos Cognitive Scale.
- E) Cognition. BIMS is less than 13 (C0500) or Cognitive Skills for decision making are moderately to severely impaired (C1000=2 or 3).
- F) Documentation shall support the facility is monitoring behaviors and has implemented interventions to identify the risk factors for behaviors and to reduce the occurrence of behaviors.
- G) Resident receives Rehabilitation therapy (PT, OT or ST) at least 500 minutes per week and at least one rehabilitation discipline 5 days per week (O0400). The therapy shall meet the RAI Manual guidelines for coding. The resident shall continue to show the potential for improvement in the therapy programs.
- H) The facility shall have trained rehabilitation staff on-site working with the resident on a daily basis. This shall include a trained rehabilitation nurse and rehabilitation aides. The resident requires a minimum of 6 to 8 hours per day of one-to-one support as a result of functional issues.
- I) Documentation shall support there are weekly meetings of the interdisciplinary team to discuss the resident's rehabilitation progress and potential.
- J) Resident receives Psychological Therapy (O0400E2>1) at least 2 days per week. Documentation shall include a summary of the sessions, resident's progress and potential goals, and identify any revisions needed.
- K) There shall be documentation to support monthly oversight by a neurologist.

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- L) A comprehensive medical and neuro-psychological assessment is done upon admission and quarterly. It shall include, but is not limited to, the following:
- i) Physical ability and mobility;
  - ii) Motor coordination;
  - iii) Hearing, vision and speech;
  - iv) Behavior and impulse control;
  - v) Social functionality;
  - vi) Cognition;
  - vii) Safety and medical needs; and
  - viii) Communication needs.
- 8) Rates of payment for each Tier are as follows:
- A) The payment amount for Tier I is \$264.17 per day.
  - B) The payment amount for Tier II is \$486.49 per day.
  - C) The payment amount for Tier III is \$767.46 per day.

(Source: Old Section 147.335 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.335 added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.340 Minimum Data Set On-Site Reviews~~Discharge Planning (Repealed)~~**

- a) The Department shall conduct reviews to determine the accuracy of the resident assessment information transmitted in the Minimum Data Set (MDS) that are relevant to the determination of reimbursement rates. The MDS data used by the Department to set the reimbursement rate will be used to conduct the validation

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reviews. Such reviews may, at the discretion of the Department, be conducted electronically or onsite in the facility.

- b) The Department may select, at random, a number of facilities in which to conduct quarterly on-site reviews.
- c) The Department may also select facilities for on-site review based upon facility characteristics, atypical patterns of scoring MDS items, non-submission or late submission of assessments, high percentage of significant corrections, previous history of review changes, or the Department's experience. The Department may also use the findings of the licensing and certification survey conducted by the Department of Public Health (DPH) indicating the facility is not accurately assessing residents.
- d) In addition, the Department may conduct reviews if the Department determines that circumstances exist that could alter or affect the validity of case mix classifications of residents. These circumstances include, but are not limited to, the following:
  - 1) Frequent changes in administration or management of the facility;
  - 2) An unusually high percentage of residents in a specific case mix classification or high percentage of change in the number of residents in a specific case mix classification;
  - 3) Frequent adjustments of case mix classification as result of reconsiderations, reviews, or significant corrections submitted;
  - 4) A criminal indictment alleging fraud; and
  - 5) Other similar factors that relate to a facility's ability to conduct accurate assessments.
- e) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with medical peer review organizations to provide utilization review and quality assurance.

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- f) Electronic review. The Department shall conduct quarterly an electronic review of MDS data for eligible individuals to identify facilities for on-site review.
- g) On-site review. The Department shall conduct an on-site review of MDS data for eligible individuals. The Department is authorized to conduct unannounced on-site reviews. On-site reviews may include, but shall not be limited to, the following:
- 1) Review of the resident records and supporting documentation.
  - 2) Observation and interviews of residents, families and/or staff, to determine the accuracy of data relevant to the determination of reimbursement rates.
  - 3) Review and collection of information necessary to assess the resident's need for a specific service or care area.
- h) The Department shall select at least 20 percent, with a minimum of 10 assessments, of the assessments submitted. The number of residents in any selected facility for whom information is reviewed may, at the sole discretion of the Department, be limited or expanded.
- i) If more than 25 percent of the RUG-IV classifications are changed as a result of the initial review, the review may be expanded to a second 25 percent, with a minimum of 10 assessments. If the total changes between the first and second sample exceed 40 percent, the Department may expand the review to all the remaining assessments.
- j) If the facility qualifies for an expanded review, the Department may review the facility again within 6 months. If a facility has 2 expanded reviews within a 24-month period, that facility may be subject to reviews every 6 months for the next 18 months and a penalty may be applied as defined in subsection (s) of this Section.
- k) Pursuant to 89 Ill. Adm. Code 140.12(f), the facility shall provide Department staff with access to residents, professional and non-licensed direct care staff, facility assessors, clinical records and completed resident assessment instruments, as well as other documentation regarding the residents' care needs and treatments.

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Failure to provide timely access to records may result in suspension or termination of a facility's provider agreement in accordance with 89 Ill. Adm. Code 140.116(a)(4).

- l) Department staff shall request in writing the current charts of individual residents needed to begin the review process. Current charts and completed MDS for the previous 15 months shall be provided to review team within an hour after the request. Additional documentation regarding reimbursement areas for the identified Assessment Reference Date (ARD) timeframe shall be provided to the review team within 4 hours after the initial request. The team will request no more than 2 records per reviewer to begin the review process. If the facility chooses to have HFS staff review the electronic health record, at least 2 computer terminals with read-only access will be made available to the review team within one hour. Within 4 hours after the team's arrival and for the remainder of the review, the facility shall provide a computer terminal for each reviewer or hard copies shall be provided.
- m) When further documentation is needed by the review team to validate an area, the team shall identify the MDS item requiring additional documentation and provide the facility with the opportunity to produce that information. The facility shall provide the team with additional documentation within 24 hours after the initial request.
- n) Facilities shall ensure that clinical records, regardless of form, are easily and readily accessible to Department staff.
- o) Throughout the review, the Department shall identify to the facility any preliminary conclusions regarding the MDS items/areas that could not be validated. If the facility disagrees with those preliminary conclusions they shall present the Department with any and all documentation to support their position. It is up to the facility to determine what documentation is needed to support both the Resident Assessment Instrument (RAI) Manual and rule requirements regarding the MDS items identified.
- p) All documentation that is to be considered for validation must be provided to the team prior to exit. All RAI Manual requirements and requirements identified in this subsection shall be presented to validate the identified area.

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- q) Corrective Action. Upon conclusion of the review and the consideration of any subsequent supporting documentation provided by the facility, the Department shall notify the facility of its final conclusions, both with respect to accuracy of data and recalculation of the facility's reimbursement rate. The Department shall reclassify a resident if the Department determines that the resident was incorrectly classified.
- r) Data Accuracy. Final conclusions with respect to inaccurate data may be referred to the appropriate agencies, including, but not limited to, the Department's Office of Inspector General, Illinois State Police or Department of Public Health.
- s) Recalculation of Reimbursement Rate. The Department shall determine if the reported MDS data that was subsequently determined to be unverifiable would cause the direct care component of the facility's rate to be calculated differently when using the accurate data.
- t) A facility's rate shall be subject to change if the recalculation of the direct care component rate, as a result of using RUGs-IV data that is verifiable:
- 1) Decreases the rate by more than one percent. The rate is to be changed, retroactive to the beginning of the rate period, to the recalculated rate.
  - 2) Decreases the rate by more than 10 percent in addition to the rate change specified in this subsection (t). The direct care component of the rate may be reduced, retroactive to the beginning of the rate period, by \$1.00 for each whole percentage decrease in excess of 2 percent.
- u) Based on the areas identified as reclassified, the nursing facility may request that the Department reconsider the assigned classification. The request for reconsideration shall be submitted in writing to the Department within 30 days after the date of the Department's notice to the facility. The request for reconsideration shall include the name and address of the facility, the name of each resident in which reconsideration is requested, the reasons for the reconsideration for each resident, and the requested classification changes for each resident based on the MDS items coded. In addition, a facility may offer explanations as to how they feel the documentation presented during the review

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supports their request for reconsideration. However, all documentation used to validate an area shall be submitted to the Department prior to exit. Documentation presented after exit will not be considered when determining a recalculation request. If the facility fails to provide the required information with the reconsideration request, or the request is not timely, the request shall be denied.

- v) Reconsideration by the Department shall be made by individuals not directly involved in that facility review. The reconsideration shall be based upon the initial assessment documentation and the reconsideration information sent to the Department by the facility. The Department shall have 120 days after the date of the request for reconsideration to make a determination and notify the facility in writing of the final decision.

(Source: Old Section 147.340 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.340 added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.345 Quality Incentives~~Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness~~  
(Repealed)**

Effective January 1, 2015, the Department shall allocate an amount for quality incentive payments. To establish baselines for these measures, the information shall be submitted beginning January 1, 2014. These measures may be included as part of the on-site reimbursement review. To receive the quality incentive payments for these measures, a facility shall meet the following criteria.

- a) The Department shall allocate an amount for staff retention. To receive the quality incentive payment for this measure, the facility's staff retention rate shall meet or exceed the threshold established and published by the Department based upon statewide averages and must be at least 80 percent.
- 1) Retention relates to the extent to which an employer retains its employees and may be measured as the proportion of employees with a specified length of service expressed as a percentage of overall workforce numbers.
  - 2) The staff retentions shall reflect the percentage of individuals employed by the facility on the last day of the previous calculation period who are still

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employed by the facility on the last day of the following calculation period.

- 3) Staff retention shall be calculated on a semiannual basis.
    - A) The June 30 calculation will be based on the percentage of full-time (defined as 30 or more hours per week) direct care staff employed by the nursing facility on January 1 and still employed by the nursing facility on June 30. The deadline for reporting this information shall be July 31. Direct care staff is defined as certified nursing assistants.
    - B) The December 31 calculation shall be based on the percentage of full-time direct care staff employed by the nursing facility on July 1 and still employed by the nursing facility on December 31. The deadline for reporting this information shall be January 31.
  - 4) The staff retention rate is calculated using full-time direct care staff employed in a facility.
  - 5) Documentation in the employee's record shall support the retention rate submitted.
  - 6) Facilities shall submit the required information to the Department in a format designated by the Department.
- b) The Department shall allocate an amount for consistent assignments. To receive the quality incentive payment for this measure, the facility shall meet the threshold established and published by the Department based upon statewide averages.
- 1) Consistent assignments shall be calculated on a semiannual basis. The deadline for reporting this information shall be July 31 and January 31, respectively.
  - 2) The facility shall have a written policy that requires consistent assignment of certified nursing assistants and it shall specify a goal of limiting the

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number of certified nursing assistants that provide care to a resident to no more than 8 certified nursing assistants per resident during a 30-day period.

- 3) Documentation shall support that no less than 85 percent of Long Term Care residents received their care from no more than 8 different certified nursing assistants during a 30-day period.
  - 4) There shall be evidence the policy has been communicated, and understood, to the staff, residents and family of residents.
  - 5) Facilities shall submit the required information to the Department in a format designated by the Department.
- c) The Department shall establish a center for Psychiatric Rehabilitation in Long Term Services and Support to organize and coordinate the provision of training on serious mental illness, psychiatric rehabilitation services and evidence-based informed practices.

(Source: Old Section 147.345 repealed at 26 Ill. Reg. 3093, effective February 15, 2002; new Section 147.345 added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.346 Appeals of Nursing Rate Determination**

- a) Appeals must be submitted in writing to the Department no later than 30 days after the date of the Department's notice to the facility of the rate calculation resulting from the on-site review. The revised rate shall be processed into the payment system 30 days after the date of the Department's notice in order to allow time for submission of appeals.
- b) The appeal shall contain clear and relevant supportive documentation. The facility must succinctly address the area being appealed. Additional documentation not presented to the HFS review team during the review, or at the time of exit, will not be considered in the appeal process.

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- c) The Department will rule on all appeals within 120 days after the date of appeal, except in rare instances where the Department may require additional information from the facility. In this case, the response period may be extended.
- d) The appeal and supportive documentation will go through several stages of review within the Department to ensure fairness, objectivity and consistency with the appeal determination. The rate resulting from the appeal determination will become effective the first day of the applicable quarter.

(Source: Added at 38 Ill. Reg. 12173, effective May 30, 2014)

**Section 147.355 Reimbursement for Residents with Exceptional Needs (Repealed)**

- a) ~~Pursuant to Public Act 96-1530, effective January 1, 2012, the Department of Healthcare and Family Services (HFS) shall allocate at least \$8 million of the funds collected from the assessment identified in 89 Ill. Adm. Code 140.84 to develop and make enhanced payments to nursing facilities for services provided to residents with exceptional needs. For purposes of this Section, an exceptional need means ventilator care, tracheotomy care, bariatric care, complex wound care and traumatic brain injury (TBI) care. The break-out of the spending will be \$2 million each for ventilator care and TBI as scored under the Minimum Data Set (MDS) 3.0, and \$4 million for tracheotomy care, bariatric care, complex wound care and TBI supply costs as scored under the MDS 2.0.~~
- b) ~~Ventilator Care~~
  - 1) ~~Ventilators are defined as any type of electrical or pneumatically powered closed mechanical system for residents who are, or who may become, unable to support their own respiration. It does not include Continuous Positive Airway Pressure (CPAP) or Bi-level Positive Airway Pressure (BIPAP) devices.~~
  - 2) ~~In order for an applicable rate to be assigned to a ventilator dependent resident, a nursing facility shall notify the Department using a Department designated form that includes a physician order sheet that identifies the need and delivery of ventilator services. A facility shall also use the designated form to notify the Department when a resident is no longer~~

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~~receiving ventilator services. The following criteria shall be met in order for a facility to qualify for ventilator care reimbursement.~~

- ~~3) A facility shall establish admission criteria to ensure the medical stability of patients prior to transfer from an acute care setting.~~
- ~~4) Facilities shall be equipped with technology that enables them to meet the respiratory therapy, mobility and comfort needs of their patients.~~
- ~~5) Clinical assessment of oxygenation and ventilation arterial blood gases or other methods of monitoring carbon dioxide and oxygenation shall be available on site for the management of residents.~~
- ~~6) Emergency and life support equipment, including mechanical ventilators, shall be connected to electrical outlets with back up generator power in the event of a power failure.~~
- ~~7) Ventilators shall be equipped with internal batteries to provide a short back up system in case of a total loss of power.~~
- ~~8) An audible, redundant ventilator alarm systems shall be required to alert caregivers of a ventilator malfunction, failure or resident disconnect. A back up ventilator shall be available at all times.~~
- 9) **Staffing**
  - A) ~~A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health (DPH) in 77 Ill. Adm. Code 300.1240 or 250.910(e) and (f)(1), as appropriate). Additional RN staff may be determined necessary by HFS, based on the HFS review of the ventilator services.~~
  - B) ~~A minimum of the required number of LPN staff (as required by DPH in 77 Ill. Adm. Code 300.1230 and 300.1240 or 250.910(e) and (f)(1), as appropriate), on duty, with an RN on call, if not on duty on the evening and night shifts, seven days per week.~~

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- ~~C) No less than one licensed respiratory care practitioner licensed in Illinois shall be available at the facility or on call 24 hours a day to provide care, monitor life support systems, administer medical gases and aerosol medications, and perform diagnostic testing as determined by the needs and number of the residents being served by a facility. The practitioner shall evaluate and document the respiratory status of a ventilator resident on no less than a weekly basis.~~
  - ~~D) A pulmonologist, or physician experienced in the management of ventilator care, shall direct the plan of care for ventilator residents on no less than a biweekly basis.~~
  - ~~E) At least one of the full-time licensed nursing staff members shall have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a licensed respiratory care practitioner or a qualified registered nurse who has at least one year experience in the care of ventilator dependent individuals.~~
  - ~~F) All staff caring for ventilator dependent residents shall have documented in-service training in ventilator care prior to providing that care. In-service training shall be conducted at least annually by a licensed respiratory care practitioner or qualified registered nurse who has at least one year experience in the care of ventilator dependent individuals. Training shall include, but is not limited to, status and needs of the resident, infection control techniques, communicating with the ventilator resident, and assisting the resident with activities. In-service training documentation shall include name and qualification of the in-service director, duration of the presentation, content of presentation, and signature and position description of all participants.~~
- 10) Facilities shall be required to have established protocols on the following areas:

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- A) ~~Pressure Ulcers. A facility shall have established policies and procedures on assessing, monitoring and prevention of pressure ulcers, including development of a method of monitoring the occurrence of pressure ulcers. Staff shall receive in-service training on those areas.~~
- i) ~~Documentation shall support that the resident has been assessed quarterly for his or her risk for developing pressure ulcers.~~
  - ii) ~~Interventions for pressure ulcer prevention shall be in place that include, but are not limited to, a turning and repositioning schedule, use of pressure reducing devices, hydration and nutritional interventions and daily skin checks.~~
- B) ~~Pain. A facility shall have established policies and procedures on assessing the occurrence of pain, including development of a method of monitoring the occurrence of pain. Staff shall receive in-service training on this area.~~
- i) ~~Documentation shall support that resident has been assessed quarterly for the presence of pain and the risk factors for developing pain.~~
  - ii) ~~Documentation shall support that an effective pain management regime is in place for the resident.~~
- C) ~~Immobility. A facility shall have established policies and procedures to assess the possible effects of immobility and risk for developing infections. These shall include, but not be limited to, range of motion techniques, contracture risk, proper hand washing techniques, aseptic technique in delivering care to a resident and proper care of the equipment and supplies. Staff shall receive in-service training on those areas.~~



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- ~~B) A rate for ventilator services shall be set based on geographic area for all facilities within that area; and~~
  - ~~C) The rate shall include the facility specific support, capital and nursing components plus the geographic area average ventilator minutes from the MDS and \$174 supply costs.~~
- e) TBI
- 1) ~~Any facility meeting the criteria set forth in this subsection (c) for TBI care serving individuals shall receive the enhanced TBI reimbursement rate identified. This rate is in lieu of the rate received under MDS 2.0 reimbursement, and the TBI add-on shall no longer apply.~~
  - 2) ~~TBI is a nondegenerative, noncongenital insult to the brain from an external mechanical force, possibly leading to permanent or temporary impairment of cognitive, physical and psychosocial functions, with an associated diminished or altered state of consciousness.~~
  - 3) ~~The following criteria shall be met in order for a facility to qualify for TBI reimbursement:~~
    - ~~A) The facility shall have policies and procedures for care of the residents with TBI and associated behaviors that include, but are not limited to, monitoring for behaviors, identification and reduction of agitation, safe and effective interventions for behaviors, and assessment of risk factors for behaviors related to safety of residents, staff and others.~~
    - ~~B) The facility shall have staff to complete the required physical (PT), occupational (OT) or speech (ST) therapy, as needed. Additionally, a facility shall have staffing sufficient to meet the behavior, physical and psychosocial needs of the resident.~~
    - ~~C) Staff caring for a TBI resident shall receive in-service training for the care of a TBI resident and dealing with behavior issues, identifying and reducing agitation, and rehabilitation for the TBI~~

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~~resident. In-service training shall be conducted at least annually. In-service documentation shall include name and qualifications of the in-service director, duration of the presentation, content of presentation, and signature and position description of each participant.~~

- ~~D) The facility environment shall be such that it is aimed at reducing distractions for the TBI resident during activities and therapies. This shall include, but not be limited to, avoiding overcrowding, loud noises, lack of privacy, seclusion and social isolation.~~
  - ~~E) Care plans on all residents shall address the physical, behavioral and psychosocial needs of the TBI residents. Care plans shall be individualized to meet the resident's needs and shall be revised as necessary.~~
  - ~~F) The facility shall use the Rancho Los Amigos Cognitive Scale (Rancho) to determine the level of cognitive functioning. The assessment shall be completed quarterly by a trained rehabilitation registered nurse. Based on the level of functioning, and the services and interventions implemented, a resident will fall into one of three tiers of payments, tier 3 being the highest reimbursement. By completing a Department designated form, facilities will be responsible for notifying the Department of the applicable tier into which a resident falls.~~
  - ~~G) Documentation found elsewhere in the resident records shall support the scoring on the Rancho assessment, as well as the delivery of coded interventions.~~
- 4) Admission Criteria
- ~~A) Documentation by a neurologist that the resident has a TBI diagnosis on the MDS 3.0 (I5500=1) that meets the RAI requirements for coding. In addition, documentation from the neurologist shall identify that the resident has the ability to benefit from rehabilitation and a potential for independent living.~~

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- B) ~~Documentation that the resident was assessed using the Rancho Los Amigos Cognitive Assessment and scored a Level IV X. Residents scoring a Level I, II or III on the Rancho assessment shall not be eligible for TBI reimbursement.~~
  - C) ~~Documentation that the resident is medically stable and has been assessed for potential behaviors and safety risk to self, staff and others.~~
- 5) Tier I requirements are as follows:
- A) ~~The payment amount is \$264.17 per day, and shall not exceed six months.~~
  - B) ~~The resident must have previously scored in Tier II or Tier III.~~
  - C) ~~Includes residents who have received intensive rehabilitation and are preparing for discharge to the community. The resident shall receive instructions focusing on independent living skills, prevocational training and employment support.~~
  - D) ~~Resident scores a Level VIII X on the Rancho Los Amigos Cognitive Scale (Purposeful, Appropriate, and stand-by assistance to Modified Independence).~~
  - E) ~~No behaviors or behaviors present, but less than 4 days (E0200A-C<2 AND E0500A C=0 AND E0800=2 and E1000A+B=0 on the MDS 3.0).~~
  - F) ~~Cognitive Brief Interview for Mental Status (BIMS) is 13-15 (Cognitively intact, C0500 on MDS 3.0).~~
  - G) ~~Activities of daily living (ADL) functioning. All ADL tasks shall be coded less than 3 (Section G on MDS 3.0).~~

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- H) ~~An assessment shall be completed to identify the resident's needs and risk factors related to independent living. This assessment shall include, but is not limited to, physical development and mobility, communication skills, cognition level, food preparation and eating behaviors, personal hygiene/grooming, health/safety issues, social/behavioral issues, ADL potential with household chores, transportation, vocational skills and money management.~~
- I) ~~Discharge potential. There is an active discharge plan in place (Q0400A=1 on MDS 3.0) or referral has been made to the local contact agency (Q0600=1 on MDS 3.0). There shall be weekly documentation by a licensed social worker related to discharge potential and progress.~~
- 6) Tier II requirements are as follows:
  - A) ~~The payment amount is \$486.49 per day, and shall not exceed 12 months.~~
  - B) ~~Includes residents who have reached a plateau in rehabilitation ability, but still require services related to the TBI. Resident must have previously scored in Tier III.~~
  - C) ~~Resident scores a Level IV-VII on the Rancho Los Amigos Cognitive Scale (Confusion, may or may not be appropriate).~~
  - D) ~~Cognition. BIMS is less than 13 (C0500 on MDS 3.0) or Cognitive Skills for decision making are moderately to severely impaired (C1000=2 or 3 on MDS 3.0).~~
  - E) ~~Resident has behaviors (E0300=1 or E1000=1 on MDS 3.0) and these behaviors impact resident (E0500A-C=1) or impact others (E0600A-C=1). Behaviors shall be tracked daily and interventions implemented as needed. There shall be documentation of weekly meetings with interdisciplinary staff to discuss behaviors, effectiveness of interventions and implementation of revisions as necessary.~~

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- F) ~~ADL function (Section G on MDS 3.0) 3 or more ADLs requires limited or extensive assistance.~~
- G) ~~Resident is on 2 or more of the following restoratives: Bed Mobility (O0500D=1 on MDS 3.0), Transfer (O0500E=1 on MDS 3.0), Walking (O0500F=1 on MDS 3.0), Dressing/Grooming (O0500G=1 on MDS 3.0), Eating (O0500H=1 on MDS 3.0) or Communication (O0500J=1 on MDS 3.0).~~
- H) ~~Resident receives either Psychological (O0400E2>1 on MDS 3.0) or Recreational Therapy (O0400F2>1 on MDS 3.0) at least two or more days a week.~~
- I) ~~Documentation shall support that a one-on-one meeting with a licensed social worker is held at least twice a week to discuss potential needs, goals and any behavior issues.~~
- J) ~~At least quarterly oversight of plan of care by a neurologist.~~
- K) ~~Documentation that the resident has received instruction and training that includes, but is not limited to, behavior modification, anger management, time management, goal setting, life skills and social skills.~~
- 7) Tier III requirements are as follows:
  - A) ~~The payment amount is \$767.46 per day and shall not exceed nine months.~~
  - B) ~~The injury resulting in a TBI diagnosis must have occurred within the prior six months to score in Tier III.~~
  - C) ~~Includes the acutely diagnosed resident with high rehabilitation needs.~~

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- ~~D) Resident scores a Level IV-VII on the Rancho LOS Amigos Cognitive Scale.~~
  - ~~E) Cognition-BIMS is less than 13 (C0500 on the MDS 3.0) or Cognitive Skills for decision making are moderately to severely impaired (C1000=2 or 3 on MDS 3.0).~~
  - ~~F) Documentation shall support that the facility is monitoring behaviors and has implemented interventions to identify the risk factors for behaviors and to reduce the occurrence of behaviors.~~
  - ~~G) Resident receives Rehabilitation Therapy (PT, OT or ST) at least 500 minutes per week and at least 1 rehab discipline 5 days/week (O400 on MDS 3.0). The therapy shall meet the RAI guidelines for coding.~~
  - ~~H) The facility shall have trained rehab staff on-site working with the resident on a daily basis. This shall include a trained rehab nurse and rehab aides.~~
  - ~~I) Documentation shall support that there are weekly meetings of the interdisciplinary team to discuss the resident's rehab progress and potential.~~
  - ~~J) Resident receives Psychological Therapy (O0400E2>1 on MDS 3.0) at least 2 days per week.~~
  - ~~K) There shall be documentation to support monthly oversight by a neurologist.~~
- d) Other Exceptional Need Services
- ~~1) Facilities scoring tracheotomy care, bariatric care, complex wound care and TBI on MDS 2.0 shall receive an additional add-on for supply costs associated with providing those services.~~

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

A) ~~Tracheotomy Care = \$8.80~~

B) ~~Bariatric Care = \$1.00~~

C) ~~Complex Wound Care = \$8.80~~

D) ~~TBI = \$8.80~~

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

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**Section 147. TABLE A Staff Time (in Minutes) and Allocation by Need Level (Repealed)**

- a) ~~Effective July 1, 2003, each Medicare and Medicaid-certified nursing facility shall complete, and transmit quarterly to the Department, a full Minimum Data Set (MDS) for each resident who resides in a certified bed, regardless of payment source. A description of the MDS items referenced in the tables found following subsection (e) of this Table A are contained in the Long Term Care Resident Assessment Instrument User's Manual available from the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 (December 2002).~~
- b) ~~Table A identifies MDS items that shall be used to calculate a profile on each Medicaid-eligible resident within each facility.~~
- c) ~~The profile for each Medicaid-eligible resident shall then be blended to determine the nursing component of the nursing facility's Medicaid rate.~~
- d) ~~Each MDS item in Table A includes a description of the item and the variable time referred to in Section 147.150(c)(1). The variable time assigned to each level represents the type of staff that should be delivering the service (unlicensed, licensed, social worker and activity) and the number of minutes allotted to that service item.~~
- e) ~~Following is a listing of the reimbursable MDS items found in Table A.~~
- ~~1) Base Social Work and Activity~~
  - ~~2) Activities of Daily Living (ADL)~~
  - ~~3) Restorative Programs~~
- ~~PROM/AROM~~
- ~~Splint/Brace~~
- ~~Bed Mobility~~

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~~Mobility/Transfer~~

~~Walking~~

~~Dressing/Grooming~~

~~Eating~~

~~Prosthetic Care~~

~~Communication~~

~~Other Restorative~~

~~Scheduled Toileting~~

4) ~~Medical Services~~

~~Continence Care~~

~~Catheter Care~~

~~Bladder Retraining~~

~~Pressure Ulcer Prevention~~

~~Moderate Skin Care Services~~

~~Intensive Skin Care Services~~

~~Ostomy Care~~

~~IV Therapy~~

~~Injections~~

~~Oxygen Therapy~~

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~~Chemotherapy~~

~~Dialysis~~

~~Blood Glucose Monitoring~~

~~End Stage Care~~

~~Infectious Disease~~

~~Acute Medical Conditions~~

~~Pain Management~~

~~Discharge Planning~~

~~Nutrition~~

~~Hydration~~

5) ~~Mental Health (MH) Services~~

~~Psychosocial Adaptation~~

~~Psychotropic Medication Monitoring~~

~~Psychiatric Services (Section S)~~

~~Skills Training~~

~~Close or Constant Observation~~

6) ~~Dementia Services~~

~~Cognitive Impairment/Memory Assistance~~

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~~Dementia Care Unit~~7) ~~Exceptional Care Services~~~~Extensive Respiratory Services~~~~Total Weaning From Ventilator~~~~Morbid Obesity~~~~Complex Wound Care~~~~Traumatic Brain Injury (TBI)~~8) ~~Special Patient Need Factors:~~~~Communication: add 1% of staff time accrued for ADLs through Exceptional Care Services~~~~Vision Problems: add 2% of staff time accrued for ADLs through Exceptional Care Services~~~~Accident/Fall Prevention: add 3% of staff time accrued for ADLs through Exceptional Care Services~~~~Restraint Free Care: add 2% of staff time accrued for ADLs through Exceptional Care Services~~~~Activities: add 2% of staff time accrued for ADLs through Exceptional Care Services~~**MDS ITEMS AND ASSOCIATED STAFF TIMES**

Throughout Table A, where multiple levels are identified, only the highest level shall be scored.

**1) Base Social Work and Activity**

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Level		Unlicensed	Licensed	Social Worker	Activity
I	All Clients	0	0	5	10

**2) Activities of Daily Living**

Documentation shall support the following for scoring Activities of Daily Living.

- 1) Coding of Section G, Physical Functioning, and Structural Problems on the MDS during the look-back period.
- 2) MDS coded level of resident self performance and support has been met.
- 3) When there is a widespread lack of supporting documentation as described in subsections (1) and (2) of this item (2), the ADL scores for the residents lacking documentation will be reset to zero.
- 4) When there is an occasional absence of documentation for residents in the sample, ADL scores will be based on the observation and/or interview of the resident and facility staff at the time of the review. If the resident has been discharged and there is no documentation to support the ADL coding, ADL scores will be reset to one.

Level	Composite Scores	Unlicensed	Licensed	Social Worker	Activity
I	Composite 7-8	50	7.5 RN 7.5 LPN		
II	Composite 9-11	62	9.5 RN 9.5 LPN		
III	Composite 12-14	69	10.5 RN 10.5 LPN		
IV	Composite 15-29	85	12.5 RN 12.5 LPN		

**ADL Scoring Chart for the above Composite Levels**

MDS values equal to "-" denote missing data.

ADL	MDS items	Description	Score
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Bed Mobility	G1aA = <del>—</del> or G1aA = 0 or G1aA = 1.	<del>Self Performance = missing</del> <del>Self Performance = independent</del> <del>Self Performance = supervision</del>	<del>1</del>
	G1aA = 2.	<del>Self Performance = limited assistance</del>	<del>3</del>
	G1aA = 3 or G1aA = 4 or G1aA = 8 AND G1aB = <del>—</del> or G1aB = 0 or G1aB = 1 or G1aB = 2.	<del>Self Performance = extensive assistance</del> <del>Self Performance = total dependence</del> <del>Self Performance = activity did not occur</del> <del>Support = missing</del> <del>Support = no set up or physical help</del> <del>Support = set up help only</del> <del>Support = 1 person assist</del>	<del>4</del>
	G1aB = 3 or G1aB = 8.	<del>Support = 2+ person physical assist</del> <del>Support = activity did not occur</del>	<del>5</del>
Transfer	G1bA = <del>—</del> or G1bA = 0 or G1bA = 1.	<del>Self Performance = missing</del> <del>Self Performance = independent</del> <del>Self Performance = supervision</del>	<del>1</del>
	G1bA = 2.	<del>Self Performance = limited assistance</del>	<del>3</del>
	G1bA = 3 or G1bA = 4 or G1bA = 8 AND G1bB = <del>—</del> or G1bB = 0 or G1bB = 1 or G1bB = 2.	<del>Self Performance = extensive assistance</del> <del>Self Performance = total dependence</del> <del>Self Performance = activity did not occur</del> <del>Support = missing</del> <del>Support = no set up or physical help</del> <del>Support = set up help only</del> <del>Support = 1 person assist</del>	<del>4</del>
	G1bB = 3 or G1bB = 8.	<del>Support = 2+ person physical assist</del> <del>Support = activity did not occur</del>	<del>5</del>
Locomotion	G1eA = <del>—</del> or G1eA = 0 or G1eA = 1.	<del>Self Performance = missing</del> <del>Self Performance = independent</del> <del>Self Performance = supervision</del>	<del>1</del>

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	G1eA = 2.	Self Performance = limited assistance	3
	G1eA = 3 or G1eA = 4 or G1eA = 8 AND G1eB = — or G1eB = 0 or G1eB = 1 or G1eB = 2.	Self Performance = extensive assistance Self Performance = total dependence Self Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1eB = 3 or G1eB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Toilet	G1iA = — or G1iA = 0 or G1iA = 1.	Self Performance = missing Self Performance = independent Self Performance = supervision	1
	G1iA = 2.	Self Performance = limited assistance	3
	G1iA = 3 or G1iA = 4 or G1iA = 8 AND G1iB = — or G1iB = 0 or G1iB = 1 or G1iB = 2.	Self Performance = extensive assistance Self Performance = total dependence Self Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1iB = 3 or G1iB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Dressing	G1gA = — or G1gA = 0 or G1gA = 1.	Self Performance = missing Self Performance = independent Self Performance = supervision	1
	G1gA = 2.	Self Performance = limited assistance	2

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	<del>G1gA = 3 or G1gA = 4 or G1gA = 8.</del>	<del>Self Performance = extensive assistance Self Performance = total dependence Self Performance = activity did not occur</del>	<del>3</del>
Hygiene	<del>G1jA = - or G1jA = 0 or G1jA = 1.</del>	<del>Self Performance = missing Self Performance = independent Self Performance = supervision</del>	<del>1</del>
	<del>G1jA = 2.</del>	<del>Self Performance = limited assistance</del>	<del>2</del>
	<del>G1jA = 3 or G1jA = 4 or G1jA = 8.</del>	<del>Self Performance = extensive assistance Self Performance = total dependence Self Performance = activity did not occur</del>	<del>3</del>
Eating	<del>G1hA = - or G1hA = 0 or G1hA = 1.</del>	<del>Self Performance = missing Self Performance = independent Self Performance = supervision</del>	<del>1</del>
	<del>G1hA = 2.</del>	<del>Self Performance = limited assistance</del>	<del>2</del>
	<del>G1hA = 3 or G1hA = 4 or G1hA = 8</del>	<del>Self Performance = extensive assistance Self Performance = total dependence Self Performance = activity did not occur</del>	<del>3</del>
	<del>Or K5a = 1 or K5b = 1 and Intake = 1  Where  Intake = 1 if  K6a = 3 or</del>	<del>Parenteral/IV in last 7 days Tube feeding in last 7 days See below      Parenteral/enteral intake 51-75% of total calories</del>	

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	K6a = 4	Parenteral/enteral intake 76-100% of total calories	
	Or Intake = 1 if		
	K6a = 2 and	Parenteral/enteral intake 26-50% of total calories	
	K6b = 2 or	Average fluid intake by IV or tube is 501-1000 cc/day	
	K6b = 3 or	Average fluid intake by IV or tube is 1001-1500 cc/day	
	K6b = 4 or	Average fluid intake by IV or tube is 1501-2000 cc/day	
	K6b = 5.	Average fluid intake by IV or tube is 2001 or more cc/day	

**3) Restorative Programs**

~~With the exception of amputation/prosthesis care and splint or brace assistance restoratives, the total number of restorative programs eligible for reimbursement shall be limited to four, with no more than three being a Level II restorative. Scheduled toileting shall be included in this limit. Splint or brace assistance and amputation/prosthesis care shall be reimbursed independently. A resident coded in Ht (CVA/stroke), Hv (hemiplegia/hemiparesis), Hw (Multiple Sclerosis), Hx (paraplegia) or Hcc (Traumatic Brain Injury) on the MDS and also coded as B4≤2 (cognitive skills for decision-making) shall be limited to a total of six restoratives with no more than four being a Level II restorative. A Department designed assessment shall be required quarterly to assess the resident's endurance and the resident's ability to benefit from two or more restorative programs.~~

~~For the following restorative programs: bed mobility, mobility/transfer, walking, dressing/grooming, and eating, when the corresponding ADL is coded a "1" under self-performance on the current MDS, the previous MDS must have a code of greater than "1" to qualify for reimbursement.~~

~~If PROM is scored, AROM is reset to zero unless the resident has a diagnosis of CVA, hemiplegia/hemiparesis, multiple sclerosis, paraplegia or traumatic brain injury.~~

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~~When the number of restoratives coded on the MDS exceeds the allowable limits for reimbursement, the following order shall be used.~~

- ~~A) Eating Restorative~~
- ~~B) Scheduled Toileting~~
- ~~C) Walking Restorative~~
- ~~D) Transfer Restorative~~
- ~~E) PROM/AROM~~
- ~~F) Bed Mobility Restorative~~
- ~~G) Communication Restorative~~
- ~~H) Dressing/Grooming Restorative~~
- ~~I) Other Restorative~~

~~Restorative Services are programs under the direction and supervision of a licensed nurse and are provided by nursing staff. The programs are designed to promote the resident's ability to adapt and adjust to living as independently and safely as possible. The focus is on achieving and/or maintaining optimal physical, mental, and psychosocial functioning. A program is defined as a specific approach that is organized, planned, documented, monitored, and evaluated. Although therapists may participate in designing the initial program, members of nursing staff are still responsible for the overall coordination and supervision of restorative nursing programs. Staff completing the programs should be communicating progress, maintenance, regression and other issues/concerns to the licensed nurse overseeing the programs. To qualify for reimbursement, the provision of restorative programs shall meet the following criteria for each program identified for reimbursement:~~

- ~~1) When programs are designed using verbal cueing as the only intervention, documentation and/or observation must support the following:~~

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- A) ~~Without such cueing, the resident would be unable to complete the required ADL task.~~
  - B) ~~The verbal interventions are aimed at providing the resident with instructions for completing the task in such a way that promotes the resident's safety and awareness.~~
  - C) ~~Verbal interventions that are simply reminders to complete the task may not be the sole content of the program.~~
- 2) ~~Documentation shall clearly define the resident's need for the program and the program defined shall correspond to the identified need of the resident. Observation and/or interview shall also support the need for the program.~~
  - 3) ~~The clinical record shall identify a restorative nursing plan of care to assist the resident in reaching and/or maintaining his or her highest level of functioning. Staff completing the programs shall be aware of the program and the resident's need for the program.~~
  - 4) ~~Documentation must support that the program was reevaluated and goals and interventions were revised as necessary to assist the resident in reaching and/or maintaining his or her highest level of functioning.~~
  - 5) ~~Documentation shall contain objective and measurable information so that progress, maintenance or regression can be recognized from one report to the next.~~
  - 6) ~~Goals shall be resident specific, realistic, and measurable. Goals shall be revised as necessary. Revisions shall be made based on the resident's response to the program.~~
  - 7) ~~The resident's ability to participate in the program shall be addressed.~~
  - 8) ~~Written evidence of measurable objectives and interventions shall be in the restorative plan of care and be individualized to the resident's problems~~

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~~and needs. There shall be evidence the objectives and interventions were reviewed quarterly and revised as necessary.~~

- ~~9) There shall be evidence of quarterly evaluation written by a licensed nurse in the clinical record. The evaluation must assess the resident's progress and participation in the program since the last evaluation. It shall contain specific information that includes the resident's response to the program (i.e., amount of assistance required, devices used, the distance, the progress made, how well the resident tolerated the program). An evaluation shall be documented on each restorative program the resident is receiving.~~
- ~~10) There shall be written evidence that staff carrying out the programs have been trained in techniques that promote resident involvement in the activity.~~
- ~~11) If volunteers or other staff were assigned to work with specific residents, there shall be written evidence of specific training in restorative techniques that promote the resident's involvement in the restorative program.~~
- ~~12) There shall be documentation to support that the programs are ongoing and administered as planned outside the look back period, unless there is written justification in the clinical record that supports the need to discontinue the program. Observation and/or interviews must also support that the programs are ongoing and administered as planned.~~
- ~~13) If a restorative program is in place when a care plan is being revised, it is appropriate to reassess progress, goals, duration and frequency as part of the care planning process. The results of this reassessment shall be documented in the record.~~
- ~~14) The actual number of minutes per day spent in a restorative program shall be documented for each resident and for each restorative program during the look back period.~~

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- 15) ~~The Department designated endurance assessment must be completed quarterly on each resident receiving two or more restorative programs. A licensed nurse must complete this assessment.~~
- 16) ~~A resident coded as totally dependent in an ADL function will only be reimbursed for one quarter for the following corresponding restorative programs: bed mobility, transfer, walking, dressing/grooming, and/or eating/swallowing.~~
- 17) ~~A resident scoring and/or receiving hospice services shall not be eligible for the following restorative programs: bed mobility, transfer, walking, dressing/grooming, eating and/or other restoratives.~~
- 18) ~~When multiple restoratives are coded in a facility, the staff levels must support the ability to deliver these programs based on the number and frequency of programs coded.~~
- 19) ~~All restorative programs shall meet the specifications in the RAI Manual for the individual restoratives.~~

**~~Passive Range of Motion (PROM)~~**

~~The following documentation shall support the following for scoring PROM.~~

- 1) ~~The restorative program shall meet the definition of PROM as identified in the RAI Manual.~~
- 2) ~~The PROM program shall address the functional limitations identified in section G4 of the MDS.~~
- 3) ~~There shall be evidence that the program is planned and scheduled. PROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.~~

Lev	MDS items	Description	Unl	Lie	SW	Aet
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	G4aA > 0 or G4bA > 0 or G4cA > 0 or G4dA > 0 or G4eA > 0 or G4fA > 0 or G4aB > 0 or G4bB > 0 or G4cB > 0 or G4dB > 0 or G4eB > 0 or G4fB > 0	Any function limits in ROM of neck Any function limits in ROM of arm Any function limits in ROM of hand Any function limits in ROM of leg Any function limits in ROM of foot Any function limits in ROM of other limitation or loss Any function limits in voluntary movement of neck Any function limits in voluntary movement of arm Any function limits in voluntary movement of hand Any function limits in voluntary movement of leg Any function limits in voluntary movement of foot Any function limits in voluntary movement of other limitation or loss				
	AND					
I	3 ≤ P3a ≤ 5	3 to 5 days of PROM rehab	10	3 RN 3 LPN		
II	6 ≤ P3a ≤ 7	6 to 7 days of PROM rehab	15	3 RN		

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## NOTICE OF ADOPTED AMENDMENTS

				3 LPN		
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**Active Range of Motion (AROM)**

The following documentation shall support the following for scoring AROM.

- 1) ~~The restorative program meets the definition of AROM as identified in the RAI Manual.~~
- 2) ~~The AROM programs shall address the functional limitations identified in section G4 of the MDS.~~
- 3) ~~There shall be evidence that the program is planned and scheduled. AROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.~~
- 4) ~~AROM does not include exercise groups with more than four residents assigned per supervising helper or caregiver.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
	<del>G4aA &gt; 0 or</del>	<del>Any function limits in ROM of neck</del>				
	<del>G4bA &gt; 0 or</del>	<del>Any function limits in ROM of arm</del>				
	<del>G4cA &gt; 0 or</del>	<del>Any function limits in ROM of hand</del>				
	<del>G4dA &gt; 0 or</del>	<del>Any function limits in ROM of leg</del>				
	<del>G4eA &gt; 0 or</del>	<del>Any function limits in ROM of foot</del>				
	<del>G4fA &gt; 0 or</del>	<del>Any function limits in ROM of other limitation or loss</del>				

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	G4aB > 0 or G4bB > 0 or G4cB > 0 or G4dB > 0 or G4eB > 0 or G4fB > 0	Any function limits in voluntary movement of neck Any function limits in voluntary movement of arm Any function limits in voluntary movement of hand Any function limits in voluntary movement of leg Any function limits in voluntary movement of foot Any function limits in voluntary movement of other limitation or loss				
	AND					
I	3 ≤ P3b ≤ 5	3 to 5 days of AROM rehab	8	2 RN 2 LPN		
II	6 ≤ P3b ≤ 7	6 to 7 days of AROM rehab	12	2 RN 2 LPN		

**Splint/Brace Assistance**

The program shall meet the specifications of this restorative as defined in the RAI Manual.

A splint or brace is defined as an appliance for the fixation, union, or protection of an injured part of the body.

Lev	MDS items	Description	Unl	Lie	SW	Act
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I	$3 \leq P3c \leq 5$	3 to 5 days of assistance	8	2 RN 2 LPN		
II	$6 \leq P3c \leq 7$	6 to 7 days of assistance	12	2 RN 2 LPN		

**Bed Mobility Restorative**

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lie	SW	Act
	$0 < G1aA < 8$ AND $G7 = 1$	Need assistance in bed mobility  Some or all ADL tasks broken into subtasks				
	AND					
I	$3 \leq P3d \leq 5$	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	$6 \leq P3d \leq 7$	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

**Mobility (Transfer) Restorative**

The program shall meet the specifications of this restorative as defined in the RAI Manual.

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Lev	MDS items	Description	Unl	Lie	SW	Aet
	0 < G1bA < 8 AND G7 = 1	Need assistance in transfer  Some or all ADL tasks broken into subtasks				
	AND					
I	3 ≤ P3e ≤ 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
H	6 ≤ P3e ≤ 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

**Walking Restorative**

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lie	SW	Aet
	0 < G1cA < 8 or 0 < G1dA < 8 or 0 < G1eA < 8 or 0 < G1fA < 8 AND G7 = 1	Need assistance in walking in room Need assistance in walking in corridor Need assistance in locomotion on unit Need assistance in locomotion off unit Some or all ADL tasks broken into subtasks				
	AND					

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I	<del>3 ≤ P3f ≤ 5</del>	<del>3 to 5 days of rehab or restorative techniques</del>	<del>10</del>	<del>3 RN 3 LPN</del>		
II	<del>6 ≤ P3f ≤ 7</del>	<del>6 to 7 days of rehab or restorative techniques</del>	<del>15</del>	<del>3 RN 3 LPN</del>		

**~~Dressing or Grooming Restorative~~**

~~The program shall meet the specifications of this restorative as defined in the RAI Manual.~~

~~Grooming programs, including programs to help the resident learn to apply make-up, may be considered restorative nursing programs when conducted by a member of the activity staff.~~

~~These programs shall have goals, objectives, and documentation of progress and be related to the identified deficit.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
	<del>0 &lt; G1gA &lt; 8 or 0 &lt; G1jA &lt; 8 AND G7 = 1 AND</del>	<del>Need assistance in dressing Need assistance in personal hygiene Some or all ADL tasks broken into subtasks</del>				
	<del>B4 ≤ 2</del>	<del>Cognitive skills for decision making</del>				
	<del>AND</del>					
	<del>S1 = 0 AND</del>	<del>Does not meet Illinois Department of Public Health (IDPH) Subpart S Criteria</del>				

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I	$3 \leq P3g \leq 5$	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	$6 \leq P3g \leq 7$	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

**Eating Restorative**

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1hA < 8 or K1b = 1 AND G7 = 1	Need assistance in eating  Has swallowing problem  Some or all ADL tasks broken into subtasks				
	AND					
I	$3 \leq P3h \leq 5$	3 to 5 days of rehab or restorative techniques	15	3 RN 3 LPN		
II	$6 \leq P3h \leq 7$	6 to 7 days of rehab or restorative techniques	20	3 RN 3 LPN		

**Amputation/Prosthetic Care**

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The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lie	SW	Act
I	<del>3 ≤ P3i ≤ 5</del>	<del>3 to 5 days of assistance</del>	10	3 RN 3 LPN		
II	<del>6 ≤ P3i ≤ 7</del>	<del>6 to 7 days of assistance</del>	15	3 RN 3 LPN		

**Communication Restorative**

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lie	SW	Act
	<del>C4 &gt; 0</del>	<del>Deficit in making self understood</del>				
<del>AND</del>						
I	<del>3 ≤ P3j ≤ 5</del>	<del>3 to 5 days of rehab or restorative techniques</del>	10	3 RN 3 LPN		
II	<del>6 ≤ P3j ≤ 7</del>	<del>6 to 7 days of rehab or restorative techniques</del>	15	3 RN 3 LPN		

**Other Restorative**

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~~The program shall meet the specifications of this restorative as defined in the RAI Manual.~~

~~Other Restorative shall only be reimbursed for a total of two quarters regardless of the level.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	<del>P3k=3 or greater AND</del>	<del>Other Restorative</del>	<del>6</del>	<del>5 RN 5 LPN</del>		
	<del>Q2 &lt; 2 AND</del>	<del>Improved or no change in care needs</del>				
	<del>B2a = 0 AND</del>	<del>Short term memory okay</del>				
	<del>B4 = 0 or 1 AND</del>	<del>Cognitive skills for decision making</del>				
	<del>C6 = 0 or 1 AND</del>	<del>Ability to understand others</del>				
	<del>S1 = 0</del>	<del>Does not meet IDPH Subpart S criteria</del>				
II	<del>P3k = 3 or greater AND</del>	<del>Other restorative</del>	<del>6</del>	<del>7.5 RN 7.5 LPN</del>		
	<del>Q1c = 1 or 2 AND</del>	<del>Stay projected to be of a short duration—discharge expected to be within 90 days</del>				
	<del>Q2 &lt; 2 AND</del>	<del>Improved or no change in care needs</del>				
	<del>P1ar = 1 AND</del>	<del>Provide training to return to the community</del>				

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B2a = 0 AND B4 = 0 or 1 AND C6 = 0 or 1 AND S1 = 0	Short term memory  Cognitive skills for decision making  Ability to understand others  Does not meet IDPH Subpart S criteria				
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**Scheduled Toileting**

Documentation shall support the following for scoring scheduled toileting.

- 1) The program shall have documentation to support that all the requirements identified in the RAI Manual are met.
- 2) The description of the plan, including: frequency, reason, and response to the program.
- 3) The plan shall be periodically evaluated and revised, as necessary, including documentation of the resident's response to the plan.
- 4) This does not include a "check and change" program or routine changing of the resident's incontinent briefs, pads or linens when wet, where there is no participation in the plan by the resident.
- 5) There shall be documentation to support the deficit in toileting and/or the episodes of incontinence.
- 6) A resident scoring S1 = 1 (meets Subpart S criteria) shall have corresponding diagnosis of CVA or multiple sclerosis to qualify for reimbursement in scheduled toileting.

Lev	MDS items	Description	Unl	Lie	SW	Act
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I	H3a = 1 AND S1 = 0  H3b = 0 AND H3d = 0 AND H1b > 1 or  GliA > 1 and < 8	Any scheduled toileting plan  Does not meet criteria for Subpart S  No bladder retraining program  No indwelling catheter  Incontinent at least 2 or more times a week  Self-performance = limited to total assistance	22	1.5 RN 1.5 LPN		
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4) **Medical Services****Continence Care**

Documentation shall support the following for scoring continence care.

- 1) That catheter care was administered during the look back period.
- 2) The type and frequency of the care.
- 3) RAI requirements for bladder retraining program were administered during the look back period.
- 4) The resident's level of incontinence shall be documented during the look back period to support the bladder retraining program.
- 5) Bladder scanners cannot be the sole content of the bladder retraining program.

Continence Care = Level II (Bladder Retraining) shall only be reimbursed for two quarters.

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Lev	MDS items	Description	Unl	Lie	SW	Act
I	Catheter Care  H3d=1 AND H3a=0	Indwelling catheter present  No scheduled toileting plan	12	.5 RN .5 LPN		
II	Bladder Retraining  H3b=1 AND  H3a=0 AND H1b>1 AND B4=0 or 1 OR H3b=1 AND H3a=0 AND H1b≤1 AND H4=1 AND B4=0 or 1	Bladder retraining program  No scheduled toileting plan  Incontinent at least 2 or more times a week  Cognitive skills for decision making  Bladder retraining program  No scheduled toileting plan  Bladder continence  Change in continence  Cognitive skills in decision making	32	5 RN 5 LPN		

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**Pressure Ulcer Prevention**

~~Documentation shall support the following for scoring pressure ulcer prevention.~~

- ~~1) History of resolved ulcer in the identified timeframe and/or the use of the identified interventions during the identified timeframe.~~
- ~~2) Interventions and treatments shall meet the RAI definitions for coding.~~
- ~~3) A specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.~~
- ~~4) Resident was assessed related to his or her risk for developing ulcers. A resident assessed to be at high risk shall have interventions identified in the plan of care.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	M3 = 1 or  Any two of: M5a M5b M5e M5d M5i	<del>History of resolved ulcers in last 90 days</del>  <del>Pressure relieving devices for chair</del> <del>Pressure relieving devices for bed</del> <del>Turning or repositioning program</del> <del>Nutrition or hydration intervention for skin</del> <del>Other prevention for skin (other than feet)</del>	<del>15</del>	<del>4 RN 4 LPN</del>		

**Moderate Skin Care/Intensive Skin Care**

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~~Documentation shall support the following for scoring moderate skin care/intensive skin care.~~

- ~~1) Interventions and treatments shall meet the RAI definitions for coding.~~
- ~~2) Documentation of ulcers shall include staging as the ulcers appear during the look back period.~~
- ~~3) Documentation of ulcers shall include a detailed description that includes, but is not limited to, the stage of the ulcer, the size, the location, any interventions and treatments used during the look back period.~~
- ~~4) Documentation of burns shall include, but is not limited to, the location, degree, extent, interventions and treatments during the look back period.~~
- ~~5) Documentation of open lesions shall include, but is not limited to, location, size, depth, any drainage, interventions and treatments during the look back period.~~
- ~~6) Documentation of surgical wounds shall include, but is not limited to, type, location, size, depth, interventions and treatment during the look back period.~~
- ~~7) All treatments involving M5e, M5f, M5g and M5h shall have a physician's order, with the intervention and frequency.~~
- ~~8) Documentation to support that the intervention was delivered during the look-back period shall be included.~~
- ~~9) Documentation of infection of the foot shall contain a description of the area and the location.~~
- ~~10) Documentation shall support a specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.~~
- ~~11) Documentation for items coded in M4 shall include documentation of an intervention, treatment and/or monitoring of the problem or condition identified.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
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I		<del>Moderate Skin Care Services</del>	<del>5</del>	<del>5 RN</del>		
	<del>M1a &gt; 0 or</del>	<del>Stage 1 ulcers</del>		<del>5 LPN</del>		
	<del>M1b &gt; 0 or</del>	<del>Stage 2 ulcers</del>				
	<del>Any of:</del>	<del>Other Skin Problems (below):</del>				
	<del>M4b = 1</del>	<del>Burns</del>				
	<del>M4c = 1</del>	<del>Open lesions other than ulcers</del>				
	<del>M4d = 1</del>	<del>Rashes</del>				
	<del>M4e = 1</del>	<del>Skin desensitized to pain or pressure</del>				
	<del>M4f = 1</del>	<del>Skin tears or cuts (other than surgery)</del>				
	<del>M4g = 1</del>	<del>Surgical wounds</del>				
	<del>AND</del>					
	<del>4 of the following:</del>	<del>Skin Treatments (below):</del>				
	<del>M5a = 1</del>	<del>Pressure relieving devices for chair</del>				
	<del>M5b = 1</del>	<del>Pressure relieving devices for bed</del>				
	<del>M5c = 1</del>	<del>Turning or repositioning program</del>				
	<del>M5d = 1</del>	<del>Nutrition or hydration intervention for skin</del>				
	<del>M5e = 1</del>	<del>Ulcer care</del>				
	<del>M5f = 1</del>	<del>Surgical wound care</del>				

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	M5g = 1 M5h = 1 M5i = 1 OR (M6b = 1 or M6c = 1) AND M6f = 1	Application of dressings (other than feet) Application of ointments (other than feet) Other prevention for skin (other than feet) Infection of the foot Open lesion of the foot And application of a dressing				
H	M1c > 0 or M1d > 0 AND 4 of the following: M5a = 1 M5b = 1 M5c = 1 M5d = 1 M5e = 1 M5f = 1	<del>Intensive Skin Care Services</del> Stage 3 ulcers Stage 4 ulcers Skin Treatments (below): Pressure relieving devices for chair Pressure relieving devices for bed Turning or repositioning program Nutrition or hydration intervention for skin Ulcer care Surgical wound care	5	15 RN 15 LPN		

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M5g = 1	Application of dressings (other than feet)				
M5h = 1	Application of ointments (other than feet)				
M5i = 1	Other prevention for skin (other than feet)				

**Ostomy Services**

Lev	MDS items	Description	Unl	Lie	SW	Aet
I	P1af = 1	Ostomy care performed	5	2.5 RN 2.5 LPN		

**IV Therapy**

Documentation shall support the following for scoring IV Therapy:

- 1) Date delivered, type of medication and method of administration.
- 2) Monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse as required under acute medical conditions.

Lev	MDS items	Description	Unl	Lie	SW	Aet
I	P1ac = 1 or K5a = 1 AND P1ae = 1	IV medication  Parenteral/IV nutrition  Monitoring acute medical condition	1	15 RN 15 LPN		

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**Injections**

~~Documentation shall include the drug, route given and dates given.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<del>O3=7</del>	<del>Number of injections in last 7 days</del>		<del>3 RN 3 LPN</del>		

**Oxygen Therapy**

~~Documentation shall include a physician's order and the method of administration and date given.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<del>P1ag=1</del>	<del>Oxygen therapy administered in last 14 days</del>	<del>9</del>	<del>7.5 RN 7.5 LPN</del>		

**Chemotherapy**

~~Documentation shall support that the resident was monitored for response to the chemotherapy.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<del>P1aa=1</del>	<del>Chemotherapy given</del>	<del>1</del>	<del>5 RN 5 LPN</del>		

**Dialysis**

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~~Documentation shall support that the resident was monitored for response to the dialysis.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<del>P1ab = 1</del>	<del>Dialysis given</del>	<del>1</del>	<del>5 RN 5 LPN</del>	<del>2</del>	

**Blood Glucose Monitoring**

~~Documentation shall support the following for scoring blood glucose monitoring.~~

- ~~1) RAI criteria for coding that a diagnosis was met, including a physician documented diagnosis.~~
- ~~2) Coding of a therapeutic diet being ordered and given to the resident.~~
- ~~3) Coding of a dietary supplement being ordered and given to the resident during the look-back period. There shall be evidence to support it was not part of a unit's daily routine for all residents.~~
- ~~4) Coding that injections were given the entire seven days of the look-back period.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<del>H1a = 1 AND  K5e = 1 or K5f = 1 or O3 = 7</del>	<del>Diabetes mellitus  Therapeutic diet Dietary supplement Injections daily</del>		<del>1 RN 1 LPN</del>		

**End Stage Care**

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Lev	MDS items	Description	Unl	Lie	SW	Act
I	J5c = 1	End stage disease, 6 or fewer months to live  Restoratives including scheduled toileting and bladder retraining sets to level '0' except AROM, PROM, splint/brace. Limit of 4 quarters	10	6 RN 6 LPN	8	

If End Stage Care has been scored, Discharge Planning shall be set to zero.

**Infectious Disease**

Documentation shall support the following for scoring infectious disease.

- 1) ~~Criteria defined in the RAI Manual for coding this section was met.~~
- 2) ~~Active diagnosis by the physician, including signs and symptoms of the illness.~~
- 3) ~~Interventions and treatments shall be documented.~~
- 4) ~~All RAI requirements for coding a urinary tract infection (UTI) are met.~~
- 5) ~~Administration of maintenance medication to prevent further acute episodes of UTI is not sufficient to code I2j.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	I2a = 1 or  I2b = 1 or  I2e = 1 or	Antibiotic resistant infection  Clostridium Difficile  Pneumonia	18	8.5 RN 8.5 LPN	1	

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12g = 1 or	Septicemia				
12i = 1 or	TB				
12j = 1 or	Urinary Tract infection present				
12k = 1 or	Viral hepatitis				
12l = 1 or	Wound infection				
13 = ICD9 code 041.01,133.0	Streptococcus Group A, scabies				

**Acute Medical Conditions**

Documentation shall support the following for scoring acute medical conditions:

- 1) ~~RAI requirements for coding these areas are met.~~
- 2) ~~Monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse.~~
- 3) ~~Evidence that the physician has evaluated and identified the medically unstable or acute condition for which clinical monitoring is needed.~~
- 4) ~~Evidence of significant increase in licensed nursing monitoring.~~
- 5) ~~Evidence that the episode meets the definition of acute, which is usually of sudden onset and time limited course.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	J5b = 1 AND	Acute episode or flare-up of chronic condition	1	11.5 RN 11.5 LPN	1	
	P1ae = 1 AND	Monitoring acute medical condition				

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<del>P1a0 = 0</del>	<del>Not hospice care</del>				
<del>OR</del>					
<del>(J5a = 1</del>	<del>Condition makes resident's</del>				
<del>AND</del>	<del>cognitive, ADL, mood or behavior</del>				
	<del>patterns unstable</del>				
<del>P1a0 = 0</del>	<del>Not hospice care</del>				
<del>AND</del>					
<del>P1ae = 1)</del>	<del>Monitoring acute medical</del>				
<del>OR</del>	<del>condition</del>				
<del>(B5a = 2 or</del>	<del>Easily distracted over last 7 days</del>				
<del>B5b = 2 or</del>	<del>Periods of altered perceptions or</del>				
	<del>awareness of surroundings over</del>				
	<del>last 7 days</del>				
<del>B5c = 2 or</del>	<del>Episodes of disorganized speech</del>				
	<del>over last 7 days</del>				
<del>B5d = 2 or</del>	<del>Periods of restlessness over last 7</del>				
	<del>days</del>				
<del>B5e = 2 or</del>	<del>Periods of lethargy over last 7</del>				
	<del>days</del>				
<del>B5f = 2)</del>	<del>Mental function varies over course</del>				
<del>AND</del>	<del>of day in last 7 days</del>				
<del>P1ae = 1</del>	<del>Monitoring acute medical</del>				
<del>AND</del>	<del>condition</del>				
<del>P1a0 = 0</del>	<del>Not hospice care</del>				

**Pain Management**

~~There shall be documentation to support the resident's pain experience during the look back period and that interventions for pain were offered and/or given.~~

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~~Residents shall be assessed in a consistent, uniform and standardized process to measure and assess pain.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	J2a > 0 AND J2b > 0	<del>Demonstrate or complain of pain</del>  Mild to excruciating intensity	4	4 RN 4 LPN	1	1

**Discharge Planning**

~~Discharge planning shall only be reimbursed for two quarters.~~

~~If end stage care has been scored, discharge planning shall be set to zero.~~

~~Documentation shall support the following for scoring discharge planning.~~

- ~~1) Social services shall document monthly the resident's potential for discharge, specific steps being taken toward discharge, and the progress being made.~~
- ~~2) Social service documentation shall demonstrate realistic evaluation, planning, and follow through.~~
- ~~3) Discharge plans shall address the current functional status of the resident, medical nursing needs, and the availability of family and/or community resources to meet the needs of the resident.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	Q1c = 1 or 2 AND	Stay projected to be of short duration—discharge expected to be within 90 days		8 RN 8 LPN	16	

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Q2 < 2 AND P1ar = 1 AND S1 = 0	Improved or no change in care needs  Provide training to return to community  Does not meet IDPH Subpart S criteria				
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**Nutrition**

Documentation shall support the following for scoring nutrition.

- 1) Coding of tube feeding during the look-back period.
- 2) Intake and output records and caloric count shall be documented to support the coding of K6.
- 3) Planned weight change, including a diet order and a documented purpose or goal, that is to facilitate weight gain or loss.
- 4) Dietary supplement, including evidence the resident received the supplement and that it was ordered and given between meals.

Lev	MDS items	Description	Unl	Lie	SW	Act
I	K5h = 1 OR  K5f = 1	On a planned weight change program  Dietary supplement given between meals	2	.5 RN .5 LPN		
II	K5b = 1 and	Tube feeding in last 7 days	2	12 RN 12 LPN	2	

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<del>Intake = 1</del>	<del>See below</del>				
<del>Intake = 1 if</del>					
<del>K6a = 3 or</del>	<del>Parenteral/ enteral intake 51-75% of total calories</del>				
<del>K6a = 4</del>	<del>Parenteral/enteral intake 76-100% of total calories</del>				
<del>Or Intake = 1 if</del>					
<del>K6a = 2 and</del>	<del>Parenteral/enteral intake 26-50% of total calories</del>				
<del>K6b = 2 or</del>	<del>Average fluid intake by IV or tube is 501-1000 cc/day</del>				
<del>K6b = 3 or</del>	<del>Average fluid intake by IV or tube is 1001-1500 cc/day</del>				
<del>K6b = 4 or</del>	<del>Average fluid intake by IV or tube is 1501-2000 cc/day</del>				
<del>K6b = 5</del>	<del>Average fluid intake by IV or tube is 2001 or more cc/day</del>				

**Hydration**

Documentation shall support the following for scoring hydration.

- ~~1) The resident passes two or fewer bowel movements per week, or strains more than one of four times when having a bowel movement during the look back period to support the coding of H2b.~~
- ~~2) Resident received a diuretic medication during the look back period to support the coding of O4e.~~
- ~~3) Frequency of episodes and accompanying symptoms to support the coding of vomiting.~~

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- 4) ~~Signs and symptoms, interventions and treatments used to support the coding of volume depletion, dehydration or hypovolemia.~~
- 5) ~~Documentation of temperature shall be present to support the coding of fever.~~
- 6) ~~Coding of internal bleeding shall include the source, characteristics and description of the bleeding.~~
- 7) ~~Interventions were implemented related to the problem identified.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	<del>H2b = 1</del>	<del>Constipation</del>	<del>10</del>	<del>2 RN 2 LPN</del>		<del>1</del>
	<del>AND</del>					
	<del>K5a = 0</del>	<del>No parenteral/IV</del>				
	<del>AND</del>					
	<del>K5b = 0</del>	<del>No feeding tube</del>				
	<del>OR</del>					
	<del>Any two of the following separate conditions:</del>					
	<del>1 ≤ O4e ≤ 7 or</del>	<del>Received a diuretic medication in last 7 days</del>				
	<del>J1o = 1 or</del>	<del>Vomiting</del>				
	<del>I3 a,b,c,d,e = 2/6.5 or</del>	<del>Volume depletion</del>				

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276.52 or	Hypovolemia				
J1c = 1 or	Dehydrated				
J1d = 1 or	Did not consume most fluids provided (3 days)				
J1h = 1 or	Fever				
J1j = 1 AND	Internal bleeding				
K5a = 0 AND	Not have parenteral/IV				
K5b = 0	No feeding tube				

**5) Mental Health Services****Psychosocial Adaptation**

~~Psychosocial adaptation is intended for residents who require a behavioral symptom evaluation program or group therapy to assist them in dealing with a variety of mood or behavioral issues. The criteria for reimbursement in this area require both an intervention program and the identification of mood or behavioral issues. Residents shall be assessed for mood and behavioral issues and interventions shall be implemented to assist the resident in dealing with the identified issues. To qualify for reimbursement in this area, the facility must meet the following criteria:~~

- ~~1) Criteria for special behavioral symptom evaluation program.~~
  - ~~A) There must be documentation to support that the program is an ongoing and comprehensive evaluation of behavioral symptoms.~~
  - ~~B) Documentation must support the resident's need for the program.~~

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- C) ~~The documentation must show that the purpose of the program is to attempt to understand the "meaning" behind the resident's identified mood or behavioral issues.~~
  - D) ~~Interventions related to the identified issues must be documented in the care plan.~~
  - E) ~~The care plan shall have interventions aimed at reducing the distressing symptoms.~~
- 2) ~~Criteria for group therapy.~~
- A) ~~There is documentation that the resident regularly attends sessions at least weekly.~~
  - B) ~~Documentation supports that the therapy is aimed at helping reduce loneliness, isolation, and the sense that one's problems are unique and difficult to solve.~~
  - C) ~~This area does not include group recreational or leisure activities.~~
  - D) ~~The therapy and interventions are addressed in the care plan.~~
  - E) ~~This must be a separate session and can not be conducted as part of skills training.~~
- 3) ~~Criteria for indicators of depression.~~
- A) ~~There must be documentation to support identified indicators occurred during the look back period.~~
  - B) ~~The documentation shall support the frequency of the indicators as coded during the look back period.~~
  - C) ~~There shall be documentation to support that interventions were implemented to assist the resident in dealing with these issues.~~

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- 4) ~~Criteria for sense of initiative/involvement.~~
  - A) ~~There is documentation to support that the resident was not involved or did not appear at ease with others or activities during the look-back period.~~
  - B) ~~There shall be evidence that interventions were implemented to assist the resident in dealing with these issues.~~
- 5) ~~Criteria for unsettled relationships/past roles.~~
  - A) ~~There is documentation to support the issues coded in this area during the look-back period.~~
  - B) ~~There shall be evidence that interventions were implemented to assist the resident in dealing with the issues identified.~~
- 6) ~~Criteria for behavioral symptoms.~~
  - A) ~~There is documentation to support that the behaviors occurred during the look-back period and the interventions used.~~
  - B) ~~Documentation should reflect the resident's status and response to interventions.~~
  - C) ~~Documentation should include a description of the behavior exhibited and the dates it occurred, as well as staff response to the behaviors.~~
  - D) ~~Documentation supports that the behaviors coded meet the RAI definitions for the identified behavior.~~
  - E) ~~The care plan identifies the behaviors and the interventions to the behaviors.~~
- 7) ~~Criteria for delusions/hallucinations.~~
  - A) ~~There is documentation to support that the delusions or hallucinations occurred during the look-back period.~~

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B) ~~Documentation contains a description of the delusions or hallucinations the resident was experiencing.~~

C) ~~There is documentation to support the interventions used.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	<del>(P2a = 1 or</del>	<del>Behavior symptom evaluation</del>	<del>12</del>	<del>3 RN</del>	<del>8</del>	<del>2</del>
	<del>P2c = 1) AND</del>	<del>Group therapy</del>		<del>3 LPN</del>		
	<del>Any E1a-p &gt; 0</del>	<del>Indicators of depression</del>				
	<del>or</del>					
	<del>F1g = 1 or</del>	<del>No indicators of psychosocial well-being</del>				
	<del>Any F2a-g = 1 or</del>	<del>Any unsettled relationships</del>				
	<del>Any F3a-c = 1 or</del>	<del>Issues with past roles</del>				
	<del>E4aA &gt; 0 or</del>	<del>Wandering in last 7 days</del>				
	<del>E4bA &gt; 0 or</del>	<del>Verbally abusive in last 7 days</del>				
	<del>E4cA &gt; 0 or</del>	<del>Physically abusive in last 7 days</del>				
	<del>E4dA &gt; 0 or</del>	<del>Inappropriate or disruptive behavior in last 7 days</del>				
	<del>E4eA &gt; 0 or</del>	<del>Resisted care in last 7 days</del>				
	<del>J1e = 1 or</del>	<del>Delusions</del>				
	<del>J1i = 1</del>	<del>Hallucinations</del>				

**~~Psychotropic Medication Monitoring~~**

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~~Documentation shall support that the facility followed the documentation guidelines as directed by 42 CFR 483.25(1), Unnecessary drugs (State Operations Manual F-tag F329).~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	Q4a = 7 or	Antipsychotic meds	5	2.5 RN 2.5 LPN		
	Q4b = 7 or	Antianxiety meds				
	Q4c = 7 or	Antidepressant meds				

**Psychiatric Services (Section S)**

~~Documentation shall support the following for scoring psychiatric services (Section S).~~

- ~~1) There shall be evidence the resident met IDPH Subpart S criteria during the look-back period.~~
- ~~2) There shall be evidence a pre-admission screening completed by a Department of Human Services Division of Mental Health screening entity was completed on the resident that identifies the resident as having a serious mental illness (SMI).~~

~~The following shall be used in coding ancillary provider services.~~

- ~~1) Ancillary provider services are services that are provided by direct non-facility psychiatric service providers in order to meet 77 Ill. Adm. Code 300, Subpart S requirements.~~
- ~~2) Psychiatric rehabilitation services that are provided by non-facility providers or an outside entity shall meet the needs of the SMI resident as determined by the resident's individual treatment plan.~~

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- 3) ~~Facilities shall ensure compliance with 77 Ill. Adm. Code 300.4050 when utilizing non-facility or outside ancillary providers.~~
- 4) ~~Adjustments in the rate for utilization of ancillary providers shall be calculated based upon Department claims data for ancillary provider billing.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	<del>S1 = 1 AND  ADL Index = 4 AND One or more of the following are coded M1c or M1d &gt;= 0 or  K5b = 1 or K5a = 1 or Plab = 1 or J5c = 1 or Plaa = 1 or Plaj = 1 or Plal = 1 AND Psychiatric Services Level II,</del>	<del>Meets IDPH Subpart S criteria  Activities of Daily Living Composite Score = 15-29 Stage 3 or stage 4 ulcers  Feeding tube Parenteral/IV Dialysis End Stage Disease Chemotherapy Tracheostomy Care provided Ventilator</del>	6	1.5 RN 1.5 LPN	10	

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	<del>Level III, Level IV skills training, close and constant observation, dressing/grooming and other restorative, cognitive performance, dementia care unit and discharge planning reset to zero</del>					
II	<del>S1=1 AND</del>	<del>Meets IDPH Subpart S criteria</del>	<del>13</del>	<del>2.5 RN 2.5 LPN</del>	<del>20</del>	
	<del>S8=1 AND  Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero</del>	<del>Ancillary provider services delivered by non facility providers</del>				
III	<del>S1=1 AND  ADL Index=3 or 4 AND</del>	<del>Meets IDPH Subpart S criteria  ADL composite score between 12-29</del>	<del>13</del>	<del>4.5 RN 4.5 LPN</del>	<del>20</del>	

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	<del>(AA3-A3a)/365.25 ≥ 65 AND</del>	<del>Resident is 65 years of age or older at time of the assessment reference date</del>				
	<del>Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero</del>					
IV	<del>S1=1 AND S8=0 AND Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero</del>	<del>Meets IDPH Subpart S criteria  Ancillary provider services delivered by facility providers</del>	<del>16</del>	<del>5 RN 5 LPN</del>	<del>25</del>	

**Skills Training—Section S**

Skills training is specific methods for assisting residents who need, and can benefit from, this training to address identified deficits and reach personal and clinical goals. To qualify for reimbursement, the provision of skills training shall meet all of the following criteria.

- 1) Skills and capabilities shall be assessed with the use of a standardized skills assessment, a cognitive assessment and an assessment of motivational potential.

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~~The assessment of motivational potential will assist in determining the type and size of the group in which a resident is capable of learning.~~

- ~~2) Addresses identified skill deficits related to goals noted in the treatment plan.~~
- ~~3) Skills training shall be provided by staff who are paid by the facility and have been trained in leading skills group by a Department approved trainer.~~
- ~~4) Training shall be provided in a private room with no other programs or activities going on at the same time. The environment shall be conducive to learning in terms of comfort, noise and other distractions.~~
- ~~5) Training shall be provided in groups no larger than ten, with reduced group size for a resident requiring special attention due to cognitive, motivational or clinical issues, as determined by the skills assessment, cognition and motivational potential. Individual sessions can be provided as appropriate and shall be identified in the care plan.~~
- ~~6) Training shall utilize a well-developed, structured curriculum and specific written content developed in advance to guide each of the sessions. (Published skills modules developed for the SMI and Mental Illness/Substance Abuse (MISA) populations are available for use and as models.)~~
- ~~7) The curriculum shall address discrete sets of skills competencies, breaking skills down into smaller components or steps in relation to residents' learning needs.~~
- ~~8) The specific written content shall provide the rationale for learning, connecting skill acquisition to resident goals.~~
- ~~9) Training shall employ skill demonstration/modeling, auditory and visual presentation methods, role playing and skill practice, immediate positive and corrective feedback, frequent repetition of new material, practice assignments between training sessions (homework), and brief review of material from each previous session.~~

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- 10) ~~There shall be opportunities for cued skill practice and generalization outside session as identified in the care plan and at least weekly documentation relative to skill acquisition.~~
- 11) ~~Each training session shall be provided and attended in increments of a minimum of 30 minutes each (not counting time to assemble and settle) at least three times per week. Occasional absences are allowable, with individual coverage of missed material as necessary. However, on going 1:1 training shall not qualify under this area.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S7=1 AND S1=1	Skills training provided  Meets IDPH Subpart S criteria	6	6-RN 6 LPN	8	6

~~Close or Constant Observation—Section S~~

~~The following criteria shall be met for coding close or constant observation:~~

- 1) ~~Coding of this item is intended only for interventions applied in response to the specific current significant need of an individual resident. This item shall not be coded for observation conducted as standard facility policy for all residents, such as for all new admissions, or as part of routine facility procedures, such as for all returns from the hospital, or as a part of periodic resident headcounts.~~
- 2) ~~There shall be documentation for the reason for use, confirmation that the procedure was performed as coded, with staff initials at appropriate intervals, brief explanation of the resident's condition and reason for terminating the observation.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S5a-e ≥ 1 AND	Close or constant observation	6	2-RN 2 LPN	5	

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	S1=1	Meets IDPH Subpart S criteria				
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If close or constant observation is scored, acute medical conditions is reset to zero.

6) **Dementia Services****Cognitive Impairment/Memory Assistance Services**

Documentation shall support the following for scoring cognitive impairment/memory assistance services:

- 1) Description of the resident's short term memory problems.
- 2) Method of assessing and determining the short term memory problem shall be documented.
- 3) Description of the resident's ability to make everyday decisions about tasks or activities of daily living.
- 4) Description of the resident's ability to make himself or herself understood.

Lev	CPS items	Description	Unl	Lie	SW	Act
I	CPS = 2 AND S1 = 0	Cognitive performance scale of 2  Does not meet IDPH Subpart S criteria	6			4
II	CPS = 3 or 4 AND S1 = 0	Cognitive performance scale is 3 or 4  Does not meet IDPH Subpart S criteria	16	3 RN 3 LPN	11	10

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III	CPS = 5 or 6 AND  S1 = 0	Cognitive performance scale is 5 or 6  Does not meet IDPH Subpart S criteria	21	5.5 RN 5.5 LPN	16	15
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**Cognitive Performance Scale Codes**

Scale	Description
0	Intact
1	Borderline Intact
2	Mild Impairment
3	Moderate Impairment
4	Moderate Severe Impairment
5	Severe Impairment
6	Very Severe Impairment

**Impairment Count for the Cognitive Performance Scale**

Icode	MDS items	Description
		Note: None of B2a, B4, or C4 can be missing
IC-1	B2a = 1	Memory problem
IC-2	B4 = 1 or 2	Some dependence in cognitive skills
IC-3	1 ≤ C4 ≤ 3	Usually understood to rarely or never understood

**Severe Impairment Count for the Cognitive Performance Scale**

Icode	MDS items	Description
		Note: None of B2a, B4, or C4 can be missing

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SIC-0	Below not met	
SIC-1	B4 = 2	Moderately impaired in cognitive skills
SIC-2	C4 = 2 or 3	Sometimes understood to rarely or never understood

**Cognitive Performance Scale**

Scale	MDS items	Description
Coma	N1a = 0 and N1b = 0 and N1c = 0 and B1 = 1 and G1aA = 4 or 8 And G1bA = 4 or 8 And G1hA = 4 or 8 And G1iA = 4 or 8 And	Awake all or most of the time in the morning Awake all or most of the time in the afternoon Awake all or most of the time in the evening Is comatose Bed-Mobility Self-Performance = total dependence or did not occur Transfer Self-Performance = total dependence or did not occur Eating Self-Performance = total dependence or did not occur Toilet Use Self-Performance = total dependence or did not occur
6	Not (B4 = 0, 1, 2)	Not have cognitive skills independent to moderately impaired
6	B4 = 3 And G1hA = 4 or 8	Cognitive skills severely impaired Eating Self-Performance = total dependence or did not occur
5	B4 = 3 And G1hA = — or ≤ 3	Cognitive skills severely impaired Eating Self-Performance = missing to extensive assistance
4	If IC code = 2 or 3  And SIC code = 2	Some dependence in cognitive skills Usually understood to rarely or never understood Sometimes understood to rarely or never understood
3	If IC code = 2 or 3  And SIC code = 1 If IC code = 2 or 3	Some dependence in cognitive skills Usually understood to rarely or never understood Moderately impaired in cognitive skills Some dependence in cognitive skills

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		Usually understood to rarely or never understood
2	And SIC code = 0	Better than moderate cognition skills and usually can be understood
1	If IC code = 1	Memory problem

**Dementia Care Unit**

Documentation shall support the following for scoring dementia care unit.

- 1) Unit was IDPH certified during the look-back period.
- 2) Resident resided in the unit during the look-back period.
- 3) Activity programming is planned and provided seven days a week for an average of eight hours per day.
- 4) If the resident has a CPS score of five, care planning shall address the resident's participation in the unit's activities.
- 5) If a particular resident does not participate in a least an average of four activities per day over a one-week period, the unit director shall evaluate the resident's participation and have the available activities modified and/or consult with the interdisciplinary team.
- 6) Staff's efforts to involve the resident.
- 7) Required assessments were completed on the resident.

Lev	MDS items	Description	Unl	Lie	SW	Aet
I	P1an = 1 AND  Hq = 1 or Hu = 1 AND	Alzheimer's/Dementia special care unit  Alzheimer's Disease  Dementia other than Alzheimer's	15	4 RN 4 LPN	10	10

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S1=0 AND CPS 2,3,4,5 AND Dementia care unit is IDPH certified	Does not meet IDPH Subpart S criteria CPS score				
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**7) ~~Exceptional Care Services~~****~~Respiratory Services~~**

~~Documentation shall support the following for scoring respiratory services.~~

- ~~1) A respiratory therapist shall evaluate the status of the resident at least monthly if the resident has a tracheostomy.~~
- ~~2) Respiratory therapy being provided 15 minutes a day shall be present in the clinical record for the look back period.~~
- ~~3) Physician's order for the treatments.~~
- ~~4) Respiratory therapy in the record of the treatment and the times given by a qualified professional (respiratory therapist or trained nurse) as defined in the RAI Manual.~~
- ~~5) Suctioning, including type, frequency and results of suctioning.~~
- ~~6) Trach care, including type, frequency and description of the care provided.~~

Lev	MDS items	Description	Unl	Lie	SW	Act
I	<del>Plai = 1 or</del>	<del>Perform suctioning</del>	5	15 RN 15 LPN		

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	P1aj = 1 or P1bdA = 7	Administered trach care Respiratory therapy				
H	P1ai = 1 AND  P1aj = 1 AND P1bdA > 0	Performed suctioning  Administered trach care Respiratory therapy	10	24 RN 24 LPN		

A \$50.00 add on cost will be applied to all residents receiving trach care.


**Weaning From Ventilator**

Documentation shall be in place to support weaning from ventilator.

Lev	MDS items	Description	Unl	Lie	SW	Act
I	P1a1 = 0 on current MDS AND  P1a1 = 1 on previous MDS	Resident no longer on ventilator  Resident previously on ventilator	5	15 RN 15 LPN		

**Morbid Obesity**

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~~Documentation shall support the following for scoring morbid obesity.~~

- ~~1) A dietician's evaluation was completed with evidence of on-going consultation.~~
- ~~2) On-going monitoring of weight shall be evident.~~
- ~~3) The psychosocial needs related to weight issues shall be identified and addressed.~~

Lev	MDS items	Description	Unl	Lic	SW	Act
I	<del>I3 = 278.01 AND</del>	<del>ICD9 for morbid obesity is marked</del>	<del>10</del>	<del>5-RN 5 LPN</del>	<del>5</del>	
	<del>K5e = 1 AND</del>	<del>On a therapeutic diet</del>				
	<del>K5h = 1 AND</del>	<del>On planned weight change program</del>				
	<del>G1aA = 3 and</del>	<del>Extensive assist</del>				
	<del>G1aB = 3 or</del>	<del>Requires 2+ assist with bed mobility</del>				
	<del>G1bA = 3 and</del>	<del>Extensive assist</del>				
	<del>G1bB = 3 or</del>	<del>Requires 2+ assist with transfers</del>				
	<del>G1cA = 3 and</del>	<del>Extensive assist</del>				
	<del>G1cB = 3 AND</del>	<del>Requires 2+ assist with walk in room</del>				
	<del>P3d = 7 or</del>	<del>On bed mobility restorative</del>				

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<del>P3e=7</del>	<del>On transfer restorative</del>				
<del>or</del>					
<del>P3f=7</del>	<del>On walking restorative</del>				

~~A \$40.00 add on shall be applied to all residents meeting the Morbid Obesity category.~~

**Complex Wounds**

~~Facilities shall follow documentation guidelines as directed by 42 CFR 483.25(e) (State Operations Manual F tag F314). All documentation requirements listed in F314 shall be met.~~

~~There are no minutes assigned to this area. It is strictly a \$15.00 add on applied to residents meeting the following criteria.~~

MDS item	Description
<del>M1c or M1d &gt;= 0</del>	<del>Presence of stage 3 or 4 PU</del>
<del>AND</del>	
<del>M2a &gt;= 0 or</del>	<del>Type of ulcer, pressure</del>
<del>M2b &gt;= 0</del>	<del>Type of ulcer, stasis</del>
<del>AND</del>	
<del>B1 = 1 or</del>	<del>Comatose</del>
<del>G1Aa = 3 or 4 or</del>	<del>Bed mobility (extensive)</del>
<del>G1Ab = 3 or 4</del>	<del>Transfer (extensive)</del>
<del>AND any 3 of the follow:</del>	
<del>ICD 9 codes of (260, 261, 262, 263.0, 263.1, 263.2, 263.8, 263.9)</del>	<del>ICD 9 Malnutrition</del>
<del>ICD 9 585</del>	<del>ESRD</del>
<del>H a = 1</del>	<del>Diabetes Mellitus</del>
<del>H qq = 1</del>	<del>Renal Failure</del>
<del>H j = 1</del>	<del>Peripheral vascular disease</del>
<del>H x = 1</del>	<del>Paraplegia</del>
<del>H z = 1</del>	<del>Quadriplegia</del>

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<del>Hw = 1</del>	<del>Multiple Sclerosis</del>
<del>J5e = 1</del>	<del>End-stage disease</del>
<del>H1a = 4</del>	<del>Incontinence of bowel</del>
<del>H1b = 4</del>	<del>Incontinence of bladder</del>
<del>J1e = 1</del>	<del>Dehydration</del>
<del>G6a = 1</del>	<del>Bedfast</del>
<del>J2a = 2</del>	<del>Pain daily</del>
<del>M3 = 1</del>	<del>History of resolved ulcers</del>
<del>AND all of the following:</del>	
<del>M5a = 1 and/or</del>	<del>Pressure relieving device/chair</del>
<del>M5b = 1</del>	<del>Pressure relieving device/bed</del>
<del>AND</del>	
<del>M5c = 1</del>	<del>Turn and position</del>
<del>AND</del>	
<del>M5d = 1</del>	<del>Nutrition or hydration</del>
<del>AND</del>	
<del>M5e = 1</del>	<del>Ulcer care</del>

**Traumatic Brain Injury**

Documentation shall support the following for scoring traumatic brain injury:

- ~~1) Psychological therapy shall be delivered by licensed mental health professionals as described in the RAI Manual.~~
- ~~2) A special symptom evaluation program shall be an on-going, comprehensive, interdisciplinary evaluation of behavioral symptoms as described in the RAI Manual.~~
- ~~3) Evaluation by a licensed mental health specialist in the last 90 days. This shall include an assessment of a mood, behavioral disorder or other mental health problems by a qualified clinical professional as described in the RAI Manual.~~

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- 4) ~~Care plan shall address the behaviors of the resident and the interventions used.~~

~~There are no minutes assigned to this area. It is strictly a \$50.00 add-on applied to residents meeting the following criteria.~~

MDS item	Description
Hec = 1 AND	Traumatic brain injury
B1 = 0 AND	Not comatose
S1 = 0 AND	Does not meet Subpart S criteria
E4aA = 3 and E4 a B = 1 or	Wandering daily and alterability
E4bA = 3 and E4bB = 1 or	Verbally abusive behavioral symptoms daily and alterability
E4cA = 3 and E4cB = 1 or	Physically abusive behavioral symptoms daily and alterability
E4dA = 3 and E4dB = 1 or	Socially inappropriate/disruptive behavioral symptoms daily and alterability
E4eA = 3 and E4eB = 1 AND	Resists care daily and alterability
P1beA ≥ 1 AND	Psychological therapy
P2a = 1 AND	Special behavior symptom evaluation
P2b = 1	Evaluation by a mental health specialist in last 90 days

**8) Special Patient Need Factors**

~~There shall be documentation to support the deficits identified on the MDS in communication and vision problems.~~

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**Communication**

Count	MDS items	Description	Staff Minutes
I	<del>C4 &gt; 0 or</del>	<del>Deficit in making self understood</del>	<del>1% of all staff time accrued in all categories from ADLs through Exceptional Care</del>
	<del>C6 &gt; 0</del>	<del>Deficit in understanding others</del>	

**Vision Problems**

Count	MDS items	Description	Staff Minutes
I	<del>D1 &gt; 0 or</del>	<del>Vision impaired to Severely impaired</del>	<del>2% of all staff time accrued in all categories from ADLs through Exceptional Care</del>
	<del>D2a = 1 or</del>	<del>Decreased peripheral vision</del>	
	<del>D2b = 1</del>	<del>Experience halos around lights, light flashes</del>	

**Accident/Fall Prevention**

Documentation shall support the following for scoring accident/fall prevention.

- ~~1) The resident has the risk factor identified on the MDS.~~
- ~~2) The resident has been assessed for fall risks.~~
- ~~3) If the resident is identified as high risk for falls, interventions have been identified and implemented.~~

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Count	MDS items	Description	Staff Minutes
I	H1a = 1 or O4a-d = 7 or H1b > 0 or J1f = 1 or J4a = 1 or J4b = 1 or J1n = 1 or E4aA > 0	Seizure disorder Medications Incontinent urine Dizziness Fell in past 30 days Fell in past 31-180 days Has unsteady gait Wandered in last 7 days	<del>3% of all staff time accrued in all categories from ADLs through Exceptional Care</del>

**Restraint Free**

~~There shall be documentation to support the previous use of a restraint and the resident response to the restraint. There shall be evidence that the restraint was discontinued.~~

Count	MDS items	Description	Staff Minutes
I	P4c > 1 or  P4d > 1 or  P4e > 1  And  P4c = 0 and	<del>In last assessment:  Used trunk restraint daily in last 7 days  Used limb restraint daily in last 7 days  Used chair that prevents rising daily in last 7 days  And in current assessment:  Not used trunk restraint in last 7 days</del>	<del>2% of all staff time accrued in all categories from ADLs through Exceptional Care</del>

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P4d = 0 and P4e = 0	Not used limb restraint in last 7 days  Not used chair that prevents rising in last 7 days
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**Activities**

There shall be documentation to support the average time involved in activities.

Count	MDS items	Description	Staff Minutes
I	N2 = 0 or 1 AND Any of the following checked:  G6a = 1 or  C4 > 1 or  C6 > 1 or  E1o > 0 or  AA3 ≤ 50 or  E1p > 0 or	Average time involved in activities  Bedfast all or most of the time  Sometimes too rarely understood  Sometimes too rarely understands others  Withdrawal from activity  Age is 50 or younger at assessment reference date  Reduced social interactions	2% of all staff time accrued in all categories from ADLs through Exceptional Care

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<del>E4a &lt;math&gt;eA &gt; 0&lt;/math&gt; or</del>	<del>Any behavioral symptoms</del>	
<del>G4b &lt;math&gt;dB &gt; 0&lt;/math&gt; OR</del>	<del>Any limited ROM</del>	
<del>N2 = 0 or 1 AND</del>	<del>Average time involved in activities</del>	
<del>E2 &gt; 0 AND</del>	<del>Mood persistence</del>	
<del>E1a &gt; 0 or</del>	<del>Negative statements</del>	
<del>E1n &gt; 0 or</del>	<del>Repetitive physical movements</del>	
<del>E4cA &gt; 0 or</del>	<del>Resists care</del>	
<del>E1o &gt; 0 or</del>	<del>Withdraws from activity</del>	
<del>E1p &gt; 0 or</del>	<del>Reduced social interaction</del>	
<del>E1j &gt; 0 or</del>	<del>Unpleasant mood in morning</del>	
<del>N1d = 1 or</del>	<del>Not awake all or most of the time</del>	

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<del>E1g &gt; 0 or</del>	<del>Statements that something terrible will happen</del>	
<del>K3a = 1 or</del>	<del>Weight loss</del>	
<del>(N1a,b,c ≤ 1 AND</del>	<del>Not awake all or most of the time</del>	
<del>B1 = 0)</del>	<del>Not comatose</del>	

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

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**Section 147. TABLE B MDS-MH Staff Time (in Minutes) and Allocation by Need Level  
(Repealed)**

As part of the transition to a new reimbursement system for Class I IMDs, Table B sets forth the initial criteria that may likely be used to incentivize provision of clinically appropriate services to individual residents of these facilities. The Department intends to secure data and begin analyzing this data, including a sample time study, prior to implementation of this payment model.

Each MDS-MH item in Table B includes a description of the item from the MDS-MH, and the variable time assigned to each level represents the type of staff that should be delivering the service (aide, licensed, RN, LPN and social services) and the number of minutes allotted to that service item.

MDS Item	Description of Medical Services	Aide	Licensed	RN	LPN	Social Service
	Program Base	25	11	1	1	25
G1a=2	Hygiene 1	8	1		1	3
G1=3	Hygiene 2	12	1		1	3
G1b=3 or G1c=3	Mobility 1	12		1	1	1
G1b=4 or G1b=5 or G1c=4 or G1c=5	Mobility 2	17		1	1	1
G1d=2	Toilet 1	10	1		1.5	1
G1d=3	Toilet 2	14	1	1	1	1
G1e=2	Eating 1	10	1			2
G1e=3	Eating 2	16	1	1	1	1
G1f=2	Bathing 1	10	2			3
G1f=3	Bathing 2	14	1	1	1	2
H1=2 or H1=3	Hearing 1	3			1	3

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H2=2 H2=3 or H2=4	Vision 1 Vision 2	3 3	1		1 1	3 3
H3=2 or H3=3 H3=4	Expression 1 Expression 2	6 8	2 2			4 7
H4=2 or H4=3 H4=4	Understanding 1 Understanding 2	6 8	2 2			4 7
ICD-9=250 to 250.9	Diabetes 1	8		2	4	2
N2a=1 or N2b=1 or N2c=1 or N2d=1 or Hyperlipidemia (ICD- 9=272.0 to 272.9)	Nutrition 1	5	1	1	2	2
N3a=1 or N3b=1 or N3c=1 or N4=1	Eating Disorders 1	5	3	1	2	3
L2a=1 or L2b=1 or L2c=1	Nursing Interventions 1	2		0.5	0.5	
L2a=2 or L2b=2 or L2c=2	Nursing Interventions 2	2.5	1	0.5	0.5	1
L2a=3 or L2b=3 or L2c=3	Nursing Interventions 3	3.5	1	1.5	1.5	1
L2a=4 or L2b=4 or L2c=4	Nursing Interventions 4	4.5	1	1.5	1.5	2
L2a=5 or L2b=5 or L2c=5	Nursing Interventions 5	5.5	1	2	2	2
L2a=6 or L2b=6 or L2c=6	Nursing Interventions 6	6	2	2	2	2
L2a=7 or L2b=7 or L2c=7	Nursing Interventions 7	7	2	3	2	2

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CPS=3 or 4	Cognitive Problems 1	4	2			5
CPS=5 or 6	Cognitive Problems 2	6	3			7
Number of E1a to E1g scoring >1=1 or 2	Behavior Disturbance 1	5	2			5
Number of E1a to E1g scoring >1=3 or 4	Behavior Disturbance 2	10	2			8
Number of E1a to E1g scoring >1=5 or more	Behavior Disturbance 3	15	3			10
D1a=1	Self Injury 1	2				2
D1a=2	Self Injury 2	3	2			5
D1a=3 or D1a=4	Self Injury 3	10	5	1	2	10
D1b=1	Intent to Kill Self 1		2			5
D1a=0 and D1c=1	Considered Self Injurious Act 1	5	2			1
D1a=0 and D1d=1	At Risk for Self Injury 1	2	2			5
D2a=1	Violence 1	2				2
D2a=2	Violence 2	3	2			5
D2a=3 or D2a=4	Violence 3	10	5	1	2	10
D2b=1	Intimidation Threats to Others 1	2				2
D2b=2	Intimidation Threats to Others 2	3	2			5
D2b=3 or D2b=4	Intimidation Threats to Others 3	10	5			10

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D2c=2 D2c=3 or D2c=4	Violent Ideation 1 Violent Ideation 2	2 4	2			1 7
K2b=1	Medication Support 1	6	1	1	1	5
K5>0	Acute Control Medications 1	2	1	2	2	5
M3a>0	Required Staff Accompaniment	5				2
A5a=1 or 2 A5a=3 or 4 A5b=1 or 2 A5b=3 or 4	Hx Crim Justice Viol 1 Hx Crim Justice Viol 2 Hx Crim Justice Nonviol 1 Hx Crim Justice Nonviol 2		2 4 1 2			3 5 2 4
M2a>0 or M2b>0 M2c>0 or M2d>0 or M2e>0	Close or Constant Observation 1 Close or Constant Observation 2	15 30	5 10			5 10
P3≤5 and L4a>1	Discharge Planning 1		10			25
L1i≥3	PRS Director or Coordinator Counseling					5
L3a or L3b=2 or 3 and L4aA=2 or 3 and P3<5	Community Reintegration	3	3			5

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L3b=2 or 3 and L4bA=2 or 3	Social/Family Functioning	3	3			12
L3b or L3d + 2 or 3 and L4cA=2 or 3	Psych Rehab/ Recover Readiness and Support	3	4			15
L3b=2 or 3 and L4dA=2 or 3	Skills Training and Generalization	5	5			20
L3a, L3b or L3d=2 or 3 and L4eA=2 or 3 and C1>1 or C2=2	Substance Use/Abuse Management	6	5			15
L3a or L3b=2 or 3 and L4fA=2 or 3	Vocational/ Academic Development	2	3			12
L3a or L3b + 2 or 3 and L4gA=2 or 3 and D2a=2 or D2b=3 or D2c=3 or Ele>1	Aggression/Anger Management		5			15
L3a or L3b=2 or 3 and L4hA=2 and E1b or E1d or E1e>0	Behavior Management	2	3			13
L3b=2 and L4iA=2	Enhanced Activity Program	5	3			12
L3a or L3b=2 and L4jA=2	Work Program (Department of Labor Compliant)		5			25
L3b=2 or 3 and L4kA=2 or 3	Illness Self- Management (SAMHSA Toolkit)	5	5			20

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L3a and L3b=2 or 3 and L41A=2 or 3	Specialized Therapies (DBT)		5			25
L5=1	Adherence with Programs 1	10	4			10
L6≥1	Required staff accompaniment to medical appointment mandated by the outside medical provider	10				
Psychotropic Medications as Listed in Section R	Psychotropic Medication Monitoring	7		8	8	

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<b>Compute Cognition Category Using Cognitive Performance Scale (CPS)</b>	
<b>Compute Intermediate Cognition Variables</b>	
Count of Non-Independence Items for CPS (Cog1)	If (F1a=1) add 1 to Cog 1 If (F2=1 or 2 or 3) add 1 to Cog 1 If (H3=1 or 2 or 3 or 4) add 1 to Cog 1
Count of Moderate to Severe Impairments for CPS (Cog 2)	If (F2=2 or 3) add 1 to Cog 2 If (H3=3 or 4) add 1 to Cog 2
<b>Compute CPS</b>	
Compute CPS Level 1	If (Cog 1=1) CPS=1
Compute CPS Level 2	If (Cog 1=2 or 3 and Cog 2=0) CPS=2
Compute CPS Level 3	If (Cog 1=2 or 3 and Cog 2=1) CPS=3
Compute CPS Level 4	If (Cog 1=2 or 3 and Cog 2=2) CPS=4
Compute CPS Level 5	If (F2=4 or 5 and G1e <6) CPS=5
Compute CPS Level 6	If (F2=4 or 5 and G1e=6 or 8) CPS=6
<b>Convert CPS to Cognition Reimbursement Categories</b>	

(Source: Repealed at 38 Ill. Reg. 12173, effective May 30, 2014)

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- 1) Heading of the Part: Mental Health Reporting for Firearm Owner's Identification Card
- 2) Code Citation: 59 Ill. Adm. Code 150
- 3) 

<u>Section Number:</u>	<u>Adopted Action:</u>
150.10	New Section
150.20	New Section
150.30	New Section
150.40	New Section
150.100	New Section
150.110	New Section
150.120	New Section
150.200	New Section
150.210	New Section
150.220	New Section
150.230	New Section
150.400	New Section
150.500	New Section
150.600	New Section
- 4) Statutory Authority: Implementing and authorized by the Firearm Concealed Carry Act [430 ILCS 66/95] and Section 6-103.2 and 6-103.3 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/6-103.2 and 6-103.3]
- 5) Effective Date of Rules: May 29, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: January 14, 2014; 38 Ill. Reg. 1791
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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- 11) Differences between Proposal and Final Version: Various non-substantive and technical changes were made to the proposed rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of Rulemaking: Pursuant to provisions of Public Act 98-63, this rulemaking establishes the procedures by which the Department of Human Services (DHS) will collect information which the Illinois State Police (ISP) will be able to use to determine eligibility or continued eligibility for a Firearm Owner's Identification Card.

Besides creating the Concealed Carry Act, PA 98-63 made significant changes to the Firearm Owner's Identification Card Act (FOID ACT) and other acts related to reporting of persons with mental illness relative to possessing a firearm. On December 6, 2013, PA 98-600 was signed into law and it made some modifications to the earlier Act (PA 98-63). The changes in the statute require that additional data elements to be collected and reported by hospitals, nursing homes and other in-patient mental health facilities. As a result of this rulemaking, clinicians and out-patient mental health facilities will also have to report specific events to DHS. This rulemaking clarifies the mental health reporting parameters for providers in order to make it easier for them to comply with the law.

- 16) Information and questions regarding these adopted rules shall be directed to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3rd Floor  
Springfield, Illinois 62762

217/785-9772

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- 17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

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TITLE 59: MENTAL HEALTH  
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 150: MENTAL HEALTH REPORTING FOR  
FIREARM OWNER'S IDENTIFICATION CARD

SUBPART A: GENERAL PROVISIONS

Section	
150.10	Purpose
150.20	Incorporation by Reference
150.30	Definitions
150.40	Immunity

SUBPART B: MENTAL HEALTH FACILITY REPORTING

Section	
150.100	Reporting
150.110	Recordkeeping
150.120	Error Correcting

SUBPART C: CLINICIAN REPORTING

Section	
150.200	Reporting of Developmental Disabilities
150.210	Reporting of Clear and Present Danger
150.220	Recordkeeping
150.230	Error Correcting

SUBPART D: DATABASE USE

Section	
150.400	Database Use

SUBPART E: APPEALS

Section	
150.500	Appeals

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## SUBPART F: MEMORANDUM OF UNDERSTANDING

Section  
150.600 Memorandum of Understanding

**AUTHORITY:** Implementing and authorized by the Firearm Concealed Carry Act [430 ILCS 66/95] and Sections 6-103.2 and 6-103.3 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/6-103.2 and 6-103.3].

**SOURCE:** Adopted by emergency rulemaking at 38 Ill. Reg. 2413, effective December 31, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 12358, effective May 29, 2014.

## SUBPART A: GENERAL PROVISIONS

**Section 150.10 Purpose**

- a) The requirements set forth in this Part establish the criteria for reporting by various providers under Sections 6-103.2 and 6-103.3 of the Mental Health and Developmental Disabilities Code [405 ILCS 5] and Section 12(b) of the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].
- b) The requirements set forth in this Part establish the procedures by which the Department of Human Services (DHS) shall collect information that the Illinois State Police (ISP) will be able to use to determine eligibility or continued eligibility for a Firearm Owner's Identification Card under Section 8 of the Firearm Owner's Identification Card Act (FOID Act) [430 ILCS 65].

**Section 150.20 Incorporation by Reference**

Any rules or standards of an agency of the United States or of a nationally-recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified and do not include any later amendments or editions.

**Section 150.30 Definitions**

For the purposes of this Part, the following terms are defined:

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"Adjudicated a mentally disabled person" – The person is the subject of a determination by a court, board, commission or other lawful authority that the person, as a result of marked subnormal intelligence, mental illness, mental impairment, incompetency, condition or disease:

presents a clear and present danger to himself, herself or others;

lacks the mental capacity to manage his or her own affairs or is adjudicated a disabled person as defined in Section 11a-2 of the Probate Act of 1975 [755 ILCS 5];

is not guilty in a criminal case by reason of insanity, mental disease or defect as provided in Section 5-2-4 of the Unified Code of Corrections [730 ILCS 5];

is guilty but mentally ill, as provided in Section 5-2-6 of the Unified Code of Corrections;

is incompetent to stand trial in a criminal case as provided in Article 104 of the Code of Criminal Procedure [725 ILCS 5];

is not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice (10 USC 850a and 876b);

is a sexually violent person under Section 5(f) of the Sexually Violent Persons Commitment Act [725 ILCS 207];

has been found to be a sexually dangerous person under the Sexually Dangerous Persons Act [725 ILCS 205];

is unfit to stand trial under the Juvenile Court Act of 1987 [705 ILCS 405];

is not guilty by reason of insanity under the Juvenile Court Act of 1987;

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is subject to involuntary admission as an inpatient as defined in Section 1-119 of the Mental Health and Development Disabilities Code [405 ILCS 5];

is subject to involuntary admissions as an outpatient as defined in Section 1-119.1 of the Mental Health and Developmental Disabilities Code;

is subject to judicial admission as set forth in Section 4-500 of the Mental Health and Developmental Disabilities Code; or

is subject to the provisions of the Interstate Agreements on Sexually Dangerous Persons Act [45 ILCS 20] (see Section 1.1 of the FOID Act).

"Clear and present danger" – a person who:

communicates a serious threat of physical violence against a reasonably identifiable victim or poses a clear and imminent risk of serious physical injury to himself, herself or another person as determined by a clinician; or

demonstrates threatening physical or verbal behavior, such as violent, suicidal or assaultive threats, actions or other behavior, as determined by a clinician, school administrator or law enforcement official (see Section 1.1 of the FOID Act).

"Clinical psychologist" – a person licensed by the Illinois Department of Financial and Professional Regulation under the Clinical Psychologist Licensing Act [225 ILCS 15] (see 405 ILCS 5/1-103).

"Clinical social worker" – a person who:

has a master's or doctoral degree in social work from an accredited graduate school of social work; and

has at least 3 years of supervised postmaster's clinical social work practice that shall include the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders (see 405 ILCS 5/1-122.1).

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"Clinician"— a physician, psychiatrist, clinical psychologist or qualified examiner.

"Confidentiality Act" – the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

"Determined" – the mandated reporter has completed a formal structured evaluation and/or assessment that, in his or her clinical judgment, supports the diagnosis of developmentally disabled and/or intellectual disability.

"Developmentally disabled" – a person with a disability that is attributable to any other condition that results in impairment similar to that caused by an intellectual disability and that requires services similar to those required by intellectually disabled persons. The disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap (see Section 1.1 of the FOID Act). This can include an intellectual disability, autism, cerebral palsy and epilepsy.

"DHS" – the Illinois Department of Human Services.

"DPH" – the Illinois Department of Public Health.

"FOID Act" – the Firearm Owner's Identification Card Act [430 ILCS 65].

"Intellectual disability" – significantly subaverage general intellectual functioning that exists concurrently with impairment in adaptive behavior and that originates before the age of 18 years.

"Involuntarily admitted" – has the meaning prescribed in Sections 1-119 and 1-119.1 of the MHDD Code (see Section 1.1 of the FOID Act).

"MHDD Code" – the Mental Health and Developmental Disabilities Code [405 ILCS 5].

"Mental health facility" – any licensed private hospital or hospital affiliate, institution or facility, or part thereof, and any facility, or part thereof, operated by the State or a political subdivision thereof that provides treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, mental health centers, colleges, universities, long-term care facilities, and nursing

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homes, or parts thereof, that provides treatment of persons with mental illness whether or not the primary purpose is to provide treatment of persons with mental illness (see Section 1.1 of the FOID Act). For purposes of this Part, an inpatient mental health facility includes:

State-operated mental health facility as described in Section 4 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705];

Psychiatric hospital as authorized by DPH;

The specific units of a general hospital providing psychiatric services as authorized by DPH; and

Residential settings. Residential settings include:

Nursing homes or long-term care facilities that are considered Institutes for Mental Disease as that term is described in section 1905(i) of Title XIX of the Social Security Act (42 USC 1396d(i));

The specific units of a nursing home or long-term care facility authorized by DPH to provide psychiatric or behavioral healthcare;

The specific units of a nursing home or long-term care facility held out by the facility as providing psychiatric or behavioral health care;

Specialized Mental Health Rehabilitation Facilities as described in the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]; and

A supervised transitional residential program funded by the DHS Division of Mental Health (DHS-DMH) when that level of service has been determined to be medically necessary as that term is defined by 59 Ill. Adm. Code 132.

For the purposes of this Part, an outpatient mental health facility includes:

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A community mental health agency;

A general hospital that does not provide inpatient psychiatric care;

A general hospital emergency department;

The portions of a psychiatric hospital (or general hospital with psychiatric services) that do not provide inpatient psychiatric services;

A nursing home or long-term care facility that does not provide inpatient psychiatric care;

A health counseling center or health clinic operated by a college or university;

A clinic.

It is possible for a facility to qualify as both an inpatient and outpatient mental health facility.

"National Instant Criminal Background Check System" or "NICS" – the system that a federal firearm licensee must, with limited exceptions, contact for information on whether receipt of a firearm by a person who is not licensed under 18 USC 923 would violate federal or State law (28 CFR 25.2).

"Patient" –

a person who voluntarily receives mental health treatment as an inpatient or resident of any public or private mental health facility, unless the treatment was solely for an alcohol abuse disorder and no other secondary substance abuse disorder or mental illness; or

a person who voluntarily receives mental health treatment as an outpatient or is provided services by a public or private mental health facility, and who poses a clear and present danger to himself, herself or others (see Section 1.1 of the FOID Act).

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For the purposes of this Part, a person is considered to voluntarily receive mental health services on an inpatient basis if the person is admitted:

On a voluntary basis as that term is used in Article IV of Chapter III of the MHDD Code;

On an informal basis as that term is used in Section 3-300 of the MHDD Code;

As a juvenile under the provisions of Article V of Chapter III of the MHDD Code;

On a petition, or a petition and one or more certificates, as described in Article VI, VII or VII-A of Chapter III of the MHDD Code; or

On a court order for detention and examination under the provisions of Section 3-607 of the MHDD Code.

"Physician" – *any person licensed by the State of Illinois to practice medicine in all its branches and includes any person holding a temporary license, as provided in the Medical Practice Act of 1987 [225 ILCS 60]. Physician includes a psychiatrist as defined in this Section [405 ILCS 5/1-120].*

"Psychiatrist" – *a physician as defined in this Section who has successfully completed a residency program in psychiatry accredited by either the Accreditation Council for Graduate Medical Education ([www.acgme.org](http://www.acgme.org)) or the American Osteopathic Association ([www.osteopathic.org](http://www.osteopathic.org)) [405 ILCS 5/1-121].*

"Qualified examiner" – a person who is:

A clinical social worker as defined in this Part;

A registered nurse with a master's degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness that has been acquired subsequent to any training and experience that constituted a part of the degree program;

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A licensed clinical professional counselor with a master's or doctoral degree in counseling or psychology or a similar master's or doctorate program from a regionally accredited institution who has at least 3 years of supervised post-master's clinical professional counseling experience that includes the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders; or

A licensed marriage and family therapist with a master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution or a similar master's program or from a program accredited by either the Commission on Accreditation for Marriage and Family Therapy Education [http://www.aamft.org/imis15/content/coamfte/About\\_COAMFTE.aspx](http://www.aamft.org/imis15/content/coamfte/About_COAMFTE.aspx)) or the Council for Accreditation of Counseling & Related Educational Programs ([www.cacrep.org](http://www.cacrep.org)), who has at least 3 years of supervised post-master's experience as a marriage and family therapist that includes the provisions of mental health services for the evaluation, treatment and prevention of mental and emotional disorders.

A social worker who is a qualified examiner shall be a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] (see 405 ILCS 5/1-122).

**Section 150.40 Immunity**

- a) Any person, institution, or agency, under this Part participating in good faith in the reporting or disclosure of records and communications otherwise in accordance with this provision or with rules, regulations or guidelines issued by DHS shall have immunity from any liability, civil, criminal or otherwise, that might result by reason of the action. For the purpose of any proceeding, civil or criminal, arising out of a report or disclosure in accordance with this provision, the good faith of any person, institution or agency so reporting or disclosing shall be presumed. The full extent of the immunity shall apply to any person, institution or agency that fails to make a report or disclosure in the good faith belief that the report or disclosure would violate federal regulations governing the confidentiality of alcohol and drug abuse patient records under 42 USC 290dd-3 and 290ee-3 (see Confidentiality Act, Section 12(b)).

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- b) The clinician making the determination that the person poses a clear and present danger or making the determination that the person has a developmental disability and his or her employer may not be held criminally, civilly or professionally liable for making or not making the notification required under this Section, except for willful or wanton misconduct (see Sections 6-103.2 and 6-103.1 of the MHDD Code and Section 8.1 of the FOID Act).

## SUBPART B: MENTAL HEALTH FACILITY REPORTING

**Section 150.100 Reporting**

- a) Inpatient mental health facilities are required to report to DHS all persons who are prohibited from obtaining a FOID Card under Section 8(e), (f), (g), (r), (s) and/or (t) of the FOID Act.
- 1) Those provisions cover the following situations:
- A) a person who has been a patient of a mental health facility within the past 5 years (see Section 8(e) of the FOID Act);
  - B) a person who had been a patient in a mental health facility more than 5 years ago who has not received the certification required under Section 8(u) of the FOID Act (see Section 8(e) of the FOID Act);
  - C) a person who is a clear and present danger to himself or herself, any other person or persons, or the community (see Section 8(f) of the FOID Act);
  - D) a person who is intellectually disabled (see Section 8(g) of the FOID Act);
  - E) a person who has been adjudicated as a mentally disabled person (see Section 8(r) of the FOID Act);
  - F) a person who has been found to be developmentally disabled (see Section 8(s) of the FOID Act); or

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- G) a person involuntarily admitted into a mental health facility (see Section 8(t) of the FOID Act).
- 2) It should be noted that outpatient mental health facilities that provide only outpatient services must report events that would qualify under Section 8(f), (g), (r), (s) and/or (t) of the FOID Act.
- b) Mental health facilities are required to report within 7 calendar days after a person is admitted as an inpatient or as a resident and within 7 calendar days after a person is discharged from inpatient or residential care.
- 1) The following are several examples relating to inpatient settings that clarify when an inpatient setting is required to report to DHS:
- A) The person is admitted to the hospital and to the psychiatric or behavioral health unit of the hospital for evaluation and treatment of a mental illness. The person would be reported as an admission.
- B) The person is admitted to the hospital and to the psychiatric or behavioral health unit of the hospital for evaluation and treatment of a mental illness and an alcohol or substance abuse issue. The person would be reported as an admission.
- C) The person with mental illness is admitted to the hospital and to a non-psychiatric or behavioral health unit (e.g., intensive care unit, rehabilitation unit, etc.) of the hospital for evaluation and treatment of an injury or illness. The hospital transfers the person to the psychiatric or behavioral health unit. The person would be reported as an admission.
- D) The person with mental illness comes to the emergency department of a hospital for the mental illness and is transferred to another hospital for admission to its psychiatric or behavioral unit. The person would not be reported by the sending hospital but is required to be reported by the receiving hospital as an admission.
- 2) The following are several examples relating to inpatient settings that clarify when an inpatient setting is not required to report to DHS:

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- A) The person is admitted to the hospital and to the behavioral health unit of the hospital for evaluation and treatment of only an alcohol or substance abuse issue. The person would not be reported as an admission.
- B) The person is admitted to the hospital and to the psychiatric or behavioral health unit of the hospital for evaluation and treatment of a mental illness. Upon evaluation, the person is determined to only have an alcohol or substance abuse issue. The person would not be reported as an admission.
- C) The person with mental illness is admitted to the hospital and to a non-psychiatric, non-behavioral health unit (e.g., intensive care unit, rehabilitation unit, etc.) for evaluation and treatment of an injury or illness. The hospital provides maintenance medication for the mental illness, but the person is not admitted to the psychiatric or behavioral health unit. The person would not be reported as an admission.
- D) The person with mental illness comes to the emergency department of a hospital for an injury or illness, is treated and released. The person would not be reported as an admission.
- E) The person with mental illness comes to the emergency department of a hospital for an injury or illness, is admitted to the hospital (non-psychiatric unit) for the injury or illness. The person would not be reported as an admission.
- F) The person with mental illness comes to the emergency department of a hospital for an injury or illness and is moved to an observation area for 48 hours. The person is treated and released. The person would not be reported as an admission.
- G) The person with mental illness comes to the emergency department of a hospital for mental illness and is given a prescription for medication and a referral, but not admitted to the hospital. The person would not be reported as an admission.

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- 3) The following are several examples relating to residential settings that clarify when a residential setting is required to report to DHS:
  - A) The person with mental illness is admitted to a nursing home and is placed on a specialized behavioral health unit. The person would be reported as an admission.
  - B) The person with mental illness is provided outpatient treatment while living in a supervised transitional residential program. The supervised transitional residential program would report the person as an admission. The outpatient program would not report the person.
  - C) The person with mental illness resides in a Specialized Mental Health Rehabilitation Facility. The facility would report the person as an admission.
- 4) The following are several examples relating to residential settings that clarify when a residential setting is not required to report to DHS:
  - A) The person with mental illness is admitted for outpatient treatment at a community mental health agency or a clinic setting while living in his or her own home or apartment. The person would not be reported.
  - B) The person with mental illness is admitted to a nursing home for rehabilitation and/or physical therapy and is not placed in a specialized behavioral health unit. The person would not be reported as an admission.
- 5) An adjudication as a mentally disabled person or an involuntary admission is required to be reported within 7 calendar days after the event or knowledge of that event. This may occur during the course of a patient's admission, resulting in a report of the admission, a report of the adjudication as a mentally disabled person, and a report upon discharge. It is possible that for a single admission there could be several reporting events.

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- 6) When a person is determined to be a clear and present danger, he/she must be reported within 24 hours. If a person is determined to be a clear and present danger during his/her admission to a mental health facility, both a report of an admission and a report of a clear and present danger must be made.
- 7) When a person has been determined to be developmentally disabled, that event is required to be reported within 24 hours. This may occur during the course of a patient's admission, resulting in a report of the admission, a report of the determination that a person is developmentally disabled, and a report upon discharge.
- 8) To assist in meeting the reporting timeframes, DHS shall establish a web-based reporting platform. DHS shall update its records and information and shall notify ISP. Information disclosed under this Section shall remain privileged and confidential, and shall not be re-disclosed, except as required under Section 3.1(e) of the FOID Act, nor used for any other purpose. The method of providing this information shall guarantee that the information is not released beyond that necessary for the purpose of this Section.
- 9) The identity of the mental health facility reporting under this Section shall not be disclosed to the person who is the subject of the report.

**Section 150.110 Recordkeeping**

Persons who are reported by mental health facilities shall remain in the database unless removed under Section 150.120 or 150.500.

**Section 150.120 Error Correcting**

The mental health facility reporting the information shall be responsible for assuring the accuracy of the information it provides to the database and shall correct any of its errors.

## SUBPART C: CLINICIAN REPORTING

**Section 150.200 Reporting of Developmental Disabilities**

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- a) Irrespective of whether the clinician is employed by the State or privately, the clinician shall notify DHS within 24 hours after making the determination that the person has a developmental disability.
- b) DHS shall establish a web-based reporting platform. DHS shall update its records and information and shall notify ISP. Information disclosed under this Section shall remain privileged and confidential, and shall not be re-disclosed, except as required under Section 3.1(e) of the FOID Act, nor used for any other purpose. The method of providing this information shall guarantee that the information is not released beyond that necessary for the purpose of this Section.
- c) The identity of the clinician reporting under this Section shall not be disclosed to the person who is the subject of the report.

**Section 150.210 Reporting of Clear and Present Danger**

- a) Irrespective of whether the clinician is employed by the State or privately, the clinician shall notify DHS within 24 hours after making the determination that the person poses a clear and present danger as that term is defined in Section 1.1 of the FOID Act.
- b) DHS shall establish a web-based reporting platform. DHS shall update its records and information and shall notify ISP. Information disclosed under this Section shall remain privileged and confidential and shall not be re-disclosed, except as required under Section 3.1(e) of the FOID Act, nor used for any other purpose. The method of providing this information shall guarantee that the information is not released beyond that necessary for the purpose of this Section.
- c) The identity of the clinician reporting under this Section shall not be disclosed to the person who is the subject of the report.

**Section 150.220 Recordkeeping**

Persons who are reported by a clinician shall permanently remain in the database unless removed under Section 150.230 or 150.500.

**Section 150.230 Error Correcting**

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The clinician shall be responsible for assuring the accuracy of the information he or she provides to the database and shall correct any of his or her errors.

## SUBPART D: DATABASE USE

**Section 150.400 Database Use**

- a) The information maintained in the database shall be used to assist ISP in determining eligibility for a Firearm Owner's Identification Card under the FOID Act. The process used shall be to cross-reference entries in the DHS FOID database file against entries in the database file of FOID card applicants and current cardholders supplied by ISP. Only those entries that are common to both database files shall be forwarded to ISP for further action.
- b) As provided in Section 3.1(e)(2) of the FOID Act and in the Memorandum of Understanding developed pursuant to Section 150.600, certain information may be provided to the National Instant Criminal Background Check System Index, Denied Persons Files (28 CFR 25).
- c) The DHS database is prohibited from additional uses not associated with the FOID Act.

## SUBPART E: APPEALS

**Section 150.500 Appeals**

- a) Appeals may be made by utilizing the provisions of 20 Ill. Adm. Code 1230.
- b) An individual whose adjudication as a mentally disabled person has been overturned by the court system may submit a copy of the court order. Upon verification and consultation with ISP, the adjudication that has been overturned by the court order may be removed from the database.

## SUBPART F: MEMORANDUM OF UNDERSTANDING

**Section 150.600 Memorandum of Understanding**

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Pursuant to Section 3.1(e)(2) of the FOID Act, ISP and DHS shall, in accordance with State and federal law regarding confidentiality, enter into a memorandum of understanding with the Federal Bureau of Investigation for the purpose of implementing the National Instant Criminal Background Check System in this State. ISP shall report the name, date of birth, and physical description of any person prohibited from possessing a firearm pursuant to the FOID Act or 18 USC 922(g) and (n) to the National Instant Criminal Background Check System Index, Denied Persons Files (28 CFR 25).

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- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code Citation: 35 Ill. Adm. Code 720
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
720.110	Amendment
720.111	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) Effective Date of Rulemakings: May 27, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted April 17, 2014 in docket R14-13, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: February 21, 2014; 38 Ill. Reg. 5016
- 10) Has JCAR issued a statement of objection to this rulemaking? No
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of April 17, 2014 in docket R14-13 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated February 6, 2014, in docket R14-13. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections, many of which were suggested by JCAR. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

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- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the February 21, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of April 17, 2014 in docket R14-13, as indicated in item 11 above. See the April 17, 2014 opinion and order in docket R14-13 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in the docket R14-13 rulemaking of which the amendments to Part 720 are a single segment. Also affected is 35 Ill. Adm. Code 721, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of April 17, 2014, proposing amendments in docket R14-13, which opinion and order is available from the address below.

This proceeding updates the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the *Federal Register* during a single update period. The docket and time period that is involved in this proceeding is the following:

- R14-13      Federal RCRA Subtitle C hazardous waste amendments that occurred during the period July 1, 2013 through December 31, 2013.

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The R14-13 docket amends rules in Parts 720 and 721. The amendments to the various Parts are inter-related. The following briefly summarizes the federal action in the update period:

July 31, 2013 (78 Fed. Reg. 46448)	Conditional exclusions of solvent-contaminated wipes from the definitions of solid waste and hazardous waste.
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In addition to the federal actions that fall within the timeframe of this docket, the Board included one additional federal action that occurred later. This additional action directly impacted one of the actions that USEPA took within the timeframe that is involved.

January 3, 2014 (79 Fed. Reg. 350)	Conditional exclusion from regulation as hazardous waste for carbon dioxide streams injected into a Class VI carbon sequestration well.
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Specifically, the amendments to Part 720 implement segments of the federal amendments of July 31, 2013 and January 3, 2014. The amendments add definitions and one incorporation by reference that support the exclusions. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments. The Board has also included amendments proposed in the prior consolidated update docket, UIC Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-1, RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-2, and RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-3 (Dec. 5, 2013), which the Board adopted on February 6, 2014, and which were filed and became effective on March 13, 2014. A table in the Board's opinion and order in docket R14-13 itemizes the amendments from consolidated docket R14-1/R14-2/R14-3 that are now part of the base text of the present amendments.

Tables appear in the Board's opinion and order of April 17, 2014 in docket R14-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 17, 2014 opinion and order in docket R14-13.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R14-13 and direct inquiries to the following person:

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Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312/814-6924  
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of April 17, 2014 at 312-814-3620.  
Alternatively, you may obtain a copy of the Board's opinion and order from the Internet  
at <http://www.ipcb.state.il.us>.

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720  
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

- 720.101 Purpose, Scope, and Applicability
- 720.102 Availability of Information; Confidentiality of Information
- 720.103 Use of Number and Gender
- 720.104 Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section

- 720.110 Definitions
- 720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

- 720.120 Rulemaking
- 720.121 Alternative Equivalent Testing Methods
- 720.122 Waste Delisting
- 720.123 Petitions for Regulation as Universal Waste
- 720.130 Procedures for Solid Waste Determinations and Non-Waste Determinations
- 720.131 Solid Waste Determinations
- 720.132 Boiler Determinations
- 720.133 Procedures for Determinations
- 720.134 Non-Waste Determinations
- 720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
- 720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities

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- 720.142 Notification Requirement for Hazardous Secondary Materials  
720.143 Legitimate Recycling of Hazardous Secondary Materials

720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations  
(Repealed)

**AUTHORITY:** Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

**SOURCE:** Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended

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in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014.

## SUBPART B: DEFINITIONS AND REFERENCES

**Section 720.110 Definitions**

When used in 35 Ill. Adm. Code 720 through 728, 733, 738, and 739 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of tank that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion.")

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute,

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meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

"Battery" means a device that consists of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Board" means the Illinois Pollution Control Board;

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

Boiler by physical characteristics.

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit's combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following

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units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit may be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.); or

Boiler by designation. The unit is one that the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A "used, intact CRT" means a CRT whose vacuum has not been released. A "used, broken CRT" means glass removed from its housing or casing whose vacuum has been released.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed portion" means that portion of a facility that an owner or operator has

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closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste pursuant to the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

"CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

"CRT processing" means conducting all of the following activities:

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Receiving broken or intact CRTs;

Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

Sorting or otherwise managing glass removed from CRT monitors.

"Designated facility" means either of the following entities:

A hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator, pursuant to 35 Ill. Adm. Code 722.120, of which any of the following is true:

The facility has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703, and 705;

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270-~~(2010)~~;

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271-~~(2010)~~; or

The facility is regulated pursuant to 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; or

A generator site designated by the hazardous waste generator on the manifest to receive back its own waste as a return shipment from a designated hazardous waste treatment, storage, or disposal facility that has rejected the waste in accordance with 35 Ill. Adm. Code 724.172(f) or 725.172(f).

If a waste is destined to a facility in a state other than Illinois that has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

"Destination facility" means a facility that treats, disposes of, or recycles a

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particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Dioxins and furans" ~~or "D/F"~~ means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water runoff to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device of which the following is true:

It is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122

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or which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in this Section.

"EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by USEPA to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

"EPA identification number" or "USEPA identification number" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator; transporter; and treatment, storage, or disposal facility.

"EPA region" or "USEPA region" means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II: New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII: Nebraska, Kansas, Missouri, and Iowa.

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

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Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands.

Region X: Washington, Oregon, Idaho, and Alaska.

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, State, and local approvals or permits necessary to begin physical construction and either of the following had occurred:

A continuous on-site, physical construction program had begun; or

The owner or operator had entered into contractual obligations that could not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and which was in operation, or for which installation was commenced, on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either of the following is true:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations that cannot be canceled or modified without substantial loss for physical construction

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of the site or installation of the tank system to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

"Facility" means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of

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hazardous waste or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action pursuant to 35 Ill. Adm. Code 724.201 or 35 Ill. Adm. Code 727.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action pursuant to RCRA section 3008(h).

Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government, including any government corporation and the Government Printing Office.

"Federal, State, and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances.

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities pursuant to 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids that readily separate from the solid portion of a

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waste under ambient temperature and pressure.

"Gasification" means, for the purpose of complying with 35 Ill. Adm. Code 721.104(a)(12)(A), a process conducted in an enclosed device or system that is designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials, through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous secondary material" means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste pursuant to 35 Ill. Adm. Code 721.

"Hazardous secondary material generated and reclaimed under the control of the generator" means one of the following materials:

A material that is both generated and reclaimed at the generating facility (for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator);

A material that is generated and reclaimed at different facilities, if both of the following conditions are fulfilled:

Either the reclaiming facility is controlled by the generator, or both the generating facility and the reclaiming facility are controlled by the same person, as "person" is defined in this Section; and

The generator provides either of the following certifications:

"On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary

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material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert the name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."

or

"On behalf of [insert generator facility name] I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."

For purposes of this definition, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as "person" is defined in this Section, shall not be deemed to "control" such facilities; or

A material that is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and which is reclaimed by the tolling contractor, if the tolling contractor certifies the following:

"On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name], has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process."

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For purposes of this definition, "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

"Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this definition, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Sections 721.102(a)(2)(B) and 721.104(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent that caused the hazardous waste to be listed in Subpart D of 35 Ill. Adm. Code 721, or a constituent listed in 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers, and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility that ~~was~~ not operated after November 19, 1980. (See also "active portion" and "closed portion.")

"Incinerator" means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are true of the facility:

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The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste that is unsuitable for the following:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire, or explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

(See Appendix E to 35 Ill. Adm. Code 724 and Appendix E to 35 Ill. Adm. Code 725 for references that list examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

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Blast furnaces;

Smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

Any other such device as the Agency determines to be an industrial furnace on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

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The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of tank whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility that is treating, storing, or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection.")

"Inner liner" means a continuous layer of material placed inside a tank or container that protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Intermediate facility" means any facility that stores hazardous secondary materials for more than 10 days and which is neither a hazardous secondary material generator nor a reclaimer of hazardous secondary material.

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"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Lamp" or "universal waste lamp" means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

"Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

"Landfill cell" means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"LDS" means leak detection system.

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

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"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

"Manifest" means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A) originated and signed by the generator or offeror that contains the information required by Subpart B of 35 Ill. Adm. Code 722 and the applicable requirements of 35 Ill. Adm. Code 722 through 727.

"Manifest tracking number" means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits) that is pre-printed in Item 4 of the manifest by a registered source.

"Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

"Military munitions" means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster

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munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit that is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards pursuant to 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit pursuant to 35 Ill. Adm. Code 703.231; or staging pile.

"Movement" means hazardous waste that is transported to a facility in an individual vehicle.

"NAICS Code" means the code number assigned a facility using the "North American Industry Classification System," incorporated by reference in Section 720.111.

"New hazardous waste management facility" or "new facility" means a facility that began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility.")

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also "existing tank system.")

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"No free liquids", as used in 35 Ill. Adm. Code 721.104(a)(26) and (b)(18), means that solvent-contaminated wipes may not contain free liquids, as determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", incorporated by reference in Section 720.111, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method that the Agency has determined by permit condition is equivalent to Method 9095B.

"Onground tank" means a device meeting the definition of tank that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. ~~Non-contiguous~~ ~~Noncontiguous~~ properties owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment.")

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person that owns a facility or part of a facility.

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"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with 35 Ill. Adm. Code 724 or 725.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111(c);

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512 (21 USC 360b), incorporated by reference in Section 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new

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animal drug." This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Pile" means any ~~non-containerized~~noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device that uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport.

BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

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"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq.).

"RCRA standardized permit" means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 702 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued in all cases and a supplemental portion issued at the discretion of the Agency.

"Regional Administrator" means the Regional Administrator for the USEPA region in which the facility is located or the Regional Administrator's designee.

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

"Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action pursuant to 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located in such a facility.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) that can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

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"Runon" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC code" means "Standard Industrial Classification code," as assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication "Standard Industrial Classification Manual," incorporated by reference in Section 720.111(a).

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb or less of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Solvent-contaminated wipe" means: A wipe that, after use or after cleaning up a spill, fulfills one or more of the following conditions:

The wipe contains one or more of the F001 through F005 solvents listed in 35 Ill. Adm. Code 721.131 or the corresponding P- or U-listed solvents found in 35 Ill. Adm. Code 721.133;

The wipe exhibits a hazardous characteristic found in Subpart C of 35 Ill. Adm. Code 721 when that characteristic results from a solvent listed in 35 Ill. Adm. Code 721; or

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The wipe exhibits only the hazardous waste characteristic of ignitability found in 35 Ill. Adm. Code 721.121 due to the presence of one or more solvents that are not listed in 35 Ill. Adm. Code 721.

Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at 35 Ill. Adm. Code 721.104(a)(26) and (b)(18).

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Staging pile" means an accumulation of solid, non-flowing "remediation waste" (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to 35 Ill. Adm. Code 724.654.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" or "impoundment" means a facility or part of a facility that is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials) that is designed to hold an accumulation of liquid wastes or wastes

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containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste that is constructed primarily of ~~non-earth~~~~non-earth~~ materials (e.g., wood, concrete, steel, plastic) that provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of hazardous waste in a device that uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning.")

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and which is constructed and operated in a manner that prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car,

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etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

"Treatability study" means the following:

A study in which a hazardous waste is subjected to a treatment process to determine the following:

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes; and

The characteristics and volumes of residuals from a particular treatment process;

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies, and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, recover energy or material resources from the waste, or render the waste non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

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"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well.")

"Underground tank" means a device meeting the definition of tank whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Universal waste" means any of the following hazardous wastes that are managed pursuant to the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

Lamps, as described in 35 Ill. Adm. Code 733.105.

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that

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receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

"Universal waste handler" does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" means the United States Environmental Protection Agency.

"USPS" means the United States Postal Service.

"Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

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"Wastewater treatment unit" means a device of which the following is true:

It is part of a wastewater treatment facility that has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310;

It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection.")

"Wipe" means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 38 Ill. Reg. 12378, effective May 27, 2014)

**Section 720.111 References**

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through 728, 730, 733, 738, and 739:

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- a) Non-Regulatory Government Publications and Publications of Recognized Organizations and Associations:

ACGME. Available from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, IL 60654, 312-755-5000:

"Accreditation Council for Graduate Medical Education: Glossary of Terms," March 19, 2009, referenced in 35 Ill. Adm. Code 722.300.

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:  
[http://www.acgme.org/acWebsite/about/ab\\_ACGMEglossary.pdf](http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf).

ACI. Available from the American Concrete Institute, Box 19150, Redford Station, Detroit, Michigan 48219:

ACI 318-83: "Building Code Requirements for Reinforced Concrete," adopted November 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, 212-354-3300:

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, 202-682-8000:

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

"Evaporative Loss from External Floating-Roof Tanks," API

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publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 725.984.

"Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," 4<sup>th</sup> Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 724.291, 724.293, 725.291, and 725.292.

"Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47<sup>th</sup> Street, New York, NY 10017, 212-705-7722:

"Chemical Plant and Petroleum Refinery Piping," ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, 610-832-9585:

ASTM C 94-90, "Standard Specification for Ready-Mixed Concrete," approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, "Standard Test Method for Saybolt Viscosity," approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 93-85, "Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

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ASTM D 140-70, "Standard Practice for Sampling Bituminous Materials," approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, "Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis," approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 420-69, "Guide to Site Characterization for Engineering, Design, and Construction Purposes," approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings," approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography," approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity," March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-

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Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 724.963 and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance of Plastics to Bacteria," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November

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1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1). See below in this subsection (a) under NTIS.

NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, 713-492-0535:

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

"Flammable and Combustible Liquids Code," NFPA 30, issued July 18, 2003, as supplemented by TIA 03-1, issued July 15, 2004, and corrected by Errata 30-03-01, issued August 13, 2004, USEPA-approved for 35 Ill. Adm. Code 724.298, 725.298, and 727.290, referenced in 35 Ill. Adm. Code 725.301 and 726.211.

NTIS. Available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847 (Internet address: [www.ntis.gov](http://www.ntis.gov)):

"APTI Course 415: Control of Gaseous Emissions," December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

BOARD NOTE: "APTI" denotes USEPA's "Air Pollution Training Institute" (Internet address: [www.epa.gov/air/oaqps/eog/](http://www.epa.gov/air/oaqps/eog/)).

"Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA-530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

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"Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry," Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: [water.epa.gov/scitech/methods/cwa/methods\\_index.cfm](http://water.epa.gov/scitech/methods/cwa/methods_index.cfm). Revision A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at [www.epa.gov/nscep/index.html](http://www.epa.gov/nscep/index.html).

"Methods for Chemical Analysis of Water and Wastes," Third Edition, March 1983, USEPA document number EPA-600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.

BOARD NOTE: Also available on the Internet as a viewable/printable HTML document from the USEPA website at: [www.epa.gov/clariton/clhtml/pubtitleORD.html](http://www.epa.gov/clariton/clhtml/pubtitleORD.html) as document 600479002.

"North American Industry Classification System," July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of "NAICS Code") for the purposes of Section 720.142.

BOARD NOTE: Also available on the Internet from the Bureau of Census: [www.census.gov/naics/2007/naicod07.htm](http://www.census.gov/naics/2007/naicod07.htm).

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities," August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

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"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources," October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address: [www.epa.gov/scram001/guidance/guide/scrng.wpd](http://www.epa.gov/scram001/guidance/guide/scrng.wpd).

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (November 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (November 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (November 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

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Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar<sup>®</sup> Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0050 (December 1996) (Isokinetic HCl/Cl<sub>2</sub> Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/Cl<sub>2</sub> Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

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Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

Method 1311 (November 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

Method 1312 (November 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (November 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (November 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

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Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.934, 724.963, 725.934, and 725.963.

Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for [35 Ill. Adm. Code 720.110](#); Appendix I to 35 Ill. Adm. Code 721; and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, 727.290, and 728.132.

BOARD NOTE: Also available on the Internet for free download in segments in PDF format from the USEPA website at: [www.epa.gov/SW-846](http://www.epa.gov/SW-846).

OECD. Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France, +33 (0) 1 45 24 81 67 ([www.oecd.org](http://www.oecd.org)), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 ([www.oecdwash.org](http://www.oecdwash.org)):

OECD Guidance Manual. "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," 2009 (also called "Guidance

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Manual for the Control of Transboundary Movements of Recoverable Materials" in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL ([June 14, 2001](#)), as amended by [C\(2001\)107/ADD1 \(February 28, 2002\)](#), C(2004)20 ([March 9, 2004](#)), C(2005)141 ([December 2, 2005](#)), and C(2008)156 ([December 4, 2008](#)):

"Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141; and C(2008)156" (also called "Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," within the text of Annex A, and "Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations" in the original OECD decision source document, C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008)).

"Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure" (individually referred to as "Annex B to OECD Guidance Manual" in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX ("List B") to the "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" ("Basel Convention").

"Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure" (individually referred to as "Annex C to OECD Guidance Manual" in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II ("Categories of Wastes Requiring Special

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Consideration") and VIII ("List A") to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at [www.oecd.org/dataoecd/57/1/42262259.pdf](http://www.oecd.org/dataoecd/57/1/42262259.pdf). The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA's lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to "OECD C(2001)107/FINAL" in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, "Ready Biodegradability," Method 301B (July 17, 1992), "CO<sub>2</sub> Evolution (Modified Sturm Test)," referenced in 35 Ill. Adm. Code 724.414.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

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"DOD Ammunition and Explosives Safety Standards" (DOD 6055.09-STD), as in effect on February 29, 2008, referenced in 35 Ill. Adm. Code 726.305.

"The Motor Vehicle Inspection Report" (DD Form 626), as in effect in March 2007, referenced in 35 Ill. Adm. Code 726.303.

"Requisition Tracking Form" (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303.

"The Signature and Tally Record" (DD Form 1907), as in effect in November 2006, referenced in 35 Ill. Adm. Code 726.303.

"Dangerous Goods Shipping Paper/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles" (DD Form 836), as in effect in December 2007, referenced in 35 Ill. Adm. Code 726.303.

BOARD NOTE: DOD 6055.09-STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>. DD Form 1348, DD Form 1907, DD Form 836, and DOD 6055.09-STD are available on-line for download in pdf format from <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

USEPA, Office of Ground Water and Drinking Water. Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, D.C. 20460:

"Inventory of Injection Wells," USEPA Form 7520-16 (Revised 8-01), referenced in 35 Ill. Adm. Code 704.148 and 704.283.

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," USEPA publication number EPA-570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

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"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address:  
[www.epa.gov/scram001/guidance/guide/scrng.wpd](http://www.epa.gov/scram001/guidance/guide/scrng.wpd).

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

"EPA RCRA Delisting Program – Guidance Manual for the Petitioner," March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003, supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303.

BOARD NOTE: Available on-line for download in various formats from [www.gsa.gov/forms/forms.htm](http://www.gsa.gov/forms/forms.htm).

- b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, 202-783-3238:

10 CFR 20.2006 (2013) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 (2013) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 (2013) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal

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Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 (2013), as amended at [78 Fed. Reg. 16922 \(Mar. 19, 2013\)](#)~~77 Fed. Reg. 39899 (July 6, 2012)~~ (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 (2013) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203 (2013) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3 [\(2013\)](#)~~(2012)~~ (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 [\(2013\)](#)~~(2012)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 [\(2013\)](#)~~(2012)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) [\(2013\)](#)~~(2012)~~ (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 [\(2013\)](#)~~(2012)~~ (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 [\(2013\)](#)~~(2012)~~ (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

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40 CFR 60 ~~(2013)~~, as amended at 78 Fed. Reg. 58415 (Sept. 19, 2013) and 78 Fed. Reg. 76753 (Dec. 19, 2013)~~(2012)~~, as amended at 77 Fed. Reg. 44488 (July 30, 2012); 77 Fed. Reg. 48433 (Aug. 14, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 56421 (Sept. 12, 2012) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 ~~(2013)~~~~(2012)~~ (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60 ~~(2013)~~~~(2012)~~ (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

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Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

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Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 724.934, 724.935,

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724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 724.934 and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 61 ~~(20013)(2012)~~ (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 ~~(2013)(2012)~~ (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61 ~~(2013)(2012)~~ (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 ~~(2013)~~, as amended at 78 Fed. Reg. 79317 (Dec. 30, 2013)~~(2012)~~, as amended at 77 Fed. Reg. 41075 (July 12, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 55698 (Sept. 11, 2012); 77 Fed.

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~~Reg. 58219 (Sept. 19, 2012); 77 Fed. Reg. 65135 (Oct. 25, 2012); 77 Fed. Reg. 75739 (Dec. 21, 2012)~~ (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 ~~(2013)(2012)~~ (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.984, 724.985, 725.985, and 725.986.

Subpart EEE of 40 CFR 63 (2000) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), referenced in 35 Ill. Adm. Code 703.280.

Subpart EEE of 40 CFR 63 ~~(2013)(2012)~~ (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 ~~(2013)(2012)~~ (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63 ~~(2013)(2012)~~ (Determination of the Fraction Biodegraded ( $F_{bio}$ ) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

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Appendix D to 40 CFR 63 [\(2013\)](#)~~(2012)~~ (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures) [\(2013\)](#)~~(2012)~~, referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 [\(2013\)](#)~~(2012)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 [\(2013\)](#)~~(2012)~~ (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 [\(2013\)](#)~~(2012)~~ (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

[Subpart B of 40 CFR 257 \(2013\) \(Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator \(CESQG\) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units\) \(40 CFR 257.5 through 257.30\)](#), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258 [\(2013\)](#)~~(2012)~~ (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) [\(2013\)](#)~~(2012)~~ (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151 [\(2013\)](#)~~(2012)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 [\(2013\)](#)~~(2012)~~ (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 [\(2013\)](#)~~(2012)~~ (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 [\(2013\)](#)~~(2012)~~ (Special Manifest Requirements), referenced

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in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 [\(2013\)](#)~~(2012)~~ (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 [\(2013\)](#)~~(2012)~~ (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 [\(2013\)](#)~~(2012)~~ (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262 [\(2013\)](#)~~(2012)~~ (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 [\(2013\)](#)~~(2012)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264 [\(2013\)](#)~~(2012)~~ (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 [\(2013\)](#)~~(2012)~~ (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 [\(2013\)](#)~~(2012)~~ (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 [\(2013\)](#)~~(2012)~~ (Political Jurisdictions in Which Compliance with Section 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Appendix I to 40 CFR 265 [\(2013\)](#)~~(2012)~~ (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

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Appendix III to 40 CFR 265 [\(2013\)](#)~~(2012)~~ (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 [\(2013\)](#)~~(2012)~~ (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 [\(2013\)](#)~~(2012)~~ (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 [\(2013\)](#)~~(2012)~~ (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204 and 726.206.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces," December 1990, USEPA publication number EPA-530/SW-91-010, NTIS document number PB91-120006.

40 CFR 267.151 [\(2013\)](#)~~(2012)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 [\(2013\)](#)~~(2012)~~ (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761 [\(2013\)](#)~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3,~~

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~~2012~~; ~~77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 ~~(2013)(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012)~~; ~~77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 ~~(2013)(2012)~~ (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 ~~(2013)(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012)~~; ~~77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 ~~(2013)(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012)~~; ~~77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 ~~(2013)(2012)~~ (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 ~~(2013)~~, as amended at ~~78 Fed. Reg. 60745 (Oct. 2, 2013)~~ and ~~78 Fed. Reg. 65454 (Oct. 31, 2013)(2012)~~, as amended at ~~77 Fed. Reg. 60935 (Oct. 5, 2012)~~ (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 ~~(2013)(2012)~~ (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 ~~(2013)~~, as amended at ~~78 Fed. Reg. 65454 (Oct. 31, 2013)(2012)~~ (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 ~~(2013)(2012)~~ (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

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49 CFR 171.16 [\(2013\)](#)~~(2012)~~ (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 [\(2013\)](#), as amended at [78 Fed. Reg. 60745 \(Oct. 2, 2013\)](#), [78 Fed. Reg. 65454 \(Oct. 31, 2013\)](#), and [78 Fed. Reg. 69310 \(Nov. 19, 2013\)](#)~~(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304 [\(2013\)](#)~~(2012)~~ (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart F of 49 CFR 172 [\(2013\)](#), as amended at [78 Fed. Reg. 60745 \(Oct. 2, 2013\)](#)~~(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173 [\(2013\)](#), as amended at [78 Fed. Reg. 60745 \(Oct. 2, 2013\)](#) and [78 Fed. Reg. 65454 \(Oct. 31, 2013\)](#)~~(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Shippers – General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 [\(2013\)](#)~~(2012)~~ (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 [\(2013\)](#)~~(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 [\(2013\)](#)~~(2012)~~ (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

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49 CFR 173.50 ~~(2013)(2012)~~ (Class 1 – Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 ~~(2013)(2012)~~ (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 ~~(2013)(2012)~~ (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 ~~(2013)(2012)~~ (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 ~~(2013)(2012)~~ (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 ~~(2013)~~, as amended at [78 Fed. Reg. 65454 \(Oct. 31, 2013\)](#) ~~(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 ~~(2013)~~ as amended at [78 Fed. Reg. 65454 \(Oct. 31, 2013\)](#) ~~(2012)~~ (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 ~~(2013)~~, as amended at [78 Fed. Reg. 60745 \(Oct. 31, 2013\)](#) ~~(2012)~~ (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 178 ~~(2013)~~, as amended at [78 Fed. Reg. 60745 \(Oct. 2, 2013\)](#) and [78 Fed. Reg. 65454 \(Oct. 31, 2013\)](#) ~~(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 ~~(2013)(2012)~~, as amended at [77 Fed. Reg. 60935 \(Oct. 5, 2012\)](#) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

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49 CFR 180 (~~2013~~)(2012) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 (2013) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 (2013) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 (2013) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 (2013) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 (2013) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (2013) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (2013) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (2013) (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014)(2011), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j))

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(2012)(2011), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140) (2011), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1)) (2011), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 38 Ill. Reg. 12378, effective May 27, 2014)

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- 1) Heading of the Part: Identification and Listing of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 721
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
721.104	Amendment
721.105	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective Date of Rule: May 27, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted April 17, 2014 in docket R14-13, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the *Illinois Register*: February 21, 2014, February 21, 2014, 38 Ill. Reg. 5077
- 10) Has JCAR issued a statement of objection to this rulemaking? No
- 11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of April 17, 2014 in docket R14-13 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated February 6, 2014, in docket R14-13. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections, many of which were suggested by JCAR. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

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- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the February 21, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of April 17, 2014 in docket R14-13, as indicated in item 11 above. See the April 17, 2014 opinion and order in docket R14-13 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment to Part 721 is a single segment of the docket R14-13 rulemaking that also affects 35 Ill. Adm. Code 720, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R14-13 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of April 17, 2014, proposing amendments in docket R14-13, which opinion and order is available from the address below.

Specifically, the amendment to Part 721 implement segments of the federal amendments of July 31, 2013 and January 3, 2014. The amendment adds the texts of the conditional exclusions. The Board has included a limited number of corrections and clarifying revisions that are not directly derived from the instant federal amendment.

Tables appear in the Board's opinion and order of April 17, 2014 in docket R14-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal

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amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 17, 2014 opinion and order in docket R14-13.

- 16) Information and questions regarding these adopted amendments shall be directed to:  
Please reference consolidated docket R14-13 and direct inquiries to the following person:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312/814-6924  
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of April 17, 2014 at 312-814-3620.  
Alternatively, you may obtain a copy of the Board's opinion and order from the Internet  
at <http://www.ipcb.state.il.us>.

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

## PART 721

## IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

## SUBPART A: GENERAL PROVISIONS

## Section

721.101	Purpose and Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA
721.109	Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE  
CHARACTERISTICS OF HAZARDOUS WASTE  
AND FOR LISTING HAZARDOUS WASTES

## Section

721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

## SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

## Section

721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

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## SUBPART D: LISTS OF HAZARDOUS WASTE

## Section

721.130	General
721.131	Hazardous Wastes from Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
721.135	Wood Preserving Wastes

## SUBPART E: EXCLUSIONS AND EXEMPTIONS

## Section

721.138	Exclusion of Comparable Fuel and Syngas Fuel
721.139	Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling
721.140	Conditional Exclusion for Used, Intact CRTs Exported for Recycling
721.141	Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

SUBPART H: FINANCIAL REQUIREMENTS FOR MANAGEMENT  
OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

## Section

721.240	Applicability
721.241	Definitions of Terms as Used in This Subpart
721.242	Cost Estimate
721.243	Financial Assurance Condition
721.247	Liability Requirements
721.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
721.249	Use of State-Required Mechanisms
721.250	State Assumption of Responsibility
721.251	Wording of the Instruments
721.APPENDIX A	Representative Sampling Methods
721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)
721.APPENDIX C	Chemical Analysis Test Methods (Repealed)
721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)

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721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
721.TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)
721.APPENDIX G	Basis for Listing Hazardous Wastes
721.APPENDIX H	Hazardous Constituents
721.APPENDIX I	Wastes Excluded by Administrative Action
721.TABLE A	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Non-Specific Sources
721.TABLE B	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources
721.TABLE C	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
721.TABLE D	Wastes Excluded by the Board by Adjusted Standard
721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.APPENDIX Y	Table to Section 721.138: Maximum Contaminant Concentration and Minimum Detection Limit Values for Comparable Fuel Specification
721.APPENDIX Z	Table to Section 721.102: Recycled Materials that Are Solid Waste

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective

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May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014.

## SUBPART A: GENERAL PROVISIONS

**Section 721.104 Exclusions**

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
  - 1) Sewage.
    - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and

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B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.

- 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

- 3) Irrigation return flows.
- 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

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- B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
  - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
  - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
  - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
  - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
    - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
    - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
    - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
    - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725,

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regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

- v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].
- 10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or

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prior to when it is mixed with coal.

- 11) Nonwastewater splash condenser dross residue from the treatment of hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
  - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 35 Ill. Adm. Code 720.110), or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B) of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D of this Part, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.
  - B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A) of this Section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal

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petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D of this Part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.

- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
  - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
  - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) Comparable fuels or comparable syngas fuels that meet the requirements of Section 721.138.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by ~~beneficiation~~beneficiation, provided that the following is true:
  - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

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- B) The spent material is not accumulated speculatively;
- C) Except as provided in subsection (a)(17)(D) of this Section, the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.
- D) The Agency must allow by permit that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad;

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the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

BOARD NOTE: See Subpart D of 35 Ill. Adm. Code 703 for the RCRA Subtitle C permit public notice requirements.

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
- F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by

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non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:
- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste code D018);
  - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:

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- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
- B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
- i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
  - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:
  - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).

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- iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G) of this Section.
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:
- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii) of this Section.
  - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
  - iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
  - iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year,

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the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.

- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:
- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
  - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
  - iii) It must prevent run-on into the containment system.

BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through (a)(20)(ii)(B)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(F) to comport with Illinois Administrative Code codification requirements.

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:

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- i) The name of the transporter and date of the shipment;
- ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
- iii) The type and quantity of excluded secondary material in each shipment.

BOARD NOTE: Subsections (a)(20)(G)(i) through (a)(20)(G)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(D)(1) through (a)(20)(ii)(D)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(G) to comport with Illinois Administrative Code codification requirements.

- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20) of this Section, provided that the following conditions are fulfilled:

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for

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metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B) of this Section. Such records must at a minimum include the following:
- i) The dates and times product samples were taken, and the dates the samples were analyzed;
  - ii) The names and qualifications of the persons taking the samples;
  - iii) A description of the methods and equipment used to take the samples;
  - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
  - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
  - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

- 22) Used CRTs.

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- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
  - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
  - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
  - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous secondary materials managed in land-based units. Hazardous secondary material generated and reclaimed within the United States or its territories and managed in land-based units, as defined in 35 Ill. Adm. Code 720.110, is not a solid waste if the following conditions are fulfilled with regard to the material:
- A) The material is contained;
  - B) The material is a hazardous secondary material generated and reclaimed under the control of the generator, as defined in 35 Ill. Adm. Code 720.110;
  - C) The material is not speculatively accumulated, as defined in Section 721.101(c)(8);
  - D) The material is not otherwise subject to material-specific management conditions under subsection (a) of this Section when reclaimed, it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102), and it does not meet either of the listing descriptions for K171 or K172 waste in Section 721.132;

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- E) The reclamation of the material is legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143; and
  - F) In addition, a person claiming the exclusion under this subsection (a)(23) must provide notification of regulated waste activity, as required by 35 Ill. Adm. Code 720.142. (For hazardous secondary material managed in a non-land-based unit, see Section 721.102(a)(2)(B)).
- 24) Hazardous secondary materials transferred for off-site recycling. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G) of this Section:
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.110).
  - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
  - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed; the material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102); and the material must not fulfill either of the listing descriptions for K171 or K172 waste in Section 721.132.
  - D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.

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- E) The hazardous secondary material generator must satisfy each of the following conditions:
- i) The hazardous secondary material must be contained.
  - ii) This subsection (a)(24)(E)(ii) applies when non-RCRA management of hazardous secondary material will occur at a reclamation facility or transfer facility. For the purposes of this subsection (a)(24), "non-Subtitle C management" is management of the hazardous secondary material that is not addressed under a RCRA Part B permit or under the interim status facility standards (of 35 Ill. Adm. Code 725 or similar regulations authorized by USEPA as equivalent to 40 CFR 265). Prior to arranging for transport of hazardous secondary materials to a reclamation facility where non-Subtitle C management will occur, the hazardous secondary material generator must make reasonable efforts to ensure that the reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that the reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where non-RCRA management will occur, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of once every three years for the hazardous secondary material generator to claim the exclusion of this subsection (a)(24) and to send the hazardous secondary materials to a reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any

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credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must make the series of affirmative determinations set forth in subsection (a)(24)(H) of this Section for each reclamation facility and intermediate facility that will manage its waste.

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(B) makes it clear that USEPA intends that the generator undertake this determination for each reclaimer that will manage its hazardous secondary material. The Board added a definition of "non-Subtitle C management" and substituted this term for the language "management of the hazardous secondary materials is not addressed under a RCRA Part B permit or interim status standards." Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning. The Board moved the material from 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

- iii) The hazardous secondary material generator must execute a certification statement that includes the following language, together with the printed name and official title of an authorized representative of the hazardous secondary material generator, the authorized representative's signature, and the date signed:

"I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to [insert the name of each reclamation facility and any intermediate facility that will manage the materials], reasonable efforts were made in accordance with 35

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Ill. Adm. Code 721.104(a)(24)(E)(ii) (and corresponding 40 CFR 261.4(a)(24)(v)(B)) to ensure that the hazardous secondary materials would be recycled legitimately and would be otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(C) combines the requirements for records retention and availability for inspection with the requirement for certification. The Board combined the certification requirements from 40 CFR 261.4(a)(24)(v)(C), (a)(24)(v)(C)(1), and (a)(24)(v)(C)(2) in this single subsection (a)(24)(E)(iii). This combination allowed compliance with codification requirements relating to the maximum permissible indent level. The Board moved the records retention and availability for inspection requirements to subsection (a)(24)(E)(iv) of this Section. This forced renumbering 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(E) as subsections (a)(24)(E)(v) and (a)(24)(E)(vi) of this Section. Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning.

- iv) The hazardous secondary material generator must maintain the following records for a minimum of three years: documentation and certification that the generator made reasonable efforts, prior to transferring hazardous secondary material, for each reclamation facility and, if applicable, intermediate facility where non-Subtitle C management of the hazardous secondary materials will occur. Documentation and certification must be made available, within 72 hours, or within any longer period of time specified by the Agency, upon request by the Agency.

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BOARD NOTE: The Board moved the records retention and availability for inspection requirements of corresponding 40 CFR 261.4(a)(24)(v)(C) to this subsection (a)(24)(E)(iv).

- v) The hazardous secondary material generator must maintain certain records at the generating facility for a minimum of three years that document every off-site shipment of hazardous secondary materials. The documentation for each shipment must, at a minimum, include the following information about the shipment: the name of the transporter and date of the shipment; the name and address of each reclaimer and intermediate facility to which the hazardous secondary material was sent; and the type and quantity of hazardous secondary material in the shipment.

BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(D)(1) through (a)(24)(v)(D)(3) to this single subsection (a)(24)(E)(v). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- vi) The hazardous secondary material generator must maintain at the generating facility, for a minimum of three years, for every off-site shipment of hazardous secondary materials, confirmations of receipt from each reclaimer and intermediate facility to which its hazardous secondary materials were sent. Each confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The generator may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

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BOARD NOTE: The Board moved the shipment confirmation documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(E) to this subsection (a)(24)(E)(vi).

- F) The reclaimer of hazardous secondary material or any intermediate facility, as defined in 35 Ill. Adm. Code 720.110, that manages material which is excluded from regulation pursuant to this subsection (a)(24) must satisfy all of the following conditions:
- i) The owner or operator of a reclamation or intermediate facility must maintain at its facility for a minimum of three years records of every shipment of hazardous secondary material that the facility received and, if applicable, for every shipment of hazardous secondary material that the facility received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, contain the following information: the name of the transporter and date of the shipment; the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the facility received the hazardous secondary materials; the type and quantity of hazardous secondary material in the shipment; and, for hazardous secondary materials that the facility subsequently transferred off-site for further reclamation after receiving it, the name and address of the (subsequent) reclaimer and any intermediate facility to which the facility sent the hazardous secondary material.

BOARD NOTE: The Board combined the provisions from 40 CFR 261.4(a)(24)(vi)(A) and (a)(24)(vi)(A)(1) through (a)(24)(vi)(A)(3) that enumerate the required information into this single subsection (a)(24)(F)(i). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

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- ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.
- iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).
- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An "analogous raw material" is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
- v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C of this Part, or if the residuals themselves are specifically listed as hazardous waste in Subpart D of this Part, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable

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requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.

- vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H of this Part.
- G) Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.
- H) For the purposes of subsection (a)(24)(E)(ii) of this Section, the hazardous secondary material generator must affirmatively determine that each of the following conditions is true for each reclamation facility and any intermediate facility that will manage the generator's hazardous secondary material:
  - i) Available information indicates that the reclamation process is legitimate recycling, as determined pursuant to 35 Ill. Adm. Code 720.143. In making this determination, the hazardous secondary material generator may rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as on information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process. (By making this determination, the hazardous secondary material generator has also satisfied the requirement in 35 Ill. Adm. Code 720.143(a) that the generator demonstrate that the recycling is legitimate).
  - ii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has submitted the notification required by 35 Ill. Adm. Code 720.142, and these facilities have submitted the required proofs of financial assurance as required by the applicable of Section 721.243(a)(1), (b)(1), (c)(1), (d)(1), (e)(3), and

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(g) and notification of financial assurance pursuant to 35 Ill. Adm. Code 720.142(a)(5). In making this dual determination, the hazardous secondary material generator may rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements pursuant to 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify the Agency whether the reclaimer or intermediate facility has financial assurance.

- iii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, and the facility has not been classified as a significant non-complier (SNC) with RCRA Subtitle C requirements. In making this determination, the hazardous secondary material generator may rely on the publicly available information from USEPA, the Agency, or the Office of the Attorney General. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, or if the facility has been classified as a SNC with RCRA Subtitle C requirements, the hazardous secondary material generator must have credible evidence that the facility will manage the hazardous secondary materials properly. In making this determination, the hazardous secondary material generator can obtain additional information from USEPA, the Agency, the Office of the Attorney General, or the facility itself which indicates that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not

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relevant to the proper management of the generator's hazardous secondary materials.

BOARD NOTE: USEPA or a state may make a formalized determination that a facility is a SNC (pronounced "snick") pursuant to USEPA's "Hazardous Waste Civil Enforcement Response Policy" (most recent version: December 2003, available from USEPA, Envirofacts Data Warehouse ([www.epa.gov/compliance/resources/policies/civil/rcra/finalerp1203.pdf](http://www.epa.gov/compliance/resources/policies/civil/rcra/finalerp1203.pdf))). USEPA operates the online RCRAInfo database ([www.epa.gov/enviro/html/rcris/](http://www.epa.gov/enviro/html/rcris/)) from which interested persons can learn whether a facility has significant federal enforcement action against it, or if it is a SNC.

- iv) Available information indicates that the reclamation facility and any intermediate facility used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material. In making this determination, the generator may rely on a description made by the reclamation facility or an independent third party of the equipment and trained personnel that the facility will use to manage and recycle the generator's hazardous secondary material.
- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility has the permits required (if any) to manage the residuals. If the reclamation facility does not have required permits, the facility has a contract with an appropriately permitted facility to dispose of the residuals. If the reclamation facility does not have required permits or a contract with a permitted facility, the hazardous secondary material generator has credible evidence that the residuals will be managed in a manner that is protective of human health and the environment. In making these determinations, the hazardous secondary material generator may rely on publicly available information from USEPA or

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the Agency, or on information provided by the facility itself.

BOARD NOTE: The Board moved 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v), which set forth the determinations mandated for the purposes of subsection (a)(24)(E)(ii). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

- 25) Hazardous secondary materials exported for recycling. Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, so long as the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) of this Section, except that the requirements of subsection (a)(24)(H)(ii) of this Section (requiring the use of publicly available information to verify that the facility has submitted required notifications) do not apply to foreign reclaimers and intermediate facilities, and the hazardous secondary material generator also complies with the following requirements:
- A) The generator must notify the Agency and USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a period up to 12 months in duration, but not longer. The notification must be in writing and signed by the hazardous secondary material generator, and must include the following information:
- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
  - ii) A description of the hazardous secondary material; the USEPA hazardous waste number that would apply were the

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hazardous secondary material to be managed as hazardous waste; and the USDOT proper shipping name, hazard class, and identification number (UN or NA number) for each hazardous secondary material, as identified in 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111;

- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported, and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), and the types of container (drums, boxes, tanks, etc.));
- vii) A description of the manner in which the hazardous secondary material will be reclaimed in the receiving country;
- viii) The name and address of each reclaimer, any intermediate facility, and any alternative reclaimer and intermediate facilities; and
- ix) The name of any transit countries through which the hazardous secondary material will be sent, together with a description of the approximate length of time the material will remain in each transit country and the nature of the handling of the material while in the country (for purposes of this Section, the meanings of the terms

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"Acknowledgement of Consent," "receiving country," and "transit country" are as defined in 35 Ill. Adm. Code 722.151, with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).

- B) Submission of notification of intent to export hazardous secondary material. Whether delivered by mail or hand delivery, the following words must prominently appear on the front of the envelope: "Attention: Notification of Intent to Export."

- i) A notification that is submitted by mail must be sent to the following mailing addresses:

Office of Enforcement and Compliance Assurance  
Office of Federal Activities  
International Compliance Assurance Division (Mail  
Code 2254A)  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW.  
Washington, DC 20460

Permits Section  
Division of Land Pollution Control  
Illinois Environmental Protection Agency  
P.O. Box 19276  
Springfield, Illinois 62794-9276

- ii) A notification that is hand-delivered must be delivered to the following addresses:

Office of Enforcement and Compliance Assurance  
Office of Federal Activities  
International Compliance Assurance Division  
Environmental Protection Agency  
Ariel Rios Bldg., Room 6144  
12<sup>th</sup> St. and Pennsylvania Ave., NW.  
Washington, DC 20004

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Permits Section  
Division of Land Pollution Control  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

- C) Except for a change in the telephone number submitted pursuant to subsection (a)(25)(A)(i) of this Section or a decrease in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv) of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide the Agency and USEPA with a written re-notification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (a)(25)(A)(ix) of this Section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(25)(A)(v) of this Section) has been obtained and the hazardous secondary material generator receives from USEPA an Acknowledgment of Consent reflecting the receiving country's consent to the changes.
- D) Upon request from the Agency or USEPA, the hazardous secondary material generator must furnish to the Agency and USEPA any additional information that a receiving country requests in order to respond to a notification.
- E) USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when USEPA determines that the notification satisfies the requirements of subsection (a)(25)(A) of this Section. When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A) of this Section, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it

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may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

- F) The export of hazardous secondary material pursuant to this subsection (a)(25) is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the hazardous secondary material, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vi) that it will send an Acknowledgment of Consent to the hazardous secondary material generator. When the receiving country objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA has stated that it will notify the hazardous secondary material generator in writing. USEPA has stated that it will also notify the hazardous secondary material generator of any responses from transit countries.
- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any receiving country or transit countries to a notification provided pursuant to subsection (a)(25)(A) of this Section within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the receiving country, the trans-boundary movement may commence. In such cases, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vii) that it will send an Acknowledgment of Consent to inform the hazardous secondary material generator that the receiving country and any relevant transit countries have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; re-notification and renewal of all consents is required for exports after that date.
- H) A copy of the Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgment of Consent.
- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate

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intermediate facility, the hazardous secondary material generator must re-notify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another Acknowledgment of Consent.

- J) The hazardous secondary material generator must keep a copy of each notification of intent to export and each Acknowledgment of Consent for a period of three years following receipt of the Acknowledgment of Consent.
- K) Annual reporting of hazardous secondary material exports. A hazardous secondary material generator must file with the Agency and USEPA, no later than March 1 of each year, a report that summarizes the types, quantities, frequency, and ultimate destinations of all hazardous secondary materials exported during the previous calendar year. Annual reports must be sent to the addresses listed in subsection (a)(25)(B) of this Section (for mail or hand delivery, as appropriate) for submission notification of intent to export hazardous secondary material. The annual reports must include the following information:
- i) The name, mailing and site addresses, and USEPA identification number (if applicable) of the hazardous secondary material generator;
  - ii) The calendar year covered by the report;
  - iii) The name and site address of each reclaimer and intermediate facility that received exported hazardous secondary material from the generator;
  - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; the USDOT hazard class for the material, as determined pursuant to 49

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CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each transporter used; the total amount of hazardous secondary material shipped; and the number of shipments pursuant to each notification;

- v) A certification signed by the hazardous secondary material generator that states as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

- L) Any person that claims an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.

26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:

- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is

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being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
- i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
  - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
  - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
- F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-

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[state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.](#)

- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:
- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:
    - A) The facility receives and burns only the following waste:
      - i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
      - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
    - B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

BOARD NOTE: The U.S. Supreme Court determined, in *City of Chicago v. Environmental Defense Fund, Inc.*, 511 U.S. 328, 114 S. Ct. 1588, 128 L. Ed. 2d 302 (1994), that this exclusion and RCRA section 3001(i) (42 USC 6921(i)) do not exclude the ash from facilities covered by this subsection (b)(1) from regulation as a hazardous waste. At 59 Fed. Reg. 29372 (June 7, 1994), USEPA granted facilities managing ash from such facilities that is determined a hazardous waste under Subpart C of this Part until

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December 7, 1994 to file a Part A permit application pursuant to 35 Ill. Adm. Code 703.181. At 60 Fed. Reg. 6666 (Feb. 3, 1995), USEPA stated that it interpreted that the point at which ash becomes subject to RCRA Subtitle C regulation is when that material leaves the combustion building (including connected air pollution control equipment).

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
  - A) The growing and harvesting of agricultural crops, or
  - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium wastes.
  - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
    - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;

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- ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
  - iii) The waste is typically and frequently managed in non-oxidizing environments.
- B) The following are specific wastes that meet the standard in subsection (b)(6)(A) of this Section (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
- i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
  - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
  - iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
  - iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
  - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry:

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- hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
  - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
  - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.
  - B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

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- i) Slag from primary copper processing;
- ii) Slag from primary lead processing;
- iii) Red and brown muds from bauxite refining;
- iv) Phosphogypsum from phosphoric acid production;
- v) Slag from elemental phosphorus production;
- vi) Gasifier ash from coal gasification;
- vii) Process wastewater from coal gasification;
- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- ix) Slag tailings from primary copper processing;
- x) Fluorogypsum from hydrofluoric acid production;
- xi) Process wastewater from hydrofluoric acid production;
- xii) Air pollution control dust or sludge from iron blast furnaces;
- xiii) Iron blast furnace slag;
- xiv) Treated residue from roasting and leaching of chrome ore;
- xv) Process wastewater from primary magnesium processing by the anhydrous process;
- xvi) Process wastewater from phosphoric acid production;
- xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;

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- xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
  - xix) Chloride processing waste solids from titanium tetrachloride production; and
  - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
  - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains

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structural parity with USEPA regulations.

- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:
  - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
  - B) Hot-draining and crushing;
  - C) Dismantling and hot-draining; or
  - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
  - A) The following conditions must be fulfilled:
    - i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

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USEPA Hazardous Waste Numbers	Listing Effective Date
K169, K170, K171, and K172	February 8, 1999
K174 and K175	May 7, 2001
K176, K177, and K178	May 20, 2002
K181	August 23, 2005

- ii) The solid wastes described in subsection (b)(15)(A)(i) of this Section were disposed of prior to the effective date of the listing (as set forth in that subsection);
  - iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
  - iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act ([33 USC 1317\(b\) or 1342](#)).
- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, ~~or K178~~, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. ~~After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge.~~ There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.

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- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.
- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
- C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the

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applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

- E) Generators must maintain at their site the following documentation:
- i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
  - ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
  - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
  - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
  - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC

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7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or

iv) A hazardous waste combustor, boiler or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.

- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.
- d) Samples.
- 1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:
    - A) The sample is being transported to a laboratory for the purpose of testing;
    - B) The sample is being transported back to the sample collector after testing;
    - C) The sample is being stored by the sample collector before transport to a laboratory for testing;

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- D) The sample is being stored in a laboratory before testing;
  - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
  - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B) of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
- A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
  - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
    - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
    - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this Section.
- e) Treatability study samples.
- 1) Except as is provided in subsection (e)(2) of this Section, a person that

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generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:

- A) The sample is being collected and prepared for transportation by the generator or sample collector;
  - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
  - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- 2) The exemption in subsection (e)(1) of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
- A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
  - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
  - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) of this Section are met.

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- i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
  - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;
- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
- E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
- i) Copies of the shipping documents;
  - ii) A copy of the contract with the facility conducting the treatability study; and
  - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
- F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.

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- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of this Section, for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of subsection (e)(3)(C) of this Section:
- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.
  - B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
  - C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F) of this Section. The generator or sample collector must apply to the Agency and provide in writing the following information:

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- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
  - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
  - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
  - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
  - v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act ([42 USC 6930](#)), provided that the requirements of subsections (f)(1) through (f)(11) of this Section are met. A mobile treatment unit may qualify as a testing facility

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subject to subsections (f)(1) through (f)(11) of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
- 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
- 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
- 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

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- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
  - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
  - B) The date the shipment was received;
  - C) The quantity of waste accepted;
  - D) The quantity of "as received" waste in storage each day;
  - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
  - F) The date the treatability study was concluded;
  - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
  - A) The name, address, and USEPA identification number of the facility conducting the treatability studies;

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- B) The types (by process) of treatability studies conducted;
  - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
  - D) The total quantity of waste in storage each day;
  - E) The quantity and types of waste subjected to treatability studies;
  - F) When each treatability study was conducted; and
  - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:
- "Dredged material" has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- "Permit" means any of the following:
- A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);

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A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413); or

In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:

- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable.

BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

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4) Required Certifications.

- A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.)."

- B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable

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requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730."

- C) The signed certification statement must be kept on-site for no less than three years, and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly-available website (if such website exists) as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

(Source: Amended at 38 Ill. Reg. 12442, effective May 27, 2014)

**Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators**

- a) A generator is a conditionally exempt small quantity generator (CESQG) in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
- b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a CESQG's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act ([42 USC 6930](#)), provided the generator complies with subsections (f), (g), and (j) of this Section.
- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
- 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;

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- 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
  - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
  - 4) Hazardous waste that is used oil managed pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
  - 5) Hazardous waste that is spent lead-acid batteries managed pursuant to Subpart G of 35 Ill. Adm. Code 726;
  - 6) Hazardous waste that is universal waste managed pursuant to Section 721.109 and 35 Ill. Adm. Code 733; and
  - 7) Hazardous waste that is an unused commercial chemical product (that is listed in Subpart D of 35 Ill. Adm. Code 721 or which exhibits one or more characteristics in Subpart C of 35 Ill. Adm. Code 721) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section 722.313. For purposes of this subsection (c)(7), the term "eligible academic entity" has the meaning given that term in 35 Ill. Adm. Code 722.300.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
  - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
  - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities

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greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act ([42 USC 6930](#)).

- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e); or
- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in ~~subsections~~ subsections (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:
  - 1) 35 Ill. Adm. Code 722.111.
  - 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
  - 3) A CESQG may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:

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- A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
- B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
- C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:
  - i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
  - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or

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federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.

- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less ~~kilograms~~ of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) [The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111](#);
  - 2) The CESQG may accumulate hazardous waste on-site. If it accumulates at any time 1,000 kilograms or greater of the generator's hazardous waste, all of those accumulated wastes are subject to regulation pursuant to the special provisions of 35 Ill. Adm. Code 722 applicable to generators of greater than 100 kg and less than 1,000 kg of hazardous waste in a calendar month, as well as 35 Ill. Adm. Code 702, 703, and 723 through 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act ([42 USC 6930](#)). The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;
  - 3) A CESQG may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
    - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
    - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
    - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;

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- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal [CESQG waste landfill disposal standards in](#) 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills the following conditions:
- i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
  - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.
- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of

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hazardous wastes identified in Subpart C of this Part.

- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.
- j) If a CESQG's hazardous wastes are mixed with used oil, the mixture is subject to [the used oil standards in](#) 35 Ill. Adm. Code 739. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

(Source: Amended at 38 Ill. Reg. 12442, effective May 27, 2014)

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- 1) Heading of the Part: Newborn Metabolic Screening and Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 661
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
661.10	Amendment
661.15	Amendment
- 4) Statutory Authority: Implementing and authorized by the Newborn Metabolic Screening Act [410 ILCS 240]
- 5) Effective Date of Rule: June 2, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments published in the *Illinois Register*: 38 Ill. Reg. 5142; February 21, 2014
- 10) Has JCAR issued a Statement of Objection 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 required.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department of Public Health's Division of Laboratories provides testing to support the Newborn Screening Program. The requested changes are to clarify the storage and use of newborn screening specimens. After testing is complete, specimens will be retained for a period of time (at least two months) in case

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repeat testing or supplemental testing of the specimen is necessary to complete the screening. When this supplemental testing is not performed by the Division of

Laboratories, it may be necessary to engage the services of other clinical laboratories to perform this additional testing. Retained specimens are also used to provide quality control material to ensure the accuracy of current methods and those methods under development. If the specimen is determined to be normal, it will be retained for not longer than four months. Since abnormal specimens provide a special opportunity for quality control and are rarely encountered, they will be retained for a longer period of time. Abnormal specimens will be retained for a maximum of six years. After storage by the Division of Laboratories, all specimens will be destroyed.

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

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5<sup>th</sup> Floor  
Springfield, Illinois 62761

217/782-2043  
dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER i: MATERNAL AND CHILD HEALTHPART 661  
NEWBORN METABOLIC SCREENING AND TREATMENT CODE

## Section

661.10	Responsibility <a href="#">for Screening</a>
661.15	Definitions
661.20	Collection of Blood and Submission of Specimens
661.30	Interpretation of Results
661.35	Designation of Medical Specialists
661.40	Reports
661.50	Diagnosis and Treatment
661.60	Exemption
661.70	Fee Assessment and Payment

**AUTHORITY:** Implementing and authorized by the Newborn Metabolic Screening Act [410 ILCS 240].

**SOURCE:** Adopted December 14, 1973; emergency rules at 3 Ill. Reg. 28, p. 224, effective June 28, 1979, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 48, p. 42, effective November 20, 1979; amended at 5 Ill. Reg. 4593, effective April 15, 1981; amended and codified at 8 Ill. Reg. 19041, effective September 26, 1984; amended at 11 Ill. Reg. 12921, effective August 1, 1987; amended at 13 Ill. Reg. 15079, effective October 1, 1989; amended at 14 Ill. Reg. 13292, effective August 15, 1990; amended at 17 Ill. Reg. 13609, effective August 1, 1993; amended at 19 Ill. Reg. 15720, effective November 1, 1995; expedited correction at 20 Ill. Reg. 3590, effective November 1, 1995; amended at 22 Ill. Reg. 20639, effective November 10, 1998; amended at 26 Ill. Reg. 10676, effective July 1, 2002; amended at 26 Ill. Reg. 18412, effective January 1, 2003; amended at 31 Ill. Reg. 13203, effective August 28, 2007; amended at 34 Ill. Reg. 940, effective December 31, 2009; amended at 36 Ill. Reg. 1753, effective January 19, 2012; amended at 37 Ill. Reg. 13452, effective July 31, 2013; amended at 38 Ill. Reg. 12509, effective June 2, 2014.

**Section 661.10 Responsibility [for Screening](#)**

- a) The physician in attendance at or immediately after the birth of the newborn

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infant shall have primary responsibility for seeing that a specimen of the infant's blood is screened in accordance with this Part. Newborn screening includes tests for the following disorders: classical phenylketonuria (PKU) and certain other amino acid, organic acid, and fatty acid oxidation disorders; primary hypothyroidism; classical galactosemia; congenital adrenal hyperplasia due to 21-hydroxylase deficiency; biotinidase deficiency; sickle cell disease/trait; cystic fibrosis; lysosomal storage disorders; and severe combined immunodeficiency. Specific diseases in the categories of amino acid, organic acid, and fatty acid oxidation disorders and lysosomal storage disorders shall be reviewed by the Genetic and Metabolic Diseases Advisory Committee. The Department will consider the recommendations of the Genetic and Metabolic Diseases Advisory Committee in determining to include an additional disorder in the screening panel. Implementation of the Department's determination is subject to that determination's adoption by rule. For a current list of disorders, refer to the Illinois Department of Public Health Newborn Screening Practitioner's Manual. A blood specimen meeting the requirements for testing shall suffice for all tests (see Section 661.20). The physician may delegate this responsibility to the hospital administrator or to the administrator's designated representative, such as a member of the pediatrics staff, the laboratory director, the obstetrical supervisor, or other hospital official.

- b) If the infant is not born in or admitted to a hospital or when there is no physician in attendance at or immediately after the birth, the physician caring for the infant during the first month of life shall be the individual responsible for seeing that a blood specimen for newborn screening is submitted. When there is no physician caring for the infant during this period, the parents or guardian is responsible. Local health authorities or the Department will assist the parents or guardian in having a blood specimen submitted for testing.
- c) All specimens collected pursuant to this Part shall be submitted for testing to the Newborn Screening Section, Division of Laboratories, Illinois Department of Public Health, 2121 West Taylor Street, Chicago, Illinois 60612 (see Section 661.20).
- d) When a retest is determined to be necessary pursuant to Section 661.30 of this Part, the ~~Illinois Department of Public Health~~ will notify the physician or his or her designee who is responsible for obtaining another specimen and having the specimen tested.

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- e) Specimens received by the Department for newborn screening will be retained for a minimum of two months. If all test results obtained from a specimen are determined to be within normal range, the specimen will be retained for a maximum of four months. If any test result obtained from a specimen is determined to be abnormal (i.e., out of normal range), the specimen will be retained for a maximum of six years. Specimens that the Department retains may be used within the Department for quality control purposes as required under the Clinical Laboratory Improvement Amendments (CLIA). Based on the Department's testing capabilities, specimens with an abnormal result may be referred to other clinical laboratories for supplemental testing to further characterize the abnormality. After the maximum time period for retention, the Department will destroy all specimens.

(Source: Amended at 38 Ill. Reg. 12509, effective June 2, 2014)

**Section 661.15 Definitions**

"Act" means the Newborn Metabolic Screening Act [410 ILCS 240].

"Advisory Committee" means the Genetic and Metabolic Diseases Advisory Committee appointed by the Director.

"Clinical and Laboratory Standards Institute" or "CLSI" means a global nonprofit standards-developing organization that promotes the development and use of voluntary consensus standards and guidelines within the health care community.

"Clinical Laboratory Improvement Amendments" or "CLIA" means federal regulations (Centers for Medicare and Medicaid Services, United States Department of Health and Human Services) providing standards applicable to all facilities or sites in the United States that test human specimens for health assessment or to diagnose, prevent or treat disease.

"Department" or "DPH" means the Department of Public Health.

"Director" means the Director of the Department of Public Health.

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"Formula" means a medically prescribed treatment substance that has been designed to treat a specific metabolic disorder.

"Lysosomal storage disorders" or "LSD" means disorders including, but not limited to, the following: Krabbe, Pompe, Gaucher, Fabry, Niemann-Pick and Mucopolysaccharidosis Type I (Hurlers syndrome) and Mucopolysaccharidosis Type II (Hunters syndrome), which are inherited metabolic disorders caused by lysosomal dysfunction, usually as a consequence of deficiency of a single enzyme required for the metabolism of lipids, glycoproteins or mucopolysaccharides.

"Newborn screening" or "testing" means the testing of a blood sample for classical phenylketonuria (PKU) and certain other amino acid, organic acid, and fatty acid oxidation disorders, primary hypothyroidism, classical galactosemia, congenital adrenal hyperplasia due to 21-hydroxylase deficiency, biotinidase deficiency, sickle cell disease/trait, cystic fibrosis, lysosomal storage disorders, and severe combined immunodeficiency. At times, variant forms of some disorders, or related conditions, may also be identified.

"Quality control" means a procedure or set of procedures to assure the accuracy of results reported by the laboratory.

"Tandem mass spectrometry" or "MS/MS" means use of a tandem mass spectrometer and associated software to test a newborn screening sample.

"Severe combined immunodeficiency and T cell lymphopenia or "SCID" means a primary immune deficiency characterized by a severe defect in both the T and B lymphocyte systems.

"Supplemental test" means any test approved by the United States Food and Drug Administration or validated under a laboratory's CLIA certification that is used to further characterize a newborn screening specimen that had received a positive (i.e., abnormal) result when initially screened by the laboratory.

"Using accepted statistical techniques" means using techniques that have been published in peer reviewed scientific literature.

(Source: Amended at 38 Ill. Reg. 12509, effective June 2, 2014)

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1030.1	Amendment
1030.5	Amendment
1030.6	Amendment
1030.7	Amendment
1030.65	Amendment
1030.66	New Section
- 4) Statutory Authority: 625 ILCS 5/6-107.5
- 5) Effective Date of Rule: July 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notices of Proposed published in the *Illinois Register*: 38 Ill. Reg. 5163, February 21, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking: No
- 11) Difference between Proposal and Final Version: All changes recommended by JCAR have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

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Section Numbers:      Proposed Action:      Illinois Register Citation:  
1030.7                      Amendment                      38 Ill. Reg. 8331; April 18, 2014

- 15) Summary and Purpose of Rulemaking: This rulemaking implements PA 98-167, effective July 1, 2014 that requires driver's license applicant's between the ages of 18 and 20 who have never previously been licensed or completed an approved driver education course to complete six hour of adult driver education.

The rulemaking sets forth requirements for existing licensed commercial driver training schools to offer the adult education program, in either a classroom or online setting. The rulemaking also set forth requirements for those entities that are not currently licensed as commercial driver training schools to obtain certification to offer online-only adult driver education. Requirements for online providers include submission of an application, surety bond, approval by the Secretary of the proposed course content and verification of student participation and identity.

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

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

217-557-4462

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

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1030  
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License (Renumbered)
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CDL Holders
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
<a href="#">1030.66</a>	<a href="#">Adult Driver Education</a>
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test

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- 1030.81 Endorsements
- 1030.82 Charter Bus Driver Endorsement Requirements
- 1030.83 Hazardous Material Endorsement
- 1030.84 Vehicle Inspection
- 1030.85 Driver's License Testing/Road Test
- 1030.86 Multiple Attempts – Written and/or Road Tests
- 1030.88 Exemption of Facility Administered Road Test
- 1030.89 Temporary Driver's Licenses and Temporary Instruction Permits
- 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
- 1030.91 Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Instruction Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
- 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

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

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SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August

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10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg.

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7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014.

**Section 1030.1 Definitions**

Unless otherwise noted, the following definitions shall apply to this Part.

"Acceptable Medical Certificate" – a current medical examiner's certificate that has been completed in its entirety and does not require additional information.

"Adjudication of Disability" – an order by a court of competent jurisdiction declaring a person, unable to fully manage his/her person and/or estate because of mental deterioration or physical incapacity, or mental illness or developmental disability, pursuant to Sections 11a-1, 11a-2 and 11a-3 of the Probate Act of 1975 [755 ILCS 5/11a-1, 11a-2 and 11a-3].

"Adult Driver Education Course" – six hour classroom or online course of driver education for persons age 18, 19 or 20, offered by an adult driver education course provider.

"Adult Driver Education Course Provider" or "Provider" – an entity certified by the Secretary of State to provide an adult driver education course, either in a classroom setting or online.

"Agri-Chemical Business" – any individual, partnership, corporation or association engaged in a business operation for the purpose of selling or distributing agricultural pesticides and/or fertilizers or providing the service of application of these substances in this State.

"Applicant" – a person applying for an Illinois driver's license, permit or identification card.

*"Approved Driver Education Course" –*

*a course of driver education approved by the State Board of Education, offered by public or private schools maintaining grades 9 through 12, and meeting at least the minimum requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8]; or*

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*a course of driver education offered by a school licensed to give driver education instructions under the Vehicle Code that meets at least the minimum educational requirements of the Driver Education Act and is approved by the State Board of Education; or*

*any course of driver education given at a Department of Defense Education Activity school that is approved by the Department of Defense Education Activity and taught by an adult driver education instructor or traffic safety officer; or*

*a course of driver education given in another state to an Illinois resident attending school in that state and approved by the state administrator of the driver education program of the other state [625 ILCS 5/1-103].*

"Armed Forces" – the United States Army, Navy, Air Force, Marine Corps or Coast Guard; Illinois National Guard; service in the Merchant Marine that constitutes active duty under Section 401 of the Federal Public Law 95-202 (38 USC 106) shall also be considered service in the Armed Forces of the United States.

"Authorized Secretary of State Employee" – a Secretary of State employee with a supervisory position.

"Authorized Source" –

competent medical specialist

law enforcement official

member of the judiciary

Member of the Board

National Driver Register

authorized Secretary of State employee

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employee of the U.S. Department of Transportation, Office of Motor Carriers

motor vehicle departments of foreign states

driver rehabilitation specialist

problem driver pointer system

"Binocular Visual Acuity" – a visual reading obtained utilizing both eyes at the same time.

"Branch Facility" – a separate training/testing facility operated and directly supervised by a third-party certifying entity at a location different from the principal location of the third-party certifying entity.

"Business Day" – any day on which the Office of the Secretary of State is open; generally, Monday through Saturday, excluding State holidays.

"CDL Skills Test" – a test given to an applicant who is attempting to obtain a Commercial Driver's License (CDL).

*"CDLIS Driver Record" – the electronic record of the individual CDL driver's status and history stored by the State-of-Record as part of the Commercial Driver's License Information System, or CDLIS, established under 49 USC 31309. [625 ILCS 5/6-500(5.3)]*

*"CDLIS Motor Vehicle Record" or "CDLIS MVR" – a report generated from the CDLIS driver record meeting the requirements for access to CDLIS information and provided by states to users authorized in 49 CFR 384.225(e)(3) and (4) (2011), subject to the provisions of the Driver Privacy Protection Act (18 USC 2721-2725). [625 ILCS 5/6-500(5.5)]*

*"Commercial Driver's License Downgrade" – a state:*

*allows the driver to change his or her self certification to interstate, but operating exclusively in transportation or operation excepted from 49*

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*CFR 391 (2011), as provided in 49 CFR 390.3(f), 391.2, 391.68 or 398.3 (2011);*

*allows the driver to change his or her self-certification to intrastate only, if the driver qualifies under that state's physical qualification requirements for intrastate only;*

*allows the driver to change his or her self-certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver qualification requirements; or*

*removes the CDL privilege from the driver's license. [625 ILCS 5/6-500(5.7)]*

*"Cancellation" – the annulment or termination by formal action of the Secretary of a person's driver's license or permit because of some error or defect in the license or because the licensee is no longer entitled to such license or permit, but, with the exception of Sections 6-107, 6-108 and 6-201, the cancellation of a license or permit is without prejudice and application for a new license or permit may be made at any time after such cancellation [625 ILCS 5/1-110 and 5/6-206(c)(3) and 6-201].*

*"Central Issuance" – the process of printing and mailing a driver's license to an applicant from a secure central production facility.*

*"Certificate of Completion" – a certificate of completion issued by the Office of the Secretary of State if the student has successfully completed his/her driver education course at an approved commercial driver training school as provided in IVC Chapter 6, Art. IV and 92 Ill. Adm. Code 1060.*

*"Charter Bus Driver Endorsement" – an indicator on the driver's license that the driver is qualified to transport a group of persons with a common purpose, under a single contract at a fixed rate for their exclusive use of that motor vehicle.*

*"Cheating on Written Tests" – the receipt or use of unauthorized assistance in the taking of any portion of a written test. This includes, but is not limited to, the use of any notes, books or written information.*

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"Cited Driver" – a driver who has been requested by the Secretary of State to appear for re-test.

"Classification" – a designation as to the kind and type of vehicle a driver is entitled to operate, as outlined in Sections 1030.30 and 1030.40.

"Classroom Instruction" – the part of an approved driver education course consisting of learning experiences in the classroom. This instruction must be of the type to satisfy the 30 clock hours of instruction specified in Section 27-23 of the School Code [105 ILCS 5/27-23].

"Cleared Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, nighttime driving restriction, or unsatisfied judgment.

"Commercial Driver's License" or "CDL" – *a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR 383, to an individual, that authorizes the individual to operate a certain class of commercial motor vehicle* [625 ILCS 5/1-111.6].

"Commercial Driver's License Information System" or "CDLIS" – the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial Driver Instruction Permit" or "CIP" – a permit issued pursuant to IVC Section 6-508.

"Commercial Motor Vehicle" or "CMV" – *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 of 11,794 kilograms (26,000 pounds) or more inclusive of towed units with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or*

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*has a gross vehicle weight rating of 11,794 kilograms (26,001 pounds) or more; 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 the Federal Motor Carrier Safety Regulations (49 CFR 383.5 (October 1, 2012)). [625 ILCS 5/6-500(6)]*

*"Commuter Van" – a motor vehicle designed for the transportation of not less than seven or more than 16 passengers, that is used in a ridesharing arrangement [625 ILCS 5/1-111.9].*

*"Competent Medical Specialist" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches.*

*"Confirmed Medical Emergency" – documented medical emergency from a licensed physician specifying the cited driver is unable to appear during the 30 day re-testing period. This includes, but is not necessarily limited to, the following conditions: hospitalization, serious illness, broken limbs.*

*"Consular Identification Document" – an official identification card issued by a foreign government that meets the criteria set forth in Section 5 of the Consular Identification Document Act [5 ILCS 230/5] and the issuing consulate has filed with the Department of State Police a copy of the consular identification document and a certification of the procedures that are used to satisfy Sections 2 and 3 of the Consular Identification Document Act.*

*"Conviction" – A final adjudication of guilty by a court of competent jurisdiction after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default [625 ILCS 5/6-100(b)].*

*"Conviction-CDL Holder" – 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 guilty or nolo contendere accepted by the court;*

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*the payment of a fine or court cost regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated [625 ILCS 5/6-500(8)].*

"Cooperative Driver Certificate" – a certificate prescribed by the Secretary of State indicating a successfully-completed road test, subject to spot check by the Secretary of State, was administered to a driver education student, who has successfully completed driver training by an Illinois State Board of Education approved driver education instructor.

"Cooperative Driver Testing Program" – a program offered by the Department to local school boards with accredited driver education courses, allowing students who receive a grade of A or B in the driver education course and who pass a road test administered by a Department certified high school driver education instructor to be exempted from a road test administered by the Department.

"Court Documents" – the items issued by a court, such as reports, notices, summonses, subpoenas, orders and transcripts.

"Criminal Justice Agencies" – the federal and state courts, a governmental agency or sub-unit that performs the duties of the detection, apprehension or detention of accused persons or criminal offenders pursuant to a statute.

"Current Medical Report" – any medical report completed within 90 days after receipt by the Department that is signed and dated by a competent medical specialist.

"Current Telescopic Lens Vision Specialist Report" – any vision specialist report completed for a telescopic lens user that has been completed within six months prior to receipt by the Department and is signed and dated by a licensed vision specialist.

"Current Vision Specialist Report" – any vision specialist report completed for a driver that has been completed within six months prior to receipt by the Department and is signed and dated by a vision specialist.

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"Custom Harvester" – any individual, partnership, corporation or association engaged in a business operation for the purpose of harvesting agricultural commodities other than their own on a contract basis.

"Dangerous Action" – an act by the applicant that could endanger a person or property.

"Day" – a calendar day.

"Denial" – any entry on a person's driving record by the Department indicating a driver may not renew his/her driver's license or privileges until the conditions set forth by the Department are met (see IVC Section 6-103).

"Denial of Driver's License" – the act of prohibiting or disallowing the privilege to obtain a driver's license while allowing the privilege to obtain an instructional permit and limiting privileges to that of an instructional permit if a driver's license has previously been issued (see IVC Section 6-107(c) and (d)).

"Denial of Driving Privilege" – the act of prohibiting or disallowing the privilege to obtain a driver's license or permit and/or the privilege to operate a motor vehicle (see IVC Sections 6-103, 6-107(c), 6-108.1).

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Department of Administrative Hearings" – the Department of Administrative Hearings of the Office of the Secretary of State.

"Determination of No Security Threat" – an administrative determination by TSA that an individual does not pose a security threat warranting denial of a Hazardous Material Endorsement.

"Disabled Person Identification Card" – a standard identification card as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] issued for no fee to persons who meet the definition of disabled (see IVC Section 1-159.1).

*"Disability" – an individual's physical or mental impairment that substantially limits one or more of the major life activities; a record of such impairment, or*

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*when the individual is regarded as having such impairment [625 ILCS 5/6-117.2(f)].*

*"Disqualification" – a disqualification means any of the following three actions:*

*the suspension, revocation, or cancellation of a CDL by the state or jurisdiction of issuance;*

*any withdrawal of a person's privileges to drive a commercial motor vehicle 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 FMCSA that a person is not qualified to operate a commercial motor vehicle under 49 CFR 391 (October 1, 2012). [625 ILCS 5/1-115.3]*

*"Disseminating Agency" – an agency authorized by the Secretary of State to distribute or share an image received from the Secretary of State for purposes of secondary dissemination.*

*"Drive" – operate or be in physical control of a motor vehicle [625 ILCS 5/4-115.8].*

*"Driver" – every person who drives or is in actual physical control of a vehicle [625 ILCS 5/1-116].*

*"Driver Applicant" – a person applying to obtain, transfer, upgrade or renew a CDL.*

*"Driver's License Test" – a test administered by the Secretary of State that consists of a vision test, written test and/or road test.*

*"Driver's License Issuance Error" – any act or omission by a Secretary of State employee that results in the driver being not qualified to hold the license as it is classified, restricted and/or endorsed.*

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"Driver's License Record" – a file maintained by the Secretary of State on each driver in Illinois pursuant to IVC Section 6-117.

"Driver Rehabilitation Specialist" – a person who possesses an undergraduate degree in rehabilitation, education, health, safety, therapy or related profession (or equivalent of eight years of experience in driver rehabilitation); possesses a current Association of Driver Educators for the Disabled (ADED) Certification as a Driver Rehabilitation Specialist (consisting of successful completion of 100 clock hours of educational experience, in combination with safety and medical aspects of disabilities; a minimum of 30 hours must be gained from attending ADED approved courses or workshops).

"Driver Remedial Education Course" – an organized remedial activity approved by the Driver Services Department for improving the driving habits of certain suspended drivers. The course shall consist of individual counseling and/or group sessions of instruction and shall not exceed two sessions or a total of nine hours of instruction.

"Driver Services Facility" – the offices located throughout Illinois for the purpose of issuing driver's licenses and providing to the public other necessary services connected with the Secretary of State's Office.

"Driver Services Facility Representative" – an employee of the Department of Driver Services of the Office of Secretary of State.

"Driving Abstract" – a record kept by the Department of Driver Services containing all information required under IVC Section 6-106(b) and all records of violations of traffic laws and administrative actions pertaining to driving privileges.

"Driving Evaluation" – an assessment by a driver education specialist at a rehabilitation institution of an applicant's ability to safely operate a motor vehicle.

"Driving Skills" – the ability of an applicant to perform maneuvers to be demonstrated during a road test.

"Employer" – any individual, corporation, partnership or association that employs charter bus drivers licensed under IVC Section 6-508.

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"Employer Certification" – a form submitted by the employer, as prescribed by the Secretary of State, certifying an applicant has met all conditions for application, or that a driver who is no longer eligible for a charter bus driver endorsement has been removed from service.

"Endorsement" – an indication on a driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

"Enrolled in a Driver Education Course" – active participation in, and the 30 days immediately preceding, the start of regularly scheduled classroom instruction of an approved driver education course.

"Examiner" – an employee of the Secretary of State who is qualified to administer all driver's license tests.

*"Excepted Interstate" or "EI" – a person who operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.69 or 398.3 (October 1, 2012) from all or part of the qualification requirements of 49 CFR 391 (October 1, 2012) and is not required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2012). [625 ILCS 5/6-500(15.3)]*

*"Excepted Intrastate" or "EA" – a person who operates in intrastate commerce but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements. [625 ILCS 5/6-500 (15.5)]*

"Facility-Administered Road Test" – an actual demonstration of the applicant's ability to exercise ordinary and reasonable control of the operation of a motor vehicle administered by a Driver Services Facility employee.

"Farm" – structures and lands used primarily for the raising of agricultural or horticultural commodities, including livestock, poultry, fur-bearing animals, fruit, vegetables, flowers and other plants; "farm" includes ranches, nurseries, greenhouses, orchards, etc.

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"Farm Retail Outlet and/or Supplier" – any individual, partnership, corporation or association engaged in a business operation for the purpose of selling or distributing agricultural commodities.

"Favorable Medical Report" – a current medical report that has been completed in its entirety and does not require additional information and/or clarification or is not medically questionable. A favorable medical report specifies a professional opinion from the competent medical specialist that the driver is medically/mentally fit to safely operate a motor vehicle.

"Favorable Vision Specialist Report" – a current vision specialist report that has been completed in its entirety that does not require additional information and/or clarification.

"Federal Motor Carrier Safety Administration" or "FMCSA" – a separate administration within the U. S. Department of Transportation dedicated to improving the safety of commercial motor vehicles and saving lives.

"Felony" – an offense under state or federal law that is punishable by death or imprisonment for a term of one year or more.

"Final Determination of Threat Assessment" – a final administrative determination by TSA, including the resolution of related appeals, that an individual poses a security threat warranting denial of a Hazardous Material Endorsement.

"Fingerprint Process" – a method by which an applicant's fingerprints are taken for the purpose of a criminal background investigation for a charter bus driver endorsement and submitted to the Illinois Department of State Police (ISP) and the Federal Bureau of Investigation (FBI).

*"First Division Vehicle" – any motor vehicle designed to carry not more than 10 persons [625 ILCS 5/1-217].*

*"Foreign Jurisdiction" – a sovereign jurisdiction that does not fall within the definition of "state" [625 ILCS 5/6-500(B)(17)].*

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"Foreign National" – a non-citizen of the United States of America who has been granted temporary, legal entry into this country by the U.S. Citizenship and Immigration Services (USCIS), who is temporarily residing in this State and is ineligible to obtain a social security number through the Social Security Administration, and who is not required to obtain a driver's license issued by the U.S. Department of State, Office of Foreign Missions.

"Foreign Speaking Applicant" – any applicant unable to understand oral directions given by the examiner.

*"For-Profit Ridesharing Arrangement" – the transportation by motor vehicle of not more than 16 persons, including the driver, for which a fee is charged in accordance with Section 6 of the Ride Sharing Arrangements Act [625 ILCS 30/6]. [625 ILCS 5/1-122.7]*

"Fraud" – includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

"Functional Ability" – the degree of cognitive, mental or emotional sensor motor, and sensory capability in performing activities of daily living, including safely performing driving tasks.

"Good Cause" – examples of dangerous driving or of a physical or mental condition that interferes with safe driving or a situation in which a Secretary of State Driver Services Facility supervisor fails to give a required test or section of a test.

*"Gross Combination Weight Rating" or "GCWR" – the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon as specified in 49 CFR 383.5 (October 1, 2012). [625 ILCS 5/1-124.5]*

*"Gross Vehicle Weight Rating" or "GVWR" – the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single*

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*vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or "GCWR") is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit [625 ILCS 5/1-124.5].*

"Hazardous Material Endorsement" or "HME" – an indicator on the driver's license that the driver is qualified to transport hazardous materials that require placarding.

"Hazardous Materials" – 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 (October 1, 2012) or any quantity of a material listed as a select agent or toxin in 42 CFR 73 (October 1, 2012).

"High School Student" – a student who attends a public or private secondary school accredited by the Illinois State Board of Education.

*"Illinois Medical Advisory Board" or "Board" – a panel consisting of at least nine physicians appointed by the Secretary [625 ILCS 5/6-902].*

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Image" - the digital photo and signature captured in the process of issuing an Illinois driver's license or identification card and retrieved from the Secretary of State database.

"Immediate Family Member" – a parent, child, sibling, grandparent, step-parent, step-child, step-sibling or step-grandparent.

"Immediate Farm Family Member" – a member of the farmer's family is a natural or in-law, spouse, child, parent or sibling as provided in IVC Section 6-507(c).

"Incomplete Medical Report" – a medical report that has not been completed in its entirety, or a medical agreement that has not been signed and dated by the driver.

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"Incomplete Telescopic Lens Vision Specialist Report" – a telescopic lens vision specialist report that has not been completed in its entirety. Examples of an incomplete report include, but are not limited to, omission of name, address, signature or professional license number of the vision specialist or date or one that contains illegible information or fails to answer any of the questions contained within the report.

"Initial Determination of Threat Assessment" – an initial administrative determination by TSA that an individual poses or may pose a security threat warranting denial of a Hazardous Material Endorsement.

"In Loco Parentis" – a person who is acting in place of a minor's parent with a parent's rights, duties and authority.

"Instruction Permit" – a driving permit issued to operate a motor vehicle pursuant to the requirements of IVC Section 6-105 or 6-107.

"Invalidate" – to render invalid any driver's license, permit or driving privileges.

"Invalidation" – the withdrawal, by consent, court order, death of the holder or holder's failure to complete a driver remedial education course of the validation, of a person's license, permit and/or driving privilege under IVC Chapter 6.

"Judicial Driving Permit" – a permit issued granting a driver limited driving privileges as provided in IVC Section 6-206.1.

"Law Enforcement Official" – a federal, state or local police officer, sheriff, coroner, municipal prosecutor, state's attorney or U.S. attorney.

"LEADS" – the Illinois Law Enforcement Agencies Data System.

"Livestock" – any animals such as cattle, sheep, swine, buffalo, cafalo, cattalo, domestic deer, domestic elk, domestic antelope, domestic reindeer, water buffalo and goats.

"Livestock Feeder" – any individual, partnership, corporation or association engaged in a business operation for the purpose of producing livestock.

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"Mandatory Insurance" – The insurance requirements under IVC Chapter 7, Article VI.

"Mandatory Liability Insurance Policy" – a liability insurance policy issued in amounts no less than the minimum amounts set for bodily injury or death and for destruction of property (see IVC Section 7-203), and issued in accordance with the requirements of Sections 143a and 143a-2 of the Illinois Insurance Code [215 ILCS 5/143a and 143a-2]. This definition does not include vehicles subject to the provisions of IVC Chapter 18 or 18a, Article III or IVC Section 7-609, 12-607 or 12-707.01; vehicles required to file proof of liability insurance with the Illinois Commerce Commission; vehicles covered by a certificate of self-insurance (see IVC Section 7-502); vehicles owned by the United States Government, State of Illinois or any political subdivision, municipality or local mass transit district; implements of husbandry (see IVC Section 1-130), other vehicles complying with laws that require insurance in amounts meeting or exceeding the minimum amounts required under the IVC; and inoperable or stored vehicles that are not operated.

"Mandatory Law Enforcement Report" – an unsigned message directed to the Department electronically from law enforcement containing the same information as the form designed by the Department.

"Mechanical Aid" – a device added to a motor vehicle that would enhance the operator's ability to safely operate the vehicle.

"Medical Agreement" – an agreement signed and dated by the driver, maintained as part of the medical report, and including the following conditions and/or information:

a condition that the driver remain under the care of his/her competent medical specialist;

a condition that the driver adhere to the treatment and/or medication;

authorization by the driver to the competent medical specialist to report any change in the driver's condition that would impair the driver's ability to operate a motor vehicle;

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possible consequences for failing to abide by any or all of the conditions contained in the medical agreement.

*"Medical Examiner" – a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic. [625 ILCS 5/6-500(21.1)]*

*"Medical Examiner's Certificate" – a document prescribed or approved by the Secretary of State that is issued by a medical examiner to a driver to medically qualify him or her to drive. [625 ILCS 5/6-500(21.2)]*

"Medical Exemption" – temporary regulatory relief for up to two years from one or more Federal Motor Carrier Safety Regulations given to a person, by FMCSA, subject to the regulations, or a person who intends to engage in an activity that would be subject to the regulations in accordance with 49 CFR 381.300 (October 1, 2012).

"Medical Professional" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, a physician assistant who has been delegated the authority to make the required determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make the determination.

"Medical Report" – a confidential medical questionnaire directed to the Department and approved by the Illinois Medical Advisory Board, or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department.

"Medical Restriction Card" – a card designed and issued by the Department that describes and explains the limitations and/or conditions noted in the restriction area of a person's driver's license.

"Medical Waiver" – temporary regulatory relief for up to three months from one or more Federal Motor Carrier Safety Regulations given to a person, by FMCSA, subject to the regulations, or a person who intends to engage in an activity that

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would be subject to the regulations in accordance with 49 CFR 381.200 (October 1, 2012).

*"Medical Variance" – a driver has received one of the following from FMCSA, which allows the driver to be issued a medical certificate:*

*an exemption letter permitting operation of a CMV pursuant to 49 CFR 381 (October 1, 2012), subpart C or 49 CFR 391.64 (October 1, 2012); or*

*a skilled performance evaluation (SPE) certificate permitting operation of a CMV pursuant to 49 CFR 391.49 (October 1, 2012). [625 ILCS 5/6-500 (21.5)]*

*"Mental or Physical Disorder or Disability" – a scientifically recognized condition that may medically impair a person's mental and/or physical health to the extent of being unable to safely operate a motor vehicle.*

*"Military Deferral Card" – a card issued at the expiration of the driver's license to extend the expiration while in the military, of the license of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.*

*"Minor" – a person under 18 years of age.*

*"Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, nighttime driving restriction or unsatisfied judgement.*

*"Monocular Vision Acuity" – a visual acuity reading obtained utilizing each individual eye.*

*"Moped" – a motor-driven cycle, with or without optional power derived from manually operated pedals, whose speed attainable in one mile is at least 20 m.p.h. but not greater than 30 m.p.h., and is equipped with a motor that produces 2 brake horsepower or less. If an internal combustion engine is used, the displacement shall not exceed 50 cubic centimeter displacement and the power drive system shall not require the operator to shift gears. [625 ILCS 5/1-148.2]*

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*"Motorcycle" – every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor [625 ILCS 5/1-147].*

*"Motorcycle Rider Safety Training Course" – a course of instruction in the use and operation of motorcycles and/or motor-driven cycles, including instruction in the safe on-road operation of motorcycles and/or motor-driven cycles, the rules of the road and the laws of this State relating to motor vehicles, which course must meet the requirements set out in 92 Ill. Adm. Code 455.101.*

*"Motor-Driven Cycle" – every motorcycle and every motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles [625 ILCS 5/1-145.001].*

*"Motor Vehicle" – every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs. Motor vehicles are divided into two divisions:*

*First Division: Those motor vehicles that are designed for the carrying of not more than 10 persons.*

*Second Division: Those motor vehicles that are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles that are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the First Division remodeled for use and used as motor vehicles of the Second Division. [625 ILCS 5/1-146]*

*"Motor Vehicle Departments of Foreign States" – the departments in other states that issue driver's licenses.*

*"Motor Vehicle Record" – a report of the driving status and history of a driver generated from the driver record provided to users, such as drivers or employers, and is subject to the provisions of the Driver Privacy Protection Act (18 USC 2721-2725). [625 ILCS 5/6-500(22.2)]*

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"Nasal Vision Reading" – a field of vision 35° from the straight ahead.

"National Driver Register" or "NDR" – a computerized database of files on drivers maintained by the U.S. Department of Transportation, National Highway Traffic Safety Administration.

"Night" – the hours during the period from sunset to sunrise.

"Nighttime Drive" – a road test administered during the hours of sunset to sunrise.

"Nighttime Driving Privilege" – a privilege granted to a licensed driver to operate a motor vehicle during nighttime hours while wearing a telescopic lens arrangement.

"Non-CDL Skills Test" – any drive test given to an applicant who is attempting to obtain a driver's license except for a Class D, a CDL or a CDL endorsement.

*"Non-Excepted Interstate" or "NI" – a person who operates or expects to operate in interstate commerce, is subject to and meets the qualification requirements under 49 CFR 391 (October 1, 2012), and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2012). [625 ILCS 5/6-500(22.7)]*

*"Non-Excepted Intrastate" or "NA" – a person who operates only in intrastate commerce and is subject to State driver qualification requirements. [625 ILCS 5/6-500(22.8)]*

"Official Investigation" – the act of examining and inquiring into an occurrence or circumstance with care and accuracy by a duly authorized member of a local, state or federal agency while acting in his/her professional capacity.

"Operator's License" – any driver's license to operate a motor vehicle issued under the laws of any state.

"Organized Religion" – a group of people with the same or similar beliefs brought together to exercise those beliefs.

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"P Endorsement" – a notation on the driver's license that the driver has qualified to operate a vehicle designed to transport 16 or more persons, including the driver.

"Peripheral Vision" – vision from the outside line of direct sight toward the temporal area.

"Preliminary Favorable Medical Report" – a current medical report or a current written statement on official letterhead that is signed and dated by a competent medical specialist indicating in his/her professional opinion the driver is medically fit to safely operate a motor vehicle; however, additional information and/or clarification or consultation is needed.

"Probationary License" – a special license granting full driving privileges during a period of suspension and is issued upon successful completion of a driver remedial education course.

"Problem Driver Pointer System" or "PDPS" – a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (SOR) and is accessed by other states (SOI) to determine a person's eligibility to apply for a driver's license.

"Proof of Insurance" – acceptable forms of proof of insurance include, but are not limited to, the following:

Illinois insurance card that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle year and make and a minimum of the last six characters of the Vehicle Identification Number (VIN);

*Combination of proof of purchase of the motor vehicle within 60 days and a current insurance card [625 ILCS 5/7-602(b)];*

*Current declaration page of a liability policy [625 ILCS 5/7-602(c)] that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle description and liability limits of the policy;*

*Liability insurance binder [625 ILCS 5/7-602(d)];*

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*Certificate of Insurance* [625 ILCS 5/7-602(d)];

*Payment receipt for a liability insurance premium* [625 ILCS 5/7-602(d)] that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle year, make and a minimum of the last six characters of the VIN, date of premium payment and signature of company representative;

*Current rental agreement* [625 ILCS 5/7-602(e)];

*Registration plates, registration sticker or other evidence of registration issued by the Secretary of State's Office only upon submission of proof of liability insurance* [625 ILCS 5/7-602(f)];

*Certificate, decal or other document or device issued by a governmental agency for a motor vehicle indicating the vehicle is insured for liability* [625 ILCS 5/7-602(g)] (or has qualified for an exemption to the liability insurance law).

"Prosthesis" – an artificial limb such as arm or leg.

"Public Safety Worker" – a person employed by this State or a political subdivision thereof that provides firefighting, medical or other emergency services [625 ILCS 5/6-117.2(f)].

"Questionable Medical Report" – a medical report that contains medical information raising some reasonable doubt regarding the driver's medical ability to safely operate a motor vehicle, including the following:

A medical report that indicates the driver has experienced an attack of unconsciousness within the past six months;

The medical report lacks a professional opinion indicating whether the driver is medically fit to safely operate a motor vehicle;

The medical report was signed and/or completed by someone other than a competent medical specialist;

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The competent medical specialist recommends the driver has driving privileges, however, expresses reservations about the driver's ability to safely operate a motor vehicle.

*"Reckless Driving" – driving a motor vehicle with a willful or wanton disregard for the safety of persons or property or knowingly driving a vehicle using an incline in a roadway, such as a railroad crossing, bridge approach or hill to cause the vehicle to become airborne [625 ILCS 5/11-503].*

"Registration Sticker" – a device or devices to be attached to a rear registration plate that will renew the registration and registration plate or plates for a pre-determined period not to exceed one registration year except as provided in IVC Section 3-414(1).

"Regularly Scheduled Classroom Instruction" – the continuous and uninterrupted education course that takes place during the specific time period (i.e., quarter) in which the school has scheduled the student to participate.

"Rehabilitation Institution" – any hospital, center, institute or facility engaged in a program to provide driver training for the disabled.

"Religious Organization Bus" – any vehicle other than a vehicle of the First Division or a school bus as defined by IVC Section 1-182 that is exclusively owned and operated by a religious organization and is used primarily in conducting the official activities of that organization.

"Religious Organization Vehicle Restriction" – the authority to operate a religious organization bus (see IVC Section 6-106.2).

"Representative Vehicle" – a motor vehicle that represents the type an applicant operates or expects to operate.

"Rescind" – to annul or void a suspension, revocation, cancellation, disqualification or denial.

"Restricted Local License" – a special restricted driver's license issued under IVC Section 6-113 and intended to enable a person to drive a specific route.

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"Restriction" – the notation on a driver's license or permit indicating requirements deemed applicable to the licensee by the Department to assure safe operation of a motor vehicle.

"Review of Driving Habits" – a review of the applicant's driving record maintained by the Office of the Secretary of State, or documentation from another licensing entity, that has been certified within 30 days prior to the date of application, to insure that the requirements are met (see IVC Sections 6-104, 6-508).

"Road Test" – an actual demonstration of the applicant's ability to operate a motor vehicle (see IVC Section 6-109).

"S Endorsement" – an endorsement for CDL holders who operate as a school bus driver to transport pre-primary, primary or secondary school students to and from home, from school to home, or to and from school-sponsored events.

"Safety Course" – an explanation provided by a rental agency to an individual during the rental transaction concerning the controls and features of the vehicle and its proper operation.

"Safety Officer" – any individual employed by a third-party certifying entity who is licensed for the purpose of conducting the skills test to determine for certification purposes that an applicant has been tested and meets the same qualifications required by the Secretary of State.

"SAVE" – the Systematic Alien Verification for Entitlements Program that allows electronic inquiries to U.S. Citizenship and Immigration Services (USCIS) by state motor vehicle agencies in the determination of the immigration status of an applicant for a Visa Status Temporary Visitor's Driver's License pursuant to IVC Section 6-105.1(a).

*"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:*

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*Any public or private primary or secondary school;*

*Any primary or secondary school operated by a religious institution; or*

*Any public, private or religious nursery school.*

*This definition shall not include the following:*

*A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:*

*On a regularly scheduled route for the transportation of other fare paying passengers;*

*Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or*

*Being used for shuttle service between attendance centers or other education facilities.*

*A motor vehicle of the first division.*

*A motor vehicle designed for the transportation of not less than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [625 ILCS 5/1-182]*

"School Bus Commercial Instruction Permit" or "School Bus CIP" – an instruction permit that allows an applicant for a school bus permit to operate a school bus, but only when accompanied by a properly classified driver with a school bus permit.

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"School Bus Driver Permit" – a permit issued to an applicant who has met all the requirements that authorize the individual to drive a school bus (see IVC Section 6-106.1).

"Seasonal Restricted Commercial Driver's License" or "Restricted CDL" – a limited waiver for employees of certain farm-related services to operate specific commercial motor vehicles without a commercial driver's license for a limited period.

*"Second Division Vehicle" – any vehicle designed to carry more than 10 persons, those designed or used for living quarters and those vehicles designed to pull or carry property, freight or cargo, those motor vehicles of the first division remodeled for use and used as motor vehicles of the second division, and those motor vehicles of the first division used and registered as school buses [625 ILCS 5/1-217].*

"Secondary Dissemination" – the distributing or sharing of an image by a source other than the primary source (Secretary of State) that has direct access to the image.

*"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].*

"Self-Admission" – a statement or indication from the driver that he/she has a mental disorder/disability and/or physical condition or disability that may impair the ability to safely operate a motor vehicle or that is likely to cause a loss of consciousness.

"Self-Certification" – a driver's signed and dated declaration of the type of driving (NI, EI, NA, EA) in which he or she engages or expects to engage while operating a CMV.

"Senior Citizen Transportation Vehicle" – a vehicle, other than a vehicle of the first division or a school bus, exclusively owned and operated by a senior citizen organization and used primarily in conducting the official activities of the organization.

"Serious Traffic Violation" – a conviction when operating a commercial motor vehicle, or when operating a non-CMV, while holding a CDL of: a violation

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relating to excessive speeding involving a single speeding charge of 15 miles per hour or more above the legal speed limit; a violation relating to reckless driving; a violation of any State law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; a violation, relating to having multiple driver's licenses (see IVC Section 6-501); a violation relating to the requirement to have a valid CDL (see IVC Section 6-507(a)); a violation relating to improper or erratic lane changes; a violation relating to following another vehicle too closely; any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines to be relevant pursuant to 92 Ill. Adm. Code 1040.20.

"Skills Performance Evaluation" or "SPE" – a certificate, issued by FMCSA to a driver with a missing limb, in accordance with 49 CFR 391.49 (2011), which allows the driver to operate a CMV.

*"Special Needs Individuals" – those individuals who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required be individuals generally [625 ILCS 5/6-117.2(f).*

"SSOLV" – the Social Security Online Verification system that allows electronic inquiries to the Social Security Administration by state motor vehicle agencies to verify names and social security numbers of applicants for driver's licenses or identification cards.

*"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada [625 ILCS 5/1-195].*

*"Suspension" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary [625 ILCS 5/1-204].*

*"Tank Vehicle" – any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Those vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171 (2011). [625 ILCS*

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5/1-204.4] However, a tanker-type vehicle does not include any vehicle in which the tank, that is either permanently or temporarily attached, has a rated capacity of less than 1,000 gallons.

"Telescopic Lens Arrangement" – a non-standard adaptive device that aids in improving vision deficits.

"Telescopic Lens Vision Specialist Report" – an approved confidential vision questionnaire directed to the Department, or a statement on letterhead made by a vision specialist, containing the same information as the form designed by the Department.

"Temporal Vision Reading" – a field of vision 70° from the straight ahead.

"Temporary Driver's License or Instruction Permit" – a driver's license or instruction permit issued for no longer than 90 days to a person who is temporarily unable to obtain a license or instruction permit.

"Temporary Visitor's Driver's License" or "TVDL" – a license issued to:

a foreign national who is authorized to temporarily reside in this country allowing the operation of a motor vehicle under the laws of this State (referred to in this Part as "Visa status"); or

*an applicant who:*

*resided in this State for a period in excess of one year;*

*is ineligible to obtain a social security number; and*

*is unable to present documentation issued by the United States Citizenship and Immigration Services authorizing the person's presence in this country [625 ILCS 5/6-105.1(a-5)] referred to in this Part as "non-Visa status".*

"Termination of an Adjudication of Disability Order" – an order by a court of competent jurisdiction terminating an adjudication of disability of the driver pursuant to Section 11a-20 of the Probate Act of 1975 [755 ILCS 5/11a-20].

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"Third-Party Certification License" – a license issued by the Secretary of State to conduct a qualified third-party certification program (see IVC Section 6-508).

"Third-Party Certification Program" – a program designed by the Secretary of State allowing third-party entities to provide to employees or by membership in a qualified training program of classroom and/or behind-the-wheel testing for the purpose of certifying to the Secretary of State that an applicant is qualified to operate a motor vehicle without the Secretary of State having to administer a road test (see IVC Section 6-508 and Section 1030.85).

"Third-Party Certifying Entity" – a third-party entity licensed by the Secretary of State to engage in a third-party certification program.

"Transportation Security Administration" or "TSA" – a division of the Department of Homeland Security administering provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act; Public Law 107-56, 115 Stat. 272).

"Traffic Regulation Governing the Movement of Vehicles" – a violation for which points are assigned pursuant to 92 Ill. Adm. Code 1040.20.

"Type A Injury" – an injury that requires immediate professional attention in either a doctor's office or a medical facility and includes severely bleeding wounds, distorted extremities and injuries requiring the injured party to be carried from the scene.

"Traffic Environmental Screening" – a screening designed by the Department that shall consist of the driver demonstrating the ability to recognize actual traffic conditions using the telescopic lens arrangement while riding with and being evaluated by a Driver Services Facility representative.

"Unfavorable Medical Report" – a medical report signed and completed by a competent medical specialist containing a professional opinion that, due to a physical and/or mental disorder/disability, the driver is not medically fit to operate a motor vehicle.

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"Unfavorable Telescopic Lens Vision Specialist Report" – a telescopic lens vision specialist report signed and completed by a licensed vision specialist that indicates a professional opinion that the driver is not capable of safely operating a motor vehicle, or the monocular or binocular acuity readings and/or peripheral readings do not meet Illinois standards, or the peripheral vision readings do not meet Illinois standards as set forth in Section 1030.70, or the power of the telescopic lenses does not meet Illinois standards as set forth in Section 1030.75.

"Unfavorable Vision Specialist Report" – a vision specialist report signed and completed by a vision specialist indicating the monocular or binocular acuity and/or peripheral vision readings do not meet Illinois standards as set forth in Section 1030.70, the driver would not accept or has refused the recommended correction, and his/her vision readings without this correction are not favorable.

"Unfit to Stand Trial Order" – an order by a court of competent jurisdiction whereby a defendant, because of a mental or physical condition, is unable to understand the nature and purpose of the proceeding against him/her or to assist in his/her defense pursuant to Section 104-10 of the Code of Criminal Procedure [725 ILCS 5/Art. 104-10].

"USCIS" – U.S. Citizenship and Immigration Services is a bureau of the U.S. Department of Homeland Security (USDHS) that is in charge of processing immigrant visa petitions, naturalization petitions, and asylum and refugee applications, as well as making adjudicative decisions performed at the services centers and managing all other immigration benefit functions.

"Valid Driver's License or Permit" – a license or permit issued by the Secretary of State that is of the proper classification for the purposes for which it is being used and that has not expired, been invalidated, denied, canceled, revoked, suspended or disqualified, or been used after a curfew or nighttime driving restriction.

"Vendor" – an authorized fingerprint company approved by the ISP who will transmit fingerprint data to ISP to be forwarded to the FBI.

"Verification of Residency Form" – a form printed by the Secretary of State that non-Visa status temporary visitor's driver's license applicants shall complete and that contains all Illinois addresses at which the applicant has resided for the 12 months immediately prior to application.

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"Vision Screening" – the readings obtained by a physician, ophthalmologist, optometrist or Department representative of an applicant's visual acuity and peripheral fields of vision.

"Vision Specialist" – a doctor licensed to practice medicine in optometry under the Illinois Optometric Practice Act [225 ILCS 80] or a competent medical specialist.

"Vision Specialist Report" – an approved confidential vision questionnaire directed to the Department, or a statement on letterhead made by a vision specialist, containing the same information as the form designed by the Department.

"Visual Acuity Readings" – the minimum vision standards set forth in Sections 1030.70 and 1030.75.

"Visual Peripheral Readings" – the minimum vision standards set forth in Sections 1030.70 and 1030.75.

"Withdrawal" – the negating of valid driving privileges by a state as the result of sanctions taken against driving privileges.

(Source: Amended at 38 Ill. Reg. 12515, effective July 1, 2014)

**Section 1030.5 Procedure for Obtaining a Driver's License**

- a) A person who wishes to obtain a driver's license shall go to one of the Secretary of State Driver Services Facilities located throughout the State. An application form provided by the Secretary of State pursuant to IVC Section 6-106 shall be completed by the applicant. The questions contained on the application form are provided in Appendix A. The applicant shall also provide a Driver Services Facility employee with acceptable forms of identification provided in Appendix B establishing the applicant's name, date of birth, signature for comparison, Illinois residency and social security number.
- b) The applicant shall take the following tests as required in IVC Section 6-109:

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- 1) A vision test as provided in Sections 1030.70 and 1030.75;
  - 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
  - 3) A written test, if required, as provided in Section 1030.80.
- c) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a driver's license without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an instruction permit and until the applicant has, in accordance with IVC Section 6-107(b):
- 1) Held a valid instruction permit for a minimum of 9 months;
  - 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
  - 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury, that everything contained within the certification is true and correct.
- d) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a driver's license unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof of that completion has been submitted to the Secretary by the adult driver education course provider.

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- e) A driver's license applicant shall have his/her photograph taken unless exempted by Section 1030.90. A driver's license shall be issued upon completion of all the requirements of this Section and IVC Chapter 6.
- f) The fees collected for the issuance of an original, renewal, duplicate or corrected driver's license shall be in accordance with IVC Section 6-118.

(Source: Amended at 38 Ill. Reg. 12515, effective July 1, 2014)

**Section 1030.6 Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)**

- a) Any foreign national who wishes to obtain a temporary visitor's driver's license (TVDL), pursuant to IVC Section 6-105.1(a), shall go to one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A. The applicant shall also provide a Driver Services Facility employee with acceptable forms of identification described in Appendix B to establish the applicant's name, date of birth, signature for comparison, Illinois temporary residency, and authorization of legal presence in this country. The applicant shall also provide a government-issued photo identification document and documentation from the Social Security Administration verifying ineligibility for a social security number.
- b) A TVDL shall only be issued to an individual who is authorized to reside in this country for one or more years and has at least six months of authorized presence remaining at the time of application. Individuals currently holding a TVDL who have been granted a temporary extension to remain in this country pending a decision on a request for a status change, upon presentation of documents issued by USCIS, may be issued a TVDL for the period of the temporary extension.
- c) The applicant shall take the following tests as required in IVC Section 6-109:
- 1) A vision test as provided in Sections 1030.70 and 1030.75;

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- 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
  - 3) A written test, if required, as provided in Section 1030.80.
- d) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a TVDL without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an instruction permit and, in accordance with IVC Section 6-107(b), the applicant has:
- 1) Held a valid instruction permit for a minimum of 9 months;
  - 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
  - 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury that everything contained within the certification is true and correct.
- e) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a TVDL unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof of that completion has been submitted to the Secretary by the adult driver education course provider.

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- ~~f)e~~) A TVDL applicant shall have his/her photograph taken, unless exempted by Section 1030.90.
- ~~g)f~~) A TVDL shall only be issued in Class D, L or M, as established in Section 1030.30.
- ~~h)g~~) A TVDL shall not be issued to the applicant at the Secretary of State Driver Services facility, but shall be centrally issued and mailed to the applicant at the address provided on the TVDL application. A dated receipt shall be issued to the applicant.
- ~~i)h~~) Each original TVDL shall expire 3 years from the date of issuance or at the time the individual's authorization to remain in this country expires, whichever is earlier. Except, the TVDL of an individual 81 years of age or older shall expire in accordance with IVC Section 6-115(g) or at the time the individual's authorization to remain in this country expires, whichever is earlier.
- ~~j)i~~) Each renewal TVDL shall expire no more than 3 years from the expiration date of the current license or at the time the individual's authorization to remain in this country expires, whichever is earlier. Except, the TVDL of an individual 81 years of age or older shall expire in accordance with IVC Section 6-115(g) or at the time the individual's authorization to remain in this country expires, whichever is earlier.
- ~~k)j~~) The fees collected for the issuance of an original, renewal, duplicate or corrected TVDL shall be in accordance with IVC Section 6-118.
- ~~l)k~~) Any person who wishes to renew a TVDL shall go to one of the designated Secretary of State Driver Services Facilities located throughout the State no more than 90 days prior to the expiration date of the current TVDL. An applicant for renewal shall comply with the provisions of subsection (a) of this Section. The applicant shall also be retested in accordance with IVC Section 6-109.
- ~~m)l~~) The Secretary of State shall not send a renewal notice to the holder of a TVDL.
- ~~n)m~~) The design and content of a TVDL shall be in accordance with IVC Sections 6-105.1 and 6-110 and Section 1030.90. The license shall be distinctive in nature to identify it as a TVDL and shall contain the phrase "not valid for identification".

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- o)† Each TVDL issued to applicants under 21 years of age shall be in accordance with IVC Sections 6-107.3 and 6-110(e) and (e-1). A TVDL issued to an individual under the age of 21 years shall expire 3 years from the issue date or at the time the individual's authorization to remain in this country expires, whichever is earlier.
- p)† A foreign national who is issued a TVDL shall not be required to surrender his/her foreign country driver's license.
- q)† A Central Unit will be established within the Driver Services Department. The responsibilities of this Central Unit shall be to provide assistance to Driver Services Facility employees responsible for the issuance of a TVDL and to individuals applying for a TVDL; resolve cases in which the USCIS was unable to provide first level verification of USCIS documents, via the Systematic Alien Verification for Entitlements (SAVE) Program, presented by TVDL applicants at the Driver Services Facility level; perform liaison services to USCIS; and provide written notification of an applicant's eligibility or ineligibility for a TVDL.
- 1) When an applicant appears at one of the designated Driver Services Facilities and provides the necessary documents to prove identity and legal presence, a facility employee will begin the process by initiating an automated inquiry via the SAVE Program to verify the information on the USCIS documents. Upon receipt of a verification response from the SAVE Program, the facility employee will begin the TVDL application process. If the facility employee receives the response of "initiate additional verification", additional information is submitted to USCIS via the SAVE Program and copies of the applicant's documents are forwarded to the Central Unit for monitoring. The applicant will be advised that he or she will receive written notification from the Central Unit regarding his or her eligibility for a TVDL.
  - 2) A response to a second request for verification of USCIS documents via the SAVE Program generally takes 3 to 5 days. Upon receipt of a response from the second verification request via the SAVE Program, the Central Unit will send a letter to the applicant informing the applicant of eligibility or ineligibility for a TVDL.

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- 3) If the Central Unit receives a response of "Need Copies of Docs" from USCIS via the SAVE Program, a third, manual verification process must be completed. This requires photocopies of the documents submitted for identification, accompanied by a USCIS G-845 Form (request for verification of documentation of alien status), to be forwarded to USCIS in Chicago, Illinois. Upon receipt of a written response from USCIS, the Central Unit will send a letter to the applicant informing the individual of eligibility or ineligibility for a TVDL.

(Source: Amended at 38 Ill. Reg. 12515, effective July 1, 2014)

**Section 1030.7 Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)**

- a) An applicant who wishes to obtain an original TVDL, renew a TVDL, or obtain a corrected TVDL, pursuant to IVC Section 6-105.1(a-5), must make an appointment, via telephone or the Secretary of State's official website, to visit one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State. At a later date, the Secretary of State, based on the operational needs of the office, may eliminate the requirement for appointments. An applicant who wishes to obtain a duplicate TVDL shall visit any TVDL facility located throughout the State. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A.
- b) An applicant for an original, renewal, duplicate or corrected TVDL shall provide acceptable forms of identification as defined in Appendix C to establish the applicant's name, date of birth, signature for comparison, current Illinois residence address, and residency in Illinois for a period in excess of one year. The applicant shall affirm under penalty of perjury that he/she is ineligible to obtain a social security number and shall submit either a valid, unexpired passport for the applicant's country of citizenship or a valid, unexpired consular identification document, as defined by Section 5 of the Consular Identification Document Act [5 ILCS 230/5], issued by the consulate of the applicant's country of citizenship and, if a new applicant, must submit a completed verification of residency form.
- c) The applicant shall take the following tests as required in IVC Section 6-109:

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- 1) A vision test as provided in Sections 1030.70 and 1030.75;
  - 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
  - 3) A written test, if required, as provided in Section 1030.80.
- d) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a TVDL without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an instruction permit and, in accordance with IVC Section 6-107(b), the applicant has:
- 1) Held a valid instruction permit for a minimum of 9 months;
  - 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
  - 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury that everything contained within the certification is true and correct.
- e) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a TVDL unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof

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of that completion has been submitted to the Secretary by the adult driver education course provider.

- ~~f)e)~~ A TVDL applicant shall have his/her photograph taken, unless exempted by Section 1030.90.
- ~~g)f)~~ A TVDL shall only be issued in Class D, L or M, as established in Section 1030.30.
- ~~h)g)~~ A TVDL shall not be issued to the applicant at the Secretary of State Driver Services facility, but shall be centrally issued and mailed to the applicant at the address provided on the TVDL application. A dated receipt shall be issued to the applicant.
- ~~i)h)~~ Each original TVDL shall expire 3 years from the date of issuance, except that a TVDL issued to an applicant 81 years of age or older shall expire in accordance with IVC Section 6-115(g).
- ~~j)i)~~ An applicant for a renewal TVDL shall be retested in accordance with IVC Section 6-109.
- ~~k)j)~~ Each renewal TVDL shall expire no more than 3 years from the expiration date of the current license, except that a TVDL issued to an applicant 81 years of age or older shall expire in accordance with IVC Section 6-115(g).
- ~~l)k)~~ The Secretary of State shall not send a renewal notice to the holder of a TVDL.
- ~~m)l)~~ The design and content of a TVDL shall be in accordance with IVC Sections 6-105.1 and 6-110 and Section 1030.90. The license shall be distinctive in nature to identify it as a TVDL and shall contain the phrase "not valid for identification".
- ~~n)m)~~ The design and content of a TVDL issued to applicants under 21 years of age shall be in accordance with IVC Sections 6-107.3 and 6-110(e) and (e-1).
- ~~o)n)~~ The fees collected for the issuance of an original, renewal, duplicate or corrected TVDL shall be in accordance with IVC Section 6-118.

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p)⊕ An applicant for a TVDL that is male and is between the ages of 18 and 25 is not exempt from the requirement to register with the United States Selective Service System, in accordance with IVC Section 6-106.

(Source: Amended at 38 Ill. Reg. 12515, effective July 1, 2014)

**Section 1030.65 Instruction Permits**

- a) A person who wishes to practice driving before obtaining a driver's license shall obtain an instruction permit from a Driver Services Facility.
- b) Any foreign national who wishes to practice driving before obtaining a Visa status, temporary visitor's driver's license pursuant to IVC Section 6-105.1(a) shall obtain a temporary visitor's instruction permit from one of the selected Driver Services Facilities located throughout the State.
- c) Any person over the age of 18 or any person under the age of 18 who is enrolled in driver education at a commercial driver training school regulated by the Secretary of State who wishes to practice driving before obtaining a non-Visa status temporary visitor's driver's license pursuant to IVC Section 6-105.1(a-5) shall make an appointment, via telephone or the Secretary of State's official website, to visit one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State to obtain a temporary visitor's instruction permit. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A. An applicant for a non-Visa status temporary visitor's instruction permit shall provide acceptable forms of identification as provided in Appendix C to establish the applicant's name, date of birth, signature for comparison, current Illinois residence address and residency in Illinois for a period in excess of one year. The applicant shall also submit a completed Verification of Residency form and either a valid, unexpired passport for the applicant's country of citizenship or a valid, unexpired consular identification document, as defined by Section 5 of the Consular Identification Document Act [5 ILCS 230/5], issued by the consulate of the applicant's country of citizenship and shall be required to submit a verification of residency form. Applicants over the age of 18 must also affirm under penalty of perjury that they are ineligible to obtain a social security number.

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- d) Any person under the age of 18 enrolled in an approved driver education course at a public high school who wishes to practice driving before obtaining a non-Visa status temporary visitor's driver's license shall complete an application form, provided by the Secretary of State pursuant to IVC Section 6-106. The questions contained on the application form are provided in Appendix A. The applicant will be required to submit the acceptable forms of identification, as defined in Appendix C, at the time of application for a non-Visa status TVDL for a driver's license at a Driver Services Facility.
- e) Upon receipt of an instruction permit or temporary visitor's instruction permit, the holder may operate a motor vehicle upon the highways of this State when accompanied by an adult instructor of a driver education program or when practicing with a parent, legal guardian, family member or person in loco parentis who is 21 years of age or more and has a license classification to operate the vehicle and at least one year of driving experience, and is occupying a seat beside the driver.
- f) A temporary visitor's instruction permit shall only be issued in a Class D, L or M as established in Section 1030.30.
- g) The fees collected for the issuance of an original, renewal, duplicate or corrected instruction permit or temporary visitor's instruction permit shall be in accordance with IVC Section 6-118(a).
- h) A minor who wishes to receive an instruction permit shall be at least 15 years old and enrolled in a driver education course. Any minor who has been enrolled in an approved driver education program out-of-state shall provide proof of that enrollment before an Illinois instruction permit will be issued. Proof shall consist of a letter from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State. The minor shall complete a driver education course prior to applying for a driver's license before the minor is 18 years of age. If the minor is 16 years of age or older and possesses a certificate of completion or the equivalent from another state's driver education program, the minor shall be eligible to receive an Illinois driver's license upon successful completion of the vision, written and/or road tests. The equivalent of an Illinois certificate of completion from an out-of-state driver education course shall include, but is not limited to, transcripts from the out-of-state attendance center indicating successful completion of the course of instruction or a letter from the

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state's driver's licensing authority on agency letterhead, attesting to the minor's successful completion of a driver education course approved by the office that regulates education.

- i) A minor who is at least 15 years and 6 months of age may obtain an Illinois instruction permit prior to being enrolled in a driver education course, provided the minor:
  - 1) Submits written documentation, on a form prepared or approved by the Secretary of State, stating that the minor is enrolled in school; meets the educational requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8] and IVC Section 6-103(1) and signed by a superintendent or chief administrator that states, through no fault of the minor, the minor will be unable to be enrolled in a driver education course until after the minor's 16<sup>th</sup> birthday and the school would have no objection to the issuance of the instruction permit; and
  - 2) Successfully completes the written and vision examinations administered either by an approved driver education instructor or the Secretary of State.
- j) An instruction permit issued to a minor under subsection (i) may be canceled upon receipt of a report from the minor's school on the school letterhead, or other proof deemed acceptable by the Secretary of State, stating the minor has failed to enroll in a driver education course.
- k) The minor who is not legally emancipated by marriage or court order shall have the application signed by a parent, guardian or person in loco parentis and the driver education instructor. The minor shall then be allowed to take the vision and written exams.
- l) The instruction permit shall be issued to a minor for a period of 24 months upon successful completion of the written and vision exams. If an instruction permit has expired prior to the applicant completing the road test, a second fee established for instruction permits in IVC Section 6-118(a) must be submitted and the written and vision exams must be successfully completed. The applicant shall present another application to the Secretary of State signed by the parent, guardian or person in loco parentis. The driver education instructor shall also sign the application unless the applicant presents a certificate of completion.

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- m) An Illinois instruction permit issued to a minor may be canceled if the student is certified as a chronic or habitual truant or has dropped out of school. The report shall be received from the Illinois State Board of Education in a form acceptable to the Secretary of State.
- n) Applicants who are not minors shall also be issued instruction permits by the Secretary of State. The permit shall be issued for 12 months upon successful completion of the written and vision exams.
- o) Applicants whose driving privileges have been canceled based upon receipt by the Department of a medical report indicating the applicant has a medical condition that impairs the applicant's ability to safely operate a motor vehicle may apply for an instruction permit. The Department shall receive a favorable medical report from a competent medical specialist describing the applicant's needs to undergo a driving evaluation with a driver rehabilitation specialist. The Department shall issue to the applicant an authorization for examination to appear at a Driver Services Facility to take the written test and vision test and submit the fee required by IVC Section 6-118(a). Upon successful completion of the written and vision tests, the applicant shall be issued, if not otherwise prohibited, an instruction permit that shall be canceled upon receipt of a written statement from a competent medical specialist that the instruction permit holder has failed to successfully complete the driving evaluation or is otherwise unable to safely operate a motor vehicle. A medical restriction card shall be issued by the Department and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution and a competent medical specialist shall notify the Department. The Department shall send the applicant an authorization form instructing the applicant to appear at a Driver Services Facility to take the drive portion of the test. Upon the applicant's successful completion of the drive examination, a driver license shall be issued.
- p) An applicant must be at least 16 years old to obtain a Class L instruction permit and must possess a certificate of completion at the time of application.
- q) A Class M instruction permit may be issued by the Secretary of State to an applicant 18 or older for a period of 12 months. A Class M instruction permit may be issued for a period of 24 months to applicants 16 or 17 years old who have obtained a certificate of completion at the time of application and have

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completed a motorcycle training course approved by the Illinois Department of Transportation (see 92 Ill. Adm. Code 455). A certificate of completion card issued by the Illinois Department of Transportation must be furnished to the Secretary of State's Office before an instruction permit will be issued.

- r) An applicant who is 17 years and 3 months of age or older may obtain an Illinois instruction permit without being enrolled in a driver education course, provided the applicant has successfully completed the vision and written exams.
- s) An applicant 18, 19 or 20 years of age may obtain an Illinois instruction permit without being enrolled in an adult driver education course.
- ~~t)~~s) Prior to renewing a commercial driver instruction permit, an applicant is required to successfully complete the appropriate CDL knowledge tests specific to the classification of permit being renewed.
- ~~u)~~t) Prior to renewing a non-commercial instruction permit, an applicant is required to successfully complete vision screening and a written test.

(Source: Amended at 38 Ill. Reg. 12515, effective July 1, 2014)

**Section 1030.66 Adult Driver Education**

- a) A person age 18, 19 or 20 who wishes to apply for an Illinois driver's license and who has not previously held a driver's license or who has not successfully completed an approved driver education course or the classroom portion of an approved driver education course must successfully complete an adult driver education course offered by a certified adult driver education course provider.
- b) A list of certified adult driver education providers is available at the Illinois Secretary of State official website ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)).
- c) To receive credit for participation in an adult driver education course, the applicant must take the course only from a provider that has been certified by the Secretary.
- d) Applicants who take an adult driver education course from an entity that is not certified to provide adult driver education in Illinois shall not be issued an Illinois

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driver's license until the applicant successfully completes an adult driver education course from a certified provider, or until the applicant turns 21 years of age.

- e) Upon receipt of notification from a provider that a student has successfully completed the adult driver education course, the Secretary shall send the applicant a notification, which the student shall bring to a Secretary of State facility to complete the application process for the issuance of a driver's license in accordance with this Part.

(Source: Added at 38 Ill. Reg. 12515, effective July 1, 2014)

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1060.5	Amendment
1060.71	New Section
1060.72	New Section
1060.80	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-107.5
- 5) Effective Date of Rule: July 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notices of Proposed published in the *Illinois Register*: 38 Ill. Reg. 5214, February 21, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking: No
- 11) Differences between Proposal and Final Version: Inspections of school facilities are required only for new applicants who are not currently licensed as a commercial driver training school, as those entities that are already licensed as a driving school have previously passed inspection. Section 1060.80 was amended on second notice to include a provision that schools are not required to issue a refund if a student passed a classroom course and was issued a certificate of completion. This language was added for consistency, as the same provision was included for online courses in Part 1066.
- 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 rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implements P.A. 98-167, effective July 1, 2014 that requires driver's license applicant's between the ages of 18 and 20 who have never previously been licensed or completed an approved driver education course to complete six hour of adult driver education.

The rule sets forth requirements for existing licensed commercial driver training schools to offer the adult education program, in either a classroom or online setting. The rule also set forth requirements for those entities that are not currently licensed as commercial driver training schools to obtain certification to offer online-only adult driver education. Requirements for online providers include submission of an application, surety bond, approval by the Secretary of the proposed course content and verification of student participation and identity.

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

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

217/557-4462

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

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

Section	
1060.5	Definitions
1060.10	Unlicensed Person May Not Operate Driver Training School
1060.20	Requirements for School Licenses
1060.30	Driver Training School Names
1060.40	Refund of Application Fees
1060.50	School Locations and Facilities
1060.60	Driver Training School Student Instruction Record
1060.70	Driver Training School Course of Instruction
<a href="#">1060.71</a>	<a href="#">Adult Driver Education Course Certification</a>
<a href="#">1060.72</a>	<a href="#">Adult Driver Education Classroom Instruction</a>
1060.80	Driver Training School Contracts
1060.90	Inspection of School Facilities
1060.100	Licenses
1060.110	Safety Inspection of Driver Training School Motor Vehicles
1060.120	Requirements to Obtain and Retain a Driver Training Instructor's License
1060.130	Examination for Driver Training Instructor
1060.140	Temporary Permit
1060.150	Driver Training School Responsibility for Employees
1060.160	Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.170	Hearings
1060.180	Teen Accreditation
1060.181	Teen Accreditation Classroom and Behind-the-Wheel Requirements
1060.190	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License, Teen Accreditation, CDL Accreditation, and Instructor's License
1060.200	Commercial Driver's License and/or Endorsement and/or Accreditation
1060.210	Driver Training School Responsibility for Employees (Recodified)
1060.220	Solicitation of Students and Pupils for Commercial Driver Training Instruction (Recodified)
1060.230	Hearings (Recodified)
1060.240	Teen Accreditation (Recodified)

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- 1060.250 Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License (Recodified)
- 1060.260 Commercial Driver's License and/or Endorsement and/or Restriction Accreditation (Recodified)

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

**SOURCE:** Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7788, effective May 9, 1994; amended at 20 Ill. Reg. 3861, effective February 14, 1996; amended at 22 Ill. Reg. 22069, effective December 2, 1998; emergency amendment at 24 Ill. Reg. 8403, effective June 2, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15443, effective October 5, 2000; amended at 25 Ill. Reg. 6409, effective April 26, 2001; amended at 26 Ill. Reg. 15020, effective October 1, 2002; emergency amendment at 28 Ill. Reg. 398, effective December 22, 2003, for a maximum of 150 days; emergency expired May 19, 2004; amended at 28 Ill. Reg. 11925, effective July 26, 2004; amended at 30 Ill. Reg. 11377, effective June 14, 2006; amended at 31 Ill. Reg. 16008, effective November 16, 2007; amended at 33 Ill. Reg. 15811, effective October 27, 2009; amended at 34 Ill. Reg. 19099, effective November 22, 2010; amended at 37 Ill. Reg. 4295, effective March 20, 2013; amended at 37 Ill. Reg. 18893, effective November 5, 2013; amended at 38 Ill. Reg. 12566, effective July 1, 2014.

**Section 1060.5 Definitions**

For purposes of this Part, the following definitions shall apply:

"Administrator" – any individual who is employed by or acts on behalf of a high school who administers a State approved high school driver education program.

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"Adult Driver Education Course" – a six hour classroom or online course of driver education for persons ages 18, 19 or 20 offered by an adult driver education course provider.

"Adult Driver Education Course Provider" or "Provider" – an entity certified by the Secretary of State to provide an adult driver education course in a classroom setting, which also may be certified to offer an adult driver education course online.

"Branch Office" – an office of a commercial driver training school in a distinct location from the main office, but that conducts business under the name and as a part of the school as provided in IVC Article IV and that meets the requirements of Section 1060.50.

"Business Day" – any day that the Office of the Secretary of State Commercial Driver School Division is open, i.e., Monday through Saturday, excluding State holidays.

"Cancellation" – the without prejudice annulment or termination by formal action of the Secretary of a driver training school's license or a driver training school instructor's license because of some error or defect in the license or because the licensee is in some form of violation of any of the requirements in the Illinois Vehicle Code or Illinois Administrative Code. The annulment or termination shall not be subject to renewal or restoration, except that an application for a new license shall be presented and acted upon by the Secretary after the licensee demonstrates compliance with the provisions of this Part for which the cancellation was issued.

"CDL Accreditation" – the accreditation of a commercial driver training school by the Department that allows the school to offer instruction to students who wish to obtain a CDL and/or endorsement.

"CDL Study Guide" – a study guide, compiled by the Secretary of State from information contained in the Illinois Vehicle Code and 49 CFR 383, that is designed to aid drivers in preparing for a CDL examination.

*"Commercial Driver's License" or "CDL" – a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR 383 (2008;*

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this incorporation includes no later amendments or editions), *to an individual, which authorizes the individual to operate a certain class of commercial motor vehicle as defined in IVC Section 1-111.6.*

"Commercial Driver Training School" – an entity licensed by the Secretary of State to engage in the business of giving instruction for a fee in the driving of motor vehicles or in the preparation of an applicant for examination given by the Secretary of State for a driver's license or permit.

"Commercial Driver Training Section" – a unit of the Department of Driver Services that oversees the licensing of commercial driving schools and the instructors in commercial driver training schools.

"Commercial Motor Vehicle" or "CMV" – a motor vehicle used in commerce, except those referred to in Section 6-500(6)(B) of the Illinois Vehicle Code, designed to transport passengers or property if:

the vehicle has a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more or such a lesser GVWR as subsequently determined by federal regulations (49 CFR 383 (2008)); or

any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more, provided the GVWR of any vehicle or vehicles being towed is 10,001 pounds or more; or

the vehicle is designed to transport 16 more persons; or

the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR 172, subpart F (2008). [625 ILCS 5/6-500].

"Department" – Department of Driver Services within the Office of the Secretary of State.

"Endorsement" – an indication on the driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

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"Enhanced Instruction Report" – a report submitted on a form prescribed by the Department showing the name, address, and number of behind-the-wheel instruction periods taken for every student who has had 25 hours of behind-the-wheel instruction.

"Fraud" – includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

*"Gross Vehicle Weight Rating" or "GVWR" – the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or "GCWR") is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit. [625 ILCS 5/1-124.5]*

"Hazardous Materials" – 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 (2008) or any quantity of a material listed as a select agent or toxin in 42 CFR 73 (2008).

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Instruction Record" – records kept by the instructor to reflect the number of hours a pupil in a commercial driver training school attends behind-the-wheel and classroom instruction as provided in IVC Section 6-418.

"Main Office" – the primary office of the commercial driver training school that is designed solely for conducting the business of the school as provided in Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

"Misrepresentation" – a false statement of a substantive fact, or any conduct that leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

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"Physical Facilities" – the building and items that constitute part of the building, including the telephone and the furniture.

"Questionnaires" – any and all written examinations and/or forms, including but not limited to the "Illinois Driver's License Written Examination Basic and Classification "D"" and "Identification of Signs, Shapes and Colors" forms.

"Restriction" – the notation on a driver's license or permit indicating requirements deemed applicable to the licensee by the Department to assure safe operation of a motor vehicle.

"Revocation" – the termination by formal action of the Secretary of a commercial driver training school's license or a commercial driver training school instructor's license. The termination shall be subject to renewal or restoration identical to the provisions for revocation of a driver's license as provided in IVC Section 1-176.

"Sex and Drug Related Offenses" – offenses of criminal sexual assault [720 ILCS 5/12-13], aggravated criminal sexual assault [720 ILCS 5/12-14], criminal sexual abuse [720 ILCS 5/12-15], aggravated criminal sexual abuse [720 ILCS 5/12-16], juvenile pimping [720 ILCS 5/11-19.1], soliciting for a juvenile prostitute [720 ILCS 5/11-15.1], unauthorized manufacture or delivery of a controlled substance, including counterfeit drugs [720 ILCS 570/401], sale, delivery or exchange of instruments used for illegal drug use or abuse [720 ILCS 5/22-51], delivery of a controlled substance, including counterfeit and look alike substances [720 ILCS 570/407], manufacture or delivery of cannabis [720 ILCS 550/5], delivery of cannabis [720 ILCS 550/7], the production of the cannabis plant [720 ILCS 550/8], illegal possession in a motor vehicle of any controlled substance or any cannabis [625 ILCS 5/6-206(a)(28)], the criminal transmission of HIV [720 ILCS 5/12-16.2], exploitation of a child [720 ILCS 5/11-19.2], controlled substance trafficking [720 ILCS 570/401.17], cannabis trafficking [720 ILCS 550/5.1], delivery of cannabis on school grounds [720 ILCS 550/5.2], calculated criminal cannabis conspiracy [720 ILCS 550/9], calculated criminal drug conspiracy [720 ILCS 570/405], and criminal drug conspiracy [720 ILCS 570/405.1].

"Short Review Course" – a course offered by commercial driver training schools to pupils who have previously held or currently hold a valid driver's license and that does not meet the requirement of 6 hours of classroom instruction and 6 hours behind-the-wheel instruction.

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"Surety Bond" – a written obligation whereby a person assumes liability for another person's debts or defaults of obligation.

"Suspension" – the procedures for temporary withdrawal of a commercial driver training school's license or commercial driver training school instructor's license identical to the provisions for the suspension of a driver's license as provided in IVC Section 1-204.

"Teen Accreditation" – the accreditation of a commercial driver training school by the Department that allows the school to offer instruction to pupils under age 18.

(Source: Amended at 38 Ill. Reg. 12566, effective July 1, 2014)

**Section 1060.71 Adult Driver Education Course Certification**

- a) Certification of Provider – Any entity that desires to offer an adult driver education course in a classroom setting, as provided in Section 6-107.5 of the IVC, must be licensed as a commercial driver training school and be certified as an adult driver education provider by the Secretary of State through the Department before instruction can be offered or advertised. Any entity that is licensed as a commercial driver training school and is accredited to provide teen instruction shall be certified to offer adult driver education.
- 1) Upon receipt of a Secretary of State application to provide adult driver education, the Secretary of State shall investigate the applicant and verify the information contained in the application. A Secretary of State employee shall contact the applicant and make an appointment to inspect the applicant's proposed classroom facilities. At the time of inspection, the Secretary of State employee shall verify that the applicant meets the standards for adult driver education course certification set forth in this Section, in addition to all other applicable Sections within this Part. Upon request, these standards shall be furnished to the applicant by the Secretary of State before the visit. If all qualifications and standards are met, the applicant shall be certified to offer the adult driver education course. An applicant is exempt from the inspection requirement if, at the time of application to provide adult driver education, the applicant is licensed by

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the Secretary to provide the classroom portion of driver education under this Part.

- 2) Certification is renewable upon the expiration date of the commercial driver training school license, provided all qualifications and standards are met and the commercial driver training school has been and is in compliance with this Part.
  - 3) Only qualified personnel who hold a valid commercial driver training school instructor license may teach the adult driver education course.
  - 4) Prior to certification, providers must submit a copy of their adult driver education course content to the Commercial Driver Training School Section for review and approval, including the questions and answers on the final examination.
  - 5) Providers must utilize only the approved course content, which shall be enforced by the Secretary by unannounced inspections of the provider's classroom facilities.
  - 6) If a provider wishes to substantially change its course content, a copy of the proposed course content must be submitted to the Commercial Driver Training School Section for review and approval.
  - 7) Providers must monitor the Illinois General Assembly and update their course content to include any new laws regarding the rules of the road or operation of motor vehicles. This update shall be submitted to the Commercial Driver Training School Section for review and approval within 60 days after the effective date of the law change.
- b) Required Facilities – All adult driver education course providers, except those providers that offer adult driver education solely through an online course must provide classroom facilities prescribed in IVC Sections 6-406 and 6-407 and Section 1060.50 of this Part.
- c) Required Course of Instruction:

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- 1) Providers must provide 6 hours of classroom instruction in accordance with Section 1060.72.
- 2) Each student must complete the 6 hours of instruction within 30 days after commencement of the class.
- 3) Students must make up any class or portion of a class missed.
- 4) No more than 90 minutes of instruction may consist of video instruction or animation.
- 5) Providers may use up to 60 minutes of simulators or other interactive modes of instruction.
- 6) No course may exceed 30 students unless the size of the classroom exceeds 350 square feet, in which case a maximum of 35 students is allowed.
- 7) At the commencement of instruction, the provider must give all students a copy of the current edition of the Illinois Rules of the Road.
- 8) Criteria for passing the course shall be provided to the student prior to the commencement of the course.
- 9) Each student shall be informed, prior to the collection of any fees and the time instruction begins, of the amount of any and all fees or charges relative to the adult driver education course, including but not limited to enrollment, tuition, equipment, textbooks and instructional materials.
- 10) Instruction shall take place at the dates, times and location designated by the school and agreed to by the student as specified on the Secretary of State enrollment form, unless the course is cancelled and the student is refunded any fees already paid, and each course shall have definitive start and completion dates.
- 11) Students must complete a final examination at the end of the course, which shall consist of 20 questions, from a test bank of a minimum of 40 questions. If the final exam is given by computer, the questions shall be

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randomized. If the final exam is given by paper, the provider shall have multiple versions of the test, with questions and answers, if multiple choice, shuffled. Students shall not be deemed to have passed the course unless they score a minimum of 75% on the final examination. If a student scores less than 75%, the student shall be re-tested, using different questions from the test bank, at no additional charge or fee to the student. The student is not required to repeat the course, but may be allowed to review the course materials prior to retaking the examination. If the student fails the comprehensive final examination 2 times, the student has failed the course.

- d) Records documenting attendance and evaluation of each student shall be maintained by the provider. The records shall also contain the dates and length of time of classroom instruction. Students shall be identified by full name (first, middle and last), address, date of birth, gender and email address. Schools may not request the social security number of any student. The records shall be maintained in the office of the main location of the provider for a period of 3 years.
- e) Within 2 business days after successful completion of an adult driver education course, providers shall electronically transmit to the Secretary the student's full name (first, middle and last), address, date of birth, gender and email address, accompanied by the statutory fee of \$5.
- f) Adult driver education course providers who are licensed as commercial driver training schools may also provide an online adult driver education course provided the school complies with the requirements of 92 Ill. Adm. Code 1066.
- g) The Secretary of State shall suspend, revoke, cancel or deny the adult driver education course certification of any provider that fails to comply with any provision of this Part.

(Source: Added at 38 Ill. Reg. 12566, effective July 1, 2014)

**Section 1060.72 Adult Driver Education Classroom Instruction**

- a) Course Objectives. The educational objectives of adult driver education shall include, but not be limited to, promoting respect for and encouraging observance

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of traffic laws and traffic safety responsibilities of drivers and citizens, reducing traffic violations, reducing traffic-related injuries, deaths and economic losses, and motivating continuing development of traffic related competencies through education, including, but not limited to, Illinois traffic law, risk management, driver attitudes, courtesy skills, and informing participants about the effects of alcohol and other drugs on driving ability.

b) Course Content

At a minimum, course content must include:

- 1) Familiarization with the process of obtaining an instruction permit and driver's license and the obligations and responsibilities that exist with holding a license;
- 2) Instruction on traffic laws;
- 3) Highway signs;
- 4) Signals and markings that regulate, warn or direct traffic, including traffic signs and lane markings;
- 5) Issues commonly associated with motor vehicle accidents, including poor decision making, risk taking, distractions, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, texting while driving and using wireless communication devices;
- 6) How to respond to emergency vehicles;
- 7) Turning, passing and yielding;
- 8) Construction and school zones;
- 9) Stopping distance;
- 10) Blind spots;
- 11) Strategy for driving using;

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- A) Smith System;
  - B) IPDE Process;
  - C) Zone Control;
  - D) Any other recognized process for identifying problems, predicting outcomes, deciding action and executing decisions;
- 12) Right-of-way for pedestrians, emergency vehicles and school buses;
  - 13) Sharing the road with pedestrians, bicyclists, motorcyclists, trucks and recreational vehicles;
  - 14) Road hazards, including visibility, weather and traction;
  - 15) Mental conditions, including alertness, awareness and emotion;
  - 16) Alcohol and other drugs, including effects, responsibilities, driving under the influence, zero tolerance, and implied consent laws;
  - 17) Differences in urban and rural driving, including driving on highways and Interstate driving;
  - 18) Organ donor; and
  - 19) Illinois Secretary of State emergency contact database.

(Source Added at 38 Ill. Reg. 12566, effective July 1, 2014)

**Section 1060.80 Driver Training School Contracts**

- a) All written contracts or agreements between any driver training school and any individual or group for the sale, purchase, barter or exchange of any driving instruction or any classroom instruction, or the preparation of an applicant for examination given by the Department for a driver's license, must contain the following:

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- 1) A statement indicating the agreed contract price per hour or lesson, and the terms of payment;
  - 2) A statement that the agreement constitutes the entire contract between the school and the student, and no verbal assurances or promises not contained in the agreement shall bind the school or the student;
  - 3) A statement concerning whether any additional charge is made for the use of the school vehicle in taking a driving test to obtain a driver's license;
  - 4) A statement indicating whether behind-the-wheel instruction is to be in private or on a group basis or both;
  - 5) A statement indicating the specific date and time when instruction is to begin, the hours of instruction and the location of the classroom;
  - 6) The name and address of the school and the student or entity, and the number and type of all licenses or permits to operate a motor vehicle held by the student;
  - 7) A statement indicating that all disputes under this Section shall be directed to the Secretary of State's Office; and
  - 8) A statement requiring all students attending a full CDL accredited or teenage accredited program to complete the entire course within 9 months from the date of the first classroom lesson.
- b) If a contract or agreement between a driver training school and an individual for the sale, purchase, or charge for any driving instruction, or the preparation of an applicant for examination given by the Department for a driver's license, is not in writing, the driver training school shall file with the Department a written statement under oath indicating that all of its oral contracts and agreements have complied, and will comply, with the foregoing requirements. The statement shall be filed when an application is made for a license to operate a driver training school. A new statement shall also be filed when the school requests the renewal of its license.
- c) The term "no refund" and a no refund policy concerning student payments is not

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permitted in any driver training school contract. A driver training school may use the phrase: "The school will not refund any tuition or part of tuition if the school is capable and willing to perform its part of the contract."

- d) No driver training school shall include any statement in any of its contracts or advertising to the effect that an Illinois driver's license is guaranteed or that free lessons will be given any student who fails to pass a driver's license test, except the following statements are permissible:
  - 1) "No additional charge will be made for instruction given to students of this school who fail to pass the driver's license test."
  - 2) "Students who fail to pass the test will be given further instruction at no additional charge."
- e) No driver training school may sell, transfer, assign, exchange, trade or otherwise dispose of any contract or part of a contract, agreement or obligation between any driver training school and any student, unless the driver training school has obtained the written consent of the student.
- f) If any driver training school fails to comply with the provisions of a contract or agreement by or between the driver training school or any of its students, the driver training school shall refund all monies deposited by the student as consideration for performance of the contract or agreement by the school, unless the student violates the provisions of the contract or agreement. No school is required to issue a refund to a student who has successfully completed the school's course and for whom a certificate of completion has been issued.

(Source: Amended at 38 Ill. Reg. 12566, effective July 1, 2014)

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## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Online Only Adult Driver Education Course Provider Certification
- 2) Code Citation: 92 Ill. Adm. Code 1066
- 3) 

<u>Section Numbers</u>	<u>Adopted Action</u> :
1066.5	New Section
1066.10	New Section
1066.20	New Section
1066.30	New Section
1066.40	New Section
1066.45	New Section
1066.50	New Section
1066.60	New Section
1066.70	New Section
1066.80	New Section
1066.90	New Section
1066.100	New Section
- 4) Statutory Authority: 625 ILCS 5/6-107.5
- 5) Effective Date of Rule: July 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notices of Proposed published in the *Illinois Register*: 38 Ill. Reg. 5228; February 21, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final Version: The background check requirement has been removed from the rule as the FBI will only complete a background check if required by statute. Legislation requiring such a background check is currently waiting for the Governor's signature. The quiz questions provisions have been modified to be require

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the questions to be of such difficulty that the answers could not be known without having watched the section/module.

- 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 these rules replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rule: This rule implements PA 98-167, effective July 1, 2014 that requires driver's license applicant's between the ages of 18 and 20 who have never previously been licensed or completed an approved driver education course to complete six hour of adult driver education.

The rule sets forth requirements for existing licensed commercial driver training schools to offer the adult education program, in either a classroom or online setting. The rule also set forth requirements for those entities that are not currently licensed as commercial driver training schools to obtain certification to offer online-only adult driver education. Requirements for online providers include submission of an application, surety bond, approval by the Secretary of the proposed course content and verification of student participation and identity.

- 16) Information and questions regarding these adopted rules shall be directed to:

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

217/557-4462

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

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## NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1066  
ONLINE ONLY ADULT DRIVER EDUCATION  
COURSE PROVIDER CERTIFICATION

## Section

1066.5	Definitions
1066.10	Certification Required
1066.20	Requirements for Online Only Adult Education Course Providers
1066.30	Online Only Adult Driver Education Course Provider Names
1066.40	Online Only Adult Driver Education Course Required Instruction
1066.45	Online Only Adult Driver Education Course Content
1066.50	Online Only Adult Driver Education Course Student Instruction Record
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1066.100	Online Only Adult Driver Education Course Website and Security Requirements

AUTHORITY: Implementing and authorized by Section 6-107.5 of the Illinois Driver Licensing Law [625 ILCS 5/6-107.5].

SOURCE: Adopted at 38 Ill. Reg. 12582, effective July 1, 2014.

**Section 1066.5 Definitions**

Unless otherwise noted, the following definitions shall apply to this Part:

"Applicant" – an entity applying for certification as an online only adult driver education course provider. Every officer, owner, director, partner and/or manager is subject to this Part.

"Certification" – a document issued by the Department that authorizes the entity named in the document to offer an online only adult driver education course.

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"Consumer Information" – name, address, date of birth, gender, email address and payment information, including credit card and bank account numbers or electronic payment data of students who are enrolled in or have completed an adult driver education course.

"Department" – the Commercial Driving Training School Division within the Department of Driver Services within the Office of the Secretary of State.

"Fraudulent Activity" – any action calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of the truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Online Only Adult Driver Education Course Provider" or "Provider" – an entity or person certified by the Secretary of State to provide an adult driver education course solely online.

"Secretary of State" or "Secretary" – the Secretary of State of the State of Illinois.

**Section 1066.10 Certification Required**

- a) No person, firm, association, partnership or corporation shall operate as a provider or engage in the business of providing an online only adult driver education course unless a certification has been issued by the Secretary.
- b) No provider may remain in operation if its certification to operate as a provider is suspended, revoked, canceled or not renewed.

**Section 1066.20 Requirements for Online Only Adult Education Course Providers**

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, an online only adult education course provider certification:

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- 1) Unless the applicant/provider is of good moral character. In making a determination of good moral character, the Department is not limited to, but may consider, the following:
  - A) Whether the applicant/provider has been convicted of a felony or a misdemeanor. The Department shall consider:
    - i) The relationship of any crime of which the applicant/provider has been convicted to the ability to operate an online only adult driver education course;
    - ii) The length of time that has elapsed since the applicant's/provider's last criminal conviction;
    - iii) Whether the applicant/provider successfully completed any sentence imposed with the convictions;
    - iv) Whether the applicant/provider has multiple convictions for felony or misdemeanor offenses.
  - B) If the person has been indicted, formally charged or otherwise charged with a felony or a misdemeanor, the certification shall be either denied or cancelled.
    - i) If the person whose certification has been denied or cancelled under this Part is adjudicated "guilty" by the court, the denial or cancellation previously entered on his/her record in accordance with this Section shall stand. This action does not preclude further suspension and/or revocation of the certification under another Section of this Part or the IVC.
    - ii) If the person whose certification has been denied or cancelled under this Part is adjudicated "not guilty" by the court, the denial or cancellation previously entered on his/her record in accordance with this Section shall be rescinded. This action does not preclude further suspension

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and/or revocation of the certification under another Section of this Part or the IVC.

iii) If the person whose certification has been denied or cancelled under this Part is granted a disposition of "court supervision" by the court, the denial or cancellation previously entered on his/her record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of the certification under another Section of this Part or the IVC.

2) To any owner or employee who, during the course of interaction with students:

A) Engaged in activity that puts the student in danger; or

B) Engaged in reckless behavior; or

C) Failed to maintain a professional relationship with students at all times.

3) Unless the applicant/provider files and maintains with the Department a continuous surety bond in the principal sum of \$50,000, underwritten by a company authorized to do business in the State of Illinois, for the protection of the contractual rights of students. However, the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of \$50,000. The surety on any bond may cancel the bond on giving 30 days notice in writing to the Secretary of State and shall be relieved of liability for any breach of any conditions of the bond that occurs after the effective date of cancellation. All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, \_\_\_\_\_, of \_\_\_\_\_, hereinafter referred to as Principal and \_\_\_\_\_, a

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corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of \$50,000, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The condition of this obligation is such that the principal has made application to the Illinois Secretary of State for certification for the purpose of exercising the vocation of an online only adult education course provider. If the Principal faithfully complies with the Illinois Vehicle Code and all rules and regulations that have been or may hereafter be in force concerning the license or permit, and shall save and keep harmless the Obligees from all loss or damage that may be sustained as a result of the issuance of the license or permit to the Principal, this obligation shall be void; otherwise, this obligation shall remain in full force and effect. The bond will expire but may be continued by renewal certificate signed by Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the Commercial Driver Training Section of the Department, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after that 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Principal \_\_\_\_\_

Surety \_\_\_\_\_

By \_\_\_\_\_  
Attorney-in-fact

- 4) Unless the Secretary is satisfied that the applicant/provider has established adequate procedures for verifying the identity of the student taking the course and ensuring that the student completes the course in its entirety.
- 5) Unless the applicant submits a copy of its course content, conforming with Section 1066.45, to the Department for review and approval, including the questions and answers on the quizzes and final examination.

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- 6) If a provider fails to immediately report to the Department any unauthorized access to consumer information, including computer breaches, or fails to comply with the Illinois Personal Information Protection Act [815 ILCS 530/5].
- 7) If the applicant/provider is an Illinois corporation, unless the corporation is in good standing with the Illinois Secretary of State, Department of Business Services.
- 8) If the applicant/provider is a foreign corporation, unless the corporation is authorized to transact business in Illinois, as evidenced by submission of an Application for Authority to Transact Business in Illinois and acceptance of the same by the Illinois Secretary of State, Department of Business Services.
- 9) If the applicant/provider is a foreign limited liability company, unless the limited liability company is authorized to transact business in Illinois, as evidenced by submission of an Application for Admission to Transact Business and acceptance of that application by the Illinois Secretary of State, Department of Business Services.
- 10) If the owner or any employee of the applicant/provider is a current salaried or contractual employee of the Secretary of State.
- 11) If an applicant/provider, owner or manager engages in fraudulent activity as defined in Section 1066.5.
- 12) If an applicant, owner or employee has been declared to have engaged in fraudulent activity within the 5 years prior to making application for certification.
- 13) If an applicant/provider or owner owes outstanding fees to the Secretary of State.
- 14) If an applicant/provider sells or discloses any consumer information or fails to post a statement indicating consumer information will not be sold or disclosed on its website.

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- 15) If an applicant/provider requests the social security number of students.
  - 16) If a provider fails to immediately report to the Department any unauthorized access to consumer information, including computer breaches.
  - 17) Unless the provider/applicant maintains a staffed customer service telephone number or live agent online support local Illinois time between 9:00 a.m. and 9:00 p.m. CST Monday through Friday and between 9:00 a.m. and 7:00 p.m. Saturday and also maintains an email address or voice mail or answering service 24 hours a day, 7 days a week. All inquiries must be resolved within 48 hours after first contact.
  - 18) Unless the provider/applicant provides the Department with a detailed description of each position involved in every facet of the adult driver education course, with contact information for each employee. The provider must report any staffing changes to the Department within 72 hours after the change.
  - 19) If the provider uses voice recognition as a method of verification, unless the provider furnishes a toll free number for the purposes of providing the required voice exemplars.
- b) Only one provider certification shall be issued to any individual, group, association, partnership or corporation, and the Department shall deny an application for certification as a provider if any of the applicants are unqualified, are already certified or have made application as another provider.
  - c) Upon receipt of a properly executed application for certification, the Department shall investigate the qualifications of the applicant to determine whether the application should be granted or denied.
  - d) Certifications may only be issued by the Department.
  - e) An entity whose certification has been denied, cancelled, suspended or revoked pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

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- f) All monies required to be remitted by a provider to the Department must be submitted in United States currency.

**Section 1066.30 Online Only Adult Driver Education Course Provider Names**

- a) No provider shall adopt, use or conduct any business under a name that is not distinguishable upon the records of the Department from a name used by another provider, as distinguishable is defined in 14 Ill. Adm. Code 150.440.
- b) No provider shall incorporate under its own or another name unless the name of the proposed corporation is submitted to the Department of Business Services of the Office of the Secretary of State for a final determination of the availability of the name, along with the fee required by Section 15.10 of the Business Corporation Act of 1983 [805 ILCS 5/15.10].
- c) No provider name shall contain, separate and apart from any other word or abbreviation in the name, the word "corporation", "company", "incorporated" or "limited", or an abbreviation of one of these words, unless so licensed by the Secretary of State.
- d) No provider shall operate under an assumed name, unless the provider complies with all provisions of the Assumed Business Name Act [805 ILCS 405].
- e) No provider shall change its name unless 30 days prior written notice is given to the Department stating the change of name. Upon receipt of notice of name change, the Department shall, without an application fee, require the provider to complete an amended application for certification in the form and manner prescribed for original applicants.

**Section 1066.40 Online Only Adult Driver Education Course Required Instruction**

- a) Providers must provide 6 hours of online driver education instruction in accordance with the course content set forth in Section 1066.45.
  - 1) A minimum of 360 minutes of instruction must be provided.
  - 2) Each student must complete the instruction within 30 days after commencement of instruction.

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- 3) The material presented in the course shall be edited for grammar, punctuation and spelling and be of such quality that it does not detract from the subject matter.
- 4) Advertisement of goods and services shall not appear during instructional time. Material not related to the topic being presented shall not appear during instructional time.
- 5) To demonstrate that the course contains a minimum of 360 minutes of instruction, the following calculations shall be used:
  - A) For written material that is read by the student, count the total number of words in the written sections of the course. Divide the word count by 180, the average number of words that a typical student reads per minute. The result equals the time associated with the material for the written sections.
  - B) For multimedia presentation, including simulators, video and animation, calculate the total amount of time it takes for all multimedia presentations to play, which shall not exceed 120 minutes.
  - C) Assign one minute for each chart or graph.
  - D) If the sum of the time associated with written course material, multimedia presentations, and graphs equals or exceeds 360 minutes, the course has met the minimum content time.
- b) In lieu of the time calculation method set forth in subsection (a)(5) a provider may submit alternate methodology to demonstrate that the course contains a minimum of 360 minutes of instruction.
- c) All material appearing on screen to be read by the student shall also be spoken aloud to the student, unless this function is manually disabled by the student.
- d) Providers must monitor the Illinois General Assembly and update their course content to include any new laws regarding the rules of the road or operation of

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motor vehicles. This update shall be submitted to the Department for review and approval within 60 days after the effective date of the law change.

- e) Criteria for passing the course, in accordance with Section 1066.70, shall be provided to the student prior to the commencement of the course.
- f) The course must be designed and well suited for students with minimal keyboarding and/or computer skills.
- g) Prior to certification, each applicant shall provide the Department with all necessary information to allow the Department to participate in a complete online adult driver education course, without fee to the Department, so that the Department may determine if the course satisfies the requirements of this Part. If the proposed course content meets the requirements of this Part, it will be approved by the Department.
- h) Providers must follow the online course content submitted to and approved by the Department at the time of application for certification. To determine compliance with this provision, the provider shall provide the Department with all necessary information to allow the Department to participate in a complete online adult driver education course, without fee to the Department.
- i) If a provider wishes to substantially change the course content, a copy of the proposed revisions must be sent to the Department for approval. The provider shall also provide the Department with all necessary information to allow the Department to participate in a complete adult driver education course, with the proposed revisions included in the course. After review, the Department will send a letter to the provider either approving or rejecting the proposed changes.
- j) Within 2 business days after successful completion of an adult driver education course, providers shall electronically transmit to the Secretary the student's full name (first, middle and last), address, date of birth, gender and email address, accompanied by the statutory fee of \$5.

**Section 1066.45 Online Only Adult Driver Education Course Content**

- a) Course Objectives. The educational objectives of adult driver education shall include, but not be limited to, promoting respect for and encouraging observance

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of traffic laws and traffic safety responsibilities of drivers and citizens, reducing traffic violations, reducing traffic-related injuries, deaths and economic losses, and motivating continuing development of traffic related competencies through education, including, but not limited to, Illinois traffic law, risk management, driver attitudes and courtesy skills, and informing participants about the effects of alcohol and other drugs on driving ability.

## b) Course Content

At a minimum, course content must include:

- 1) Familiarization with the process of obtaining an instruction permit and driver's license and the obligations and responsibilities that exist with holding a license;
- 2) Instruction on traffic laws;
- 3) Highway signs;
- 4) Signals and markings that regulate, warn or direct traffic, including traffic signs and lane markings;
- 5) Issues commonly associated with motor vehicle accidents, including poor decision making, risk taking, distractions, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, texting while driving and using wireless communication devices;
- 6) How to respond to emergency vehicles;
- 7) Turning, passing and yielding;
- 8) Construction and school zones;
- 9) Stopping distance;
- 10) Blind spots;
- 11) Strategy for driving using:

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- A) Smith System;
  - B) IPDE Process;
  - C) Zone Control;
  - D) Any other recognized process for identifying problems, predicting outcomes, deciding action and executing decisions;
- 12) Right-of-way for pedestrians, emergency vehicles and school buses;
  - 13) Sharing the road with pedestrians, bicyclists, motorcyclists, trucks and recreational vehicles;
  - 14) Road hazards, including visibility, weather and traction;
  - 15) Mental conditions, including alertness, awareness and emotion;
  - 16) Alcohol and other drugs, including effects, responsibilities, driving under the influence, zero tolerance, and implied consent laws;
  - 17) Differences in urban and rural driving, including driving on highways and Interstate driving;
  - 18) Organ donor; and
  - 19) Illinois Secretary of State emergency contact database.
- c) Providers shall group course content into modules or sections to allow for quizzes in accordance with Section 1066.70.

**Section 1066.50 Online Only Adult Driver Education Course Student Instruction Record**

- a) A provider shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and testing of the student's mastery of the course material. The provider shall also ensure that the student record is readily, securely, and reliably available for inspection by a representative of the Secretary of State. The records shall be

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maintained for a minimum of 3 years. The student records shall contain the following information:

- 1) the student's first, middle and last name;
  - 2) the student's residence and email addresses;
  - 3) the student's date of birth and gender;
  - 4) a record of all questions asked and the student's responses;
  - 5) a record of the date and time the student spent in each section and the total instructional time the student spent in the course; and
  - 6) a record of all verification of the student's identity (i.e., if voice biometrics are used, a copy of each voice recording must be maintained).
- b) Failure to maintain the required student instruction records, and/or the maintenance of incomplete records, shall be prima facie evidence that the required instruction was not administered.

**Section 1066.60 Online Only Adult Driver Education Course Student Contracts**

- a) Each student shall be informed, prior to the time instruction begins and the collection of any fees, of the amount of any and all fees or charges relative to the adult driver education course, including but not limited to enrollment, tuition, equipment, textbooks and instructional manuals. The provider shall not require mandatory installation or purchase of the provider's proprietary software or shareware, unless this fee was expressly included in the disclosure of fees made prior to enrollment in the course.
- b) All contracts or agreements between any provider and any individual or group for the sale, purchase, barter or exchange of any driver education instruction, must contain the following:
  - 1) A statement that the agreement constitutes the entire contract between the provider and the student and that no verbal assurances or promises not contained in the agreement shall bind the provider or the student.

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- 2) A statement indicating that all disputes under this Section shall be directed to the Secretary of State.
- c) The term "no refund" and a no refund policy concerning student payments are not permitted in any online adult driver education course contract. A provider may use the phrase: "The provider will not refund any fees if the provider is capable and willing to perform its part of the contract."
- d) No provider may sell, transfer, assign, exchange, trade or otherwise dispose of any contract or part of a contract, agreement or obligation between any provider and any student, unless the provider has obtained the written consent of the student.
- e) If a provider fails to comply with the provisions of a contract or agreement by or between the provider and any of its students, the provider shall refund all monies paid by the student as consideration for performance of the contract or agreement by the provider, unless the student violates the provisions of the contract or agreement. No provider is required to issue a refund to a student who has successfully completed the provider's course and for whom a certificate of completion has been issued.

**Section 1066.70 Online Only Adult Driver Education Course Provider Verification of Student Identity and Course Completion**

- a) Prior to certification, providers must submit procedures for verifying the identity of the student taking the course to the Secretary of State, which may include, but are not limited to, the following:
  - 1) Keystroke analysis or unique typing style;
  - 2) Voice verification;
  - 3) Fingerprint comparison;
  - 4) Web Video Recording;

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- 5) Challenge questions based on third party data (i.e., information obtained from credit bureaus or information brokers). Sample challenge questions must be submitted to the Department as part of provider certification;
  - 6) Web video conference proctor with screen monitoring with live certified proctors.
- b) If the method of verification is keystroke analysis or unique typing style, in addition to the initial keystroke analysis, additional analyses must be conducted at least once per hour during the course at random intervals. Students shall have 60 seconds to provide a keystroke sample. Students who fail to provide a sample or to do so within this specified time period shall be returned to the place in the course where the student last successfully passed a verification. A student, who, for the second time, fails to provide a sample, or fails to do so within this specified time period shall be deemed to have failed the course. If the sample does not match the sample provided by the student at the start of the course, the student shall be required to provide another sample. If the second sample does not match the sample provided by the student at the start of the course, the student shall be required to provide a third sample. If the third sample does not match the sample provided by the student at the start of the course, the student shall be prevented from completing the course and shall be deemed to have failed the course.
- c) If the method of verification is voice verification, in addition to the initial voice exemplar, the student shall be required to call at least one time per hour, during each hour of the course, during random intervals. Students shall have only 60 seconds to provide a voice exemplar. Students who fail to provide an exemplar or to do so within this specified time period shall be returned to the place in the course where the student last successfully passed a verification. A student, who, for a second time, fails to provide an exemplar or fails to do so within this specified time period shall be deemed to have failed the course. If the voice exemplar does not match the exemplar provided by the student at the start of the course, the student shall be required to provide another exemplar. If the second exemplar does not match the exemplar provided by the student at the start of the course, the student shall be required to provide a third sample. If the third sample does not match the sample provided by the student at the start of the course, the student shall be prevented from completing the course and shall be deemed to have failed the course.

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- d) If the method of verification is challenge questions, the student must be asked a minimum of two questions per hour, during each hour of the course, during random intervals. Students shall have only 60 seconds to respond. Students who fail to respond to the question or who fail to respond within the specified time period shall be returned to the place in the course where the student last successfully passed a verification. A student who, for a second time, fails to respond to a challenge question or who fails to respond within the specified time period shall be deemed to have failed the course. If a student answers a question incorrectly, another challenge question shall be asked. If the student correctly answers the challenge question, the student may proceed with the course. If the student incorrectly answers a third challenge question, the student is deemed to have failed the course.
- e) Providers shall incorporate a course content validation process that verifies student participation and comprehension of course material, and course completion, including the following:
- 1) Built-in timers to ensure that 360 minutes of instruction have been viewed and completed by the student. Timers must prevent the student from scrolling, skipping or advancing through the course without reading the material and must not allow the student to take section quizzes or the final examination without viewing or reading the course content. If a student attempts to take a quiz or the final examination without having spent the minimum time required for a section or the course, the student must be returned to the place in the course where the student last spent the minimum required time.
  - 2) At least one course validation question shall be asked following each multimedia clip that exceeds 60 seconds.
    - A) For each multimedia presentation that exceeds 60 seconds, at least 4 questions shall be included in the test bank.
    - B) Questions may be multiple choice, true/false, or a combination of both. Questions shall be difficult enough that the answer may not be easily determined without having viewed the multimedia clip.

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- C) If the student answers the question incorrectly, the correct answer must be provided to the student, after which the student must view the multimedia clip again. A different question from the test bank shall then be asked. A question may not be repeated until all questions from the test bank have been used.
- 3) Providers shall test the student's course participation and comprehension of the material by asking a minimum of 3 questions at the end of each section or module of the course.
- A) Questions may be multiple choice, true/false or a combination of both. Questions shall be of such difficulty that the answers may not be easily determined without having participated in the section/module.
  - B) The test bank for course participation questions shall include a minimum of 5 questions from each section or module and shall be randomized.
  - C) If the student answers two or more questions incorrectly, the student must complete the section/module again. At the completion of the section/module three questions must be asked, using different questions from the test bank. A question may not be repeated until all questions from the test bank have been used.
- 4) Students must complete a final examination at the end of the course, which shall consist of 20 questions from a test bank of a minimum of 40 questions. Questions may be multiple choice, true/false or a combination of both, and questions shall be randomized. Questions shall be of such difficulty that the answers may not be easily determined without having participated in the entire course. A student must score at least 75% on the final examination. If a student scores less than 75%, the student shall be re-tested, using different questions from the test bank. The student is not required to repeat the course, but may be allowed to review the course prior to retaking the examination. If the student fails the comprehensive final examination 2 times, the student has failed the course.

**Section 1066.80 Hearings**

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- a) Prior to the denial of a certification of an applicant or existing provider, the Department shall send written notice to the provider. If a formal hearing is requested in writing in accordance with 92 Ill. Adm. Code 1001.Subpart A and IVC Section 2-118, the denial shall stand pending the outcome of the hearing. The denial of a certification shall contain the specific reasons why the certification has been denied.
- b) Prior to the suspension or revocation of a provider's certification, the Department will conduct a hearing in accordance with 92 Ill. Adm. Code 1001.Subpart A and IVC Section 2-118, in which the Department will present competent evidence to establish violations of any regulations or laws governing providers and seek the appropriate sanctions in accordance with Section 1066.90.

**Section 1066.90 Denial, Cancellation, Suspension and Revocation of an Online Only Adult Driver Education Course Provider Certification**

The Secretary of State may deny, cancel, suspend or revoke a certification:

- a) For any violation of IVC Section 6-107.5
- b) For any violation of this Part.
- c) If the provider's certification or licensure to provide any type of driver education has been denied, cancelled, suspended or revoked.

**Section 1066.100 Online Only Adult Driver Education Course Website and Security Requirements**

- a) Each provider's website must display the following information on its homepage:
  - 1) the provider's Secretary of State certification number;
  - 2) a statement that complaints regarding the provider may be directed to the Secretary of State's Commercial Driver Training School Section. Contact information for the Commercial Driver Training School Section shall be included with the statement.

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- b) Each provider must offer the course from a single domain. The course may accept students that are redirected to the online course domain, as long as the provider's certification number appears on the source that redirects the student to the online course domain. The student must be redirected to a webpage that clearly identifies the certified provider offering the course before the student begins the registration process, supplies any information, or pays for the course.
- c) Providers are prohibited from selling or disclosing any consumer information provided by the student. A statement to that effect must be posted on the provider's website in a conspicuous location.
- d) Providers are prohibited from requesting the social security numbers of students.
- e) Providers must take all necessary measures to prevent unauthorized access to consumer information, either in printed or electronic form, and, upon discovery, shall immediately report any unauthorized access to the Department.
- f) Provider servers must be located in a secure location, with access restricted to only those employees or persons who have a need to access the server.

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- 1) Heading of the Part: Counting of Provisional Ballots
- 2) Code Citation: 26 Ill. Adm. Code 218
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
218.10	New Section
218.20	New Section
218.30	New Section
218.40	New Section
- 4) Statutory Authority: Implements Article 18A of the Illinois Election Code [10 ILCS 5/Art. 18A] and authorized by Section 18A-15 of the Illinois Election Code [10 ILCS 5/18A-15]
- 5) Effective Date of Rule: May 30, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 4328; February 14, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 218.10(a), insert "containing the addresses at which the provisional voter resides and" after "precinct" and delete "in which the provisional voter (see subsection (b))"; insert "containing the address at" after "precinct"; insert "Legislative District" means the district in which and Illinois State Senator is elected to serve the residents within.". In Section 218.10(b), delete "If the person insists on voting in the polling place even after being informed that the polling place is for a precinct in which he or she is not registered (the incorrect precinct) the judges of election shall inform the voter that; A) by voting in the incorrect precinct, some of the votes case will not be counted if it is later determined that the voter was not entitled to cast votes for those offices by virtue of the fact that the address at which the

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voter is registered is not located within the district, county, township or municipality for which he or she has cast votes; and B) votes for other offices such as judicial, park district, library district or school district and referenda (including Statewide) are not eligible to be counted."; insert "3) In the event that a provisional ballot is mistakenly cast in a precinct other than the precinct that contains the voter's address of registration, the following Section shall apply. (This is a situation where the voter believed they registered in the precinct in which they voted provisionally, and the election judges should have, but did not direct the voter to vote in the correct precinct)". In Section 218.20(b)(ii), insert "If this method is used, a permanent paper record must be generated for both the defective provisional ballot and the Duplicate Electronic Provisional Ballot.". In Section 218.30(a), insert "For purpose of determining which election authority has jurisdiction over the provisional voter, the election authority having possession of the provisional ballot shall use the address listed on the provisional ballot affidavit that was provided by the voter. If such address is different from the address at which the voter is registered the ballot shall be rejected, however the affidavit shall serve as a request to register at such address.". In Section 218.30(b)(1) insert "and/or Legislative District" after Municipality". In Section 218.30(b)(1) insert "For purposes of determining which election authority has jurisdiction over the provisional voter, the election authority having possession of the provisional ballot shall use the address listed on the provisional ballot affidavit that was provided by the voter. If such address is different from the address at which the voter is registered, the ballot shall be rejected, however the affidavit shall serve as a request to register at such address.". Technical changes were made throughout the entire rulemaking.

- 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 rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Rulemaking establishes procedures for counting Provisional Ballots, where a voter casts a Provisional Ballot from a precinct in which he or she is not registered.
- 16) Information and questions regarding this adopted rule shall be directed to:

Steven S. Sandvoss

STATE BOARD OF ELECTIONS

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General Counsel  
State Board of Elections  
2329 S. MacArthur Blvd.  
Springfield IL 62708

217/782-0608

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

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## TITLE 26: ELECTIONS

## CHAPTER I: STATE BOARD OF ELECTIONS

## PART 218

## COUNTING OF PROVISIONAL BALLOTS

## Section

218.10	General Provisions
218.20	Counting Procedures for Provisional Ballots Cast in an Incorrect Precinct (Within the Same Election Authority's Jurisdiction)
218.30	Counting Procedures for Provisional Ballots Cast in an Incorrect Precinct (Within a Different Election Authority's Jurisdiction)
218.40	Follow-up Procedures

**AUTHORITY:** Implementing Article 18A of the Election Code [10 ILCS 5/Art. 18A] and authorized by Section 18A-15 of the Election Code [10 ILCS 5/18A-15].

**SOURCE:** Adopted by emergency rulemaking at 38 Ill. Reg. 4506, effective January 23, 2014, for a maximum of 150 days; adopted at 38 Ill. Reg. 12603, effective May 30, 2014.

**Section 218.10 General Provisions**

This Part implements Article 18A of the Election Code, setting forth procedures to be followed when counting provisional ballots (see Section 18A-5 of the Code) that were voted and cast in a precinct other than the precinct in which the provisional voter is registered.

## a) Definitions

"Citywide or Villagewide Office" means an office elected by the electors of an entire municipality.

"Correct Precinct" means the precinct containing the addresses at which the provisional voter resides and at which he/she is registered to vote.

"Countywide Office" means the offices of Clerk, Sheriff, State's Attorney, Circuit Court Clerk, Recorder, Auditor, County Board President, County Board Member or County Commissioner in those counties that elect those officers countywide, Coroner, Regional Superintendent of Schools, Sanitary District

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Commissioners/Trustees, Assessor, Board of Review Members in those counties that elect those officers countywide, and Treasurer. Some of the above offices are not elected offices in certain counties as they are appointed or simply do not exist in the county.

"Election Authority" means either the County Clerk, County Board of Election Commissioners or Municipal Board of Election Commissioners, as the case may be.

"Election Code" or "Code" means 10 ILCS 5.

"Election Jurisdiction" means an entire county, in the case of a county in which no city board of election commissioners is located or that is under the jurisdiction of a county board of election commissioners; the territorial jurisdiction of a city board of election commissioners; and the territory in a county outside of the jurisdiction of a city board of election commissioners. In each instance, election jurisdiction shall be determined according to which election authority maintains the permanent registration records of qualified electors.

"Incorrect Precinct" means the precinct in which the voter cast a provisional ballot, but is not the precinct containing the address at which he/she is registered to vote. In order for a provisional ballot to be eligible for counting when cast in an incorrect precinct, that precinct must be located within either the county or municipality in which the voter is registered.

"Leading Established Political Party" means one of the two political parties whose candidates for Governor at the most recent 3 gubernatorial elections received either the highest or second highest average number of votes. The first leading political party is the party whose candidate for Governor received the highest average number of votes in the 3 most recent gubernatorial elections and the second leading political party is the party whose candidate for Governor received the second highest average number of votes in the 3 most recent gubernatorial elections.

"Legislative District" means the district in which an Illinois State Senator is elected to serve the residents.

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"Persons Entitled to Vote Provisionally" or "Provisional Voter" means a person claiming to be a registered voter who is entitled by Section 18A-5 of the Code to vote a provisional ballot under the following circumstances:

*The person's name does not appear on the official list of eligible voters for the precinct in which the person seeks to vote;*

*The person's voting status has been successfully challenged by an election judge, a pollwatcher or any legal voter;*

*A federal or State court order extends the time for closing the polls beyond the time period established by State law and the person votes during the extended time period;*

*The voter registered to vote by mail and is required by law to present identification when voting either in person or by absentee ballot, but fails to do so;*

*The voter's name appears on the list of voters who voted during the early voting period, but the voter claims not to have voted during the early voting period; or*

*The voter received an absentee ballot but did not return the absentee ballot to the election authority, and failed to surrender it to the election judges. (Section 18A-5 of the Code)*

"Statewide Office" means the Constitutional offices of Governor and Lt. Governor running jointly, Secretary of State, Attorney General, Comptroller and Treasurer.

"Township Office" means an office elected by the electors of an entire township.

b) Procedures for Voting Provisionally in the Polling Place

- 1) If any of the 6 reasons (cited in the definition of provisional voter in subsection (a)) for casting a provisional ballot exists, *an election judge must accept any information provided by a person who casts a provisional ballot that the person believes supports his or her claim that he or she is a*

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*duly registered voter and qualified to vote in the election. However, if the person's residence address is outside the precinct boundaries, the election judge shall inform the person of that fact, give the person the appropriate telephone number of the election authority in order to locate the polling place assigned to serve that address (and/or consult any alternative tools provided by the election authority for determining a voter's correct precinct polling place) and instruct the person to go to the proper polling place to vote. (Section 18A-5(b)(1) of the Code)*

- 2) Once it has been determined by the election judges that the person is entitled to receive a provisional ballot, and the voter has completed the provisional voter affidavit (see Section 18A-5(b)(2) of the Code), the voter shall be given a provisional ballot and shall proceed to vote that ballot. Upon receipt of the ballot by the election judges, the ballot shall be transmitted to the election authority in accordance with Section 18A-10(a) of the Election Code.
- 3) In the event that a provisional ballot is mistakenly cast in a precinct other than the precinct that contains the voter's address of registration, the following Section shall apply. (This is a situation in which the voter believed he/she registered in the precinct in which he/she voted provisionally, and the election judges should have, but did not direct the voter to vote in the correct precinct.)

**Section 218.20 Counting Procedures for Provisional Ballots Cast in an Incorrect Precinct (Within the Same Election Authority's Jurisdiction)**

- a) The election authority shall:
  - 1) transmit to the State Board of Elections the provisional voter's identifying information and voting jurisdiction (see Section 18A-15(d) of the Code) within 2 calendar days. Following that, and subject to subsection (2) below, if the election authority having jurisdiction over the provisional voter determines that the voter has cast a provisional ballot in an incorrect precinct, the ballot shall still be counted using the procedures established in subsection (b) or Section 218.30 if applicable. Jurisdictions that use election machines authorized pursuant to Article 24C of the Election Code for casting provisional ballots may vary procedures of this Section and

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Section 218.30 as appropriate for the counting of provisional ballots cast on those machines.

- 2) determine whether the voter was entitled to cast a provisional ballot. The voter is entitled to cast a provisional ballot if:
  - A) *the affidavit executed by the voter contains, at a minimum, the provisional voter's first and last name, house number and street name, and signature or mark* (Section 18A-15(b)(2) of the Code);
  - B) *the provisional voter is a registered voter based on information available to the county clerk or board of election commissioners provided by or obtained from the provisional voter, an election judge, the Statewide voter registration database maintained by the State Board of Elections, the records of the county clerk or board of election commissioners' database, or the records of the Secretary of State* (Section 18A-15(b)(3) of the Code); and
  - C) the provisional voter *did not vote by absentee ballot* and did not vote during the period for early voting (Section 18A-15(b)(4) of the Code).
- b) Once it has been determined by the election authority that the voter was entitled to vote a provisional ballot, even though it had been cast in an incorrect precinct, the election authority shall select a team or teams of 2 duly commissioned election judges, one from each of the two leading established political parties in Illinois (currently the Democratic Party and Republican Party) to count the votes that are eligible to be cast on the provisional ballot. In those jurisdictions that use election officials as defined in Section 18A-15(h) of the Code, these duties may be performed by those election officials.
  - 1) Votes cast for Statewide offices, the Office of President of the United States (including votes cast in the Presidential Preference Primary), and United States Senate shall be counted on all provisional ballots cast in the incorrect precinct.
  - 2) Votes cast for Representative in Congress, delegate/alternate delegate to a national nominating convention, State Senator, State Representative, or

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countywide, citywide or township office shall be counted if it is determined by the election judges or officials that the voter would have been entitled to vote for one or more of these offices had the voter voted in the precinct in which he or she is registered to vote (i.e., the correct precinct) and had the voter voted a ballot of the correct ballot style containing all the offices and candidates for which the voter was entitled to cast a ballot (the correct ballot style). This determination shall be made by comparing a sample ballot of the correct ballot style with the actual provisional ballot cast by the voter. If the same office (including the same district number for a Congressional, Legislative or Representative district) appears on both the correct ballot style sample ballot and the provisional ballot cast by the voter, votes for that office shall be counted. All votes cast for any remaining offices (offices for which the voter would not have been entitled to vote had he or she voted in the correct precinct) shall not be counted.

- 3) No votes shall be counted for an office when the voter voted for more candidates than he/she was allowed.
- 4) Once it has been determined which offices are to be counted and the provisional ballot contains no other votes, the provisional ballot shall be counted pursuant to the procedures set forth in this subsection (b).
- 5) If a provisional ballot does not contain any valid votes, the provisional ballot shall be marked invalid and shall not be counted.
- 6) Any provisional voting verification system established by an election authority shall inform the provisional voter that his or her provisional ballot was partially counted because it was cast in an incorrect precinct.
- 7) If a provisional ballot only contains votes cast for eligible offices, and does not contain any votes cast for ineligible offices, the ballot may be tabulated without having to be remade.
- 8) If a provisional ballot contains both valid votes that must be counted and invalid votes that cannot be counted:

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- A) the election judges, consisting in each case of at least one of each of the 2 leading political parties, shall, if the provisional ballot was cast on a paper ballot sheet, proceed to remake the voted ballot onto a blank ballot that includes all of the offices for which valid votes were cast, transferring only valid votes. The original provisional ballot shall be marked "Original Provisional Ballot" with a serial number commencing at "1" and continuing consecutively for ballots of that kind in the precinct. The duplicate provisional ballot shall be marked "Duplicate Provisional Ballot" and be given the same serial number as the original ballot from which it was duplicated. The duplicate provisional ballot shall then be treated in the same manner as other provisional ballots.
- B) if the provisional ballot was cast on a direct recording electronic voting device, the election judges shall mark the original provisional ballot as a partially counted defective electronic provisional ballot because it was cast in the incorrect precinct (or bear some similar notation) and proceed to either:
- i) remake the voted ballot by transferring all valid votes to a duplicate paper ballot sheet of the correct ballot style, marking the duplicate ballot "Duplicate Electronic Provisional Ballot" and then counting the duplicate provisional ballot in the same manner as the other provisional ballots marked on paper ballot sheets; or
  - ii) transfer, or cause to be transferred, all valid votes electronically to the correct precinct, which shall be counted and added to the vote totals for the correct precinct, excluding any votes that cannot be counted. If this method is used, a permanent paper record must be generated for both the defective provisional ballot and the duplicate electronic provisional ballot.
- c) For provisional ballots cast at a partisan primary election, the judges shall use a duplicate ballot of the correct ballot style for the same political party as the ballot chosen by the voter.

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- d) At least one qualified pollwatcher for each candidate, political party, and civic organization, as authorized by Section 17-23 of the Code, shall be permitted to observe the ballot remaking process.

**Section 218.30 Counting Procedures for Provisional Ballots Cast in an Incorrect Precinct (Within a Different Election Authority's Jurisdiction)**

- a) Incorrect Precinct is Located in the Same County as the County Where the Voter is Registered
- The election authority having possession of the provisional ballot shall first notify the election authority having jurisdiction over the provisional voter that the voter cast a provisional ballot in its jurisdiction and provide whatever information is needed for the election authority to comply with the notification requirements set forth in Section 18A-15(d) of the Code. For purpose of determining which election authority has jurisdiction over the provisional voter, the election authority having possession of the provisional ballot shall use the address listed on the provisional ballot affidavit that was provided by the voter. If that address is different from the address at which the voter is registered the ballot shall be rejected; however, the affidavit shall serve as a request to register at that address. If a voter cast a provisional ballot in an incorrect precinct located in the jurisdiction of an election authority other than the election authority having jurisdiction over the voter's correct precinct, but where the precinct is located within the same county as the 2 election authorities (e.g., a voter is registered in the City of Chicago, but casts a provisional ballot in suburban Cook County), the election authority in whose territory the provisional ballot was cast shall, after receipt of the provisional ballot, transmit it, along with the provisional voter's affidavit and any other documentation provided to the election judges, to the office of the election authority having jurisdiction over the voter's correct precinct. The ballot shall be sealed in a secure envelope or other suitable container and transmitted within 8 business days after the election at which it was cast. If the locations of the election authorities' offices are such that it is feasible to hand deliver the ballot, the ballot shall be sealed in a secure envelope and transmitted in that manner by 2 election judges (or election officials), one from each of the 2 leading political parties. If the locations of the 2 election authorities are such that it is not feasible to hand deliver the ballot, the election authority having jurisdiction over the incorrect precinct shall cause the ballot to be sealed in a secure envelope and transmitted via express mail within 8 business days after the election at which the ballot was cast, with a delivery date no later than the second

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business day following the mailing date. Upon receipt of the ballot by the election authority having jurisdiction over the correct precinct, the election authority shall proceed to remake, and count the votes on, the provisional ballot in accordance with the procedures described in Section 218.20, including the determination of eligibility to cast a provisional ballot. Any information provided to the election authority within the 7 day period provided for in Section 18A-15 of the Code shall be sealed in a secure envelope and transmitted to the office of the election authority having jurisdiction over the voter's correct precinct, along with the provisional ballot of that voter.

- b) Incorrect Precinct is Located in a Different County from the County Where the Voter is Registered, but is Located in the Same Municipality and/or Legislative District as the One in Which the Voter is Registered
  - 1) The election authority having possession of the provisional ballot shall first notify the election authority having jurisdiction over the provisional voter that the voter cast a provisional ballot in its jurisdiction and provide whatever information is needed for the election authority to comply with the notification requirements set forth in Section 18A-15(d) of the Code. For purposes of determining which election authority has jurisdiction over the provisional voter, the election authority having possession of the provisional ballot shall use the address listed on the provisional ballot affidavit that was provided by the voter. If that address is different from the address at which the voter is registered, the ballot shall be rejected; however, the affidavit shall serve as a request to register at that address. The election authority shall then cause the ballot, along with the provisional voter's affidavit and any other documentation provided to the election judges, to be transmitted via express mail within 8 business days after the election at which the ballot was cast, with a delivery date no later than the second business day following the mailing date. Upon receipt of the ballot by the election authority having jurisdiction over the correct precinct, that election authority shall proceed to remake and count the votes on the provisional ballot in accordance with the procedures described in Section 218.20, including the determination of eligibility to cast a provisional ballot. Any information provided to the election authority within the 7 day period provided for in Section 18A-15 of the Code shall be transmitted to the office of the election authority having

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jurisdiction over the voter's correct precinct, along with the provisional ballot of that voter.

- 2) If a voter casts a provisional ballot in a precinct outside of the county in which he or she is registered and outside of the municipality or Legislative District in which he or she is registered (if applicable), the ballot shall not be counted. It shall, however, be transmitted via the U.S. Postal Service to the election authority having jurisdiction over the voter's correct precinct within 14 days after the election and shall be kept for 2 months, the same length of time as is required for other voted ballots.

For purposes of determining which election authority has jurisdiction over the provisional voter, the election authority having possession of the provisional ballot shall use the address listed on the provisional ballot affidavit that was provided by the voter. If such address is different from the address at which the voter is registered, the ballot shall be rejected, however the affidavit shall serve as a request to register at such address.

**Section 218.40 Follow-up Procedures**

The original provisional ballot cast by the voter shall be stored separately from other ballots voted in the election and shall be preserved in the same manner as original ballots that had to be remade for other reasons, such as a damaged ballot or as a result of a voter over-voting an office.

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DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

JULY 2014 REGULATORY AGENDA

a) Parts (Headings and Code Citations): General Program (35 Ill. Adm. Code 1500, Section 1500.50)

1) Rulemaking:

A) Description: 35 Ill. Adm. Code 1500.50 contains the Fund's general program rules related to insurance program requirements. The Council will be amending these regulations to implement cancellation notification requirements prescribed by Public Act 98-0327.

B) Statutory Authority: Implementing and authorized by Section 20 of the Drycleaner Environmental Response Trust Fund Act [415 ILCS 135/20(a)].

C) Scheduled meeting/hearing dates: Public hearings are not required to prescribe the new cancellation notification requirements per Public Act 98-0327.

D) Date agency anticipates First Notice: The Council anticipates First Notice publication of the proposed rules in the *Illinois Register* in July of 2014.

E) Effect on small businesses, small municipalities or not for profit corporations: Five hundred eighteen (518) active drycleaning facilities which are insured by the Fund Council will be subject to the new cancellation notification requirements. The effect on these drycleaning facilities will be minimal. There should be no effect on small municipalities or not-for profit corporations.

F) Agency contact person for information:

H. Patrick Eriksen  
Drycleaner Environmental Response Trust Fund Council  
PO Box 480  
Bensenville, IL 60106-0480

630/741-0022  
hpe@willconsult.com

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DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

JULY 2014 REGULATORY AGENDA

Fax: 630/741-0026

- G) Related rulemakings and other pertinent information: There are no other related rulemakings.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.140
- 4) Date Proposal published in *Illinois Register*: July 30, 2010; 34 Ill. Reg. 10665
- 5) Date Adoption published in *Illinois Register*: December 27, 2010; 35 Ill. Reg. 420
- 6) Summary and Purpose of Expedited Correction: The above rulemaking added subsection (a)(1)(E) and subsection (g), concerning freestanding emergency centers, to Section 148.140. These subsections have not been repealed but have been inadvertently omitted from the text of subsequent amendments to this Section. This Expedited Correction restores the omitted text.
- 7) Correction Effective Date: December 27, 2010
- 8) Information and questions regarding this request shall be directed to:

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

217/782-1233

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 148

## HOSPITAL SERVICES

## SUBPART A: GENERAL PROVISIONS

## Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

## Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
148.103	Outpatient Service Adjustment Payments
148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
148.112	High Volume Adjustment Payments
148.115	Rural Adjustment Payments
148.117	Outpatient Assistance Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments (Repealed)
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

	(Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments (Repealed)
148.404	Medicaid High Volume Adjustment Payments (Repealed)
148.406	Intensive Care Adjustment Payments (Repealed)
148.408	Trauma Center Adjustment Payments (Repealed)
148.410	Psychiatric Rate Adjustment Payments (Repealed)
148.412	Rehabilitation Adjustment Payments (Repealed)
148.414	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416	Crossover Percentage Adjustment Payments (Repealed)
148.418	Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420	Obstetrical Care Adjustment Payments (Repealed)
148.422	Outpatient Access Payments (Repealed)
148.424	Outpatient Utilization Payments (Repealed)
148.426	Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428	Rehabilitation Hospital Adjustment Payments (Repealed)
148.430	Perinatal Outpatient Adjustment Payments (Repealed)
148.432	Supplemental Psychiatric Adjustment Payments (Repealed)
148.434	Outpatient Community Access Adjustment Payments (Repealed)
148.436	Long Term Stay Hospital Per Diem Payments
148.440	High Volume Adjustment Payments
148.442	Inpatient Services Adjustment Payments
148.444	Capital Needs Payments
148.446	Obstetrical Care Payments
148.448	Trauma Care Payments
148.450	Supplemental Tertiary Care Payments
148.452	Crossover Care Payments
148.454	Magnet Hospital Payments
148.456	Ambulatory Procedure Listing Increase Payments
148.458	General Provisions
148.460	Catastrophic Relief Payments
148.462	Hospital Medicaid Stimulus Payments
148.464	General Provisions
148.466	Magnet and Perinatal Hospital Adjustment Payments
148.468	Trauma Level II Hospital Adjustment Payments
148.470	Dual Eligible Hospital Adjustment Payments
148.472	Medicaid Volume Hospital Adjustment Payments
148.474	Outpatient Service Adjustment Payments

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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148.476	Ambulatory Service Adjustment Payments
148.478	Specialty Hospital Adjustment Payments
148.480	ER Safety Net Payments
148.482	Physician Supplemental Adjustment Payments
148.484	Freestanding Children's Hospital Adjustment Payments
148.486	Freestanding Children's Hospital Outpatient Adjustment Payments

## SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
148.510	Reimbursement

## SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section	
148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

## SUBPART E: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR HOSPITALS

Section	
148.700	General Provisions

## SUBPART F: EMERGENCY PSYCHIATRIC DEMONSTRATION PROGRAM

Section	
148.800	General Provisions
148.810	Definitions
148.820	Individual Eligibility for the Program
148.830	Providers Participating in the Program
148.840	Stabilization and Discharge Practices
148.850	Medication Management
148.860	Community Connect IMD Hospital Payment
148.870	Community Connect TCM Agency Payment
148.880	Program Reporting

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

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. 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,

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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; 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.

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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; 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

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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; peremptory 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; expedited correction at 38 Ill. Reg. 12618, 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 amendment 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. 4363, effective January 29, 2014; amended at 38 Ill. Reg. 11557, effective May 13, 2014.

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

**Section 148.140 Hospital Outpatient and Clinic Services**

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- a) Fee-For-Service Reimbursement
- 1) Reimbursement for hospital outpatient services shall be made on a fee-for-service basis, except for:
    - A) Those services that meet the definition of the Ambulatory Procedure Listing (APL) as described in subsection (b) of this Section.
    - B) End stage renal disease treatment (ESRDT) services, as described in subsection (c) of this Section.
    - C) Those services provided by a Certified Pediatric Ambulatory Care Center (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D).
    - D) Those services provided by a Critical Clinic Provider as described in subsection (e) of this Section.
    - E) Those services provided by a Freestanding Emergency Center, as described in subsection (g) of this Section.
  - 2) Except for the procedures under the APL groupings described in subsection (b) of this Section, fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.
  - 3) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rate described in subsection (a)(2) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
    - A) The reimbursement rates described in subsection (a)(2) of this

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Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

- B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- 4) Maternal and Child Health Program rates, as described in 89 Ill. Adm. Code 140, Table M, shall be paid to Certified Hospital Ambulatory Primary Care Centers (CHAPCC), as described in 89 Ill. Adm. Code 140.461(f)(1)(A) and Section 148.25(b)(5)(A), Certified Hospital Organized Satellite Clinics (CHOSC), as described in 89 Ill. Adm. Code 140.461(f)(1)(B) and Section 148.25(b)(5)(B), and Certified Obstetrical Ambulatory Care Centers (COBACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(C), and Section 148.25(b)(5)(C). Maternal and Child Health Program rates shall also be paid to Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), for covered services as described in 89 Ill. Adm. Code 140.462(e)(3), that are provided to non-assigned Maternal and Child Health Program clients, as described in 89 Ill. Adm. Code 140.464(b)(1).
- 5) Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), shall be reimbursed in accordance with 89 Ill. Adm. Code 140.464(b)(2) for assigned clients.
- 6) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.
- 7) With the exception of the retrospective adjustment described in subsection (a)(3) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this Section.
- b) Ambulatory Procedure Listing (APL)  
Effective July 1, 2012, the Department will reimburse hospitals for certain

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hospital outpatient procedures as described in subsection (b)(1) of this Section.

1) APL Groupings

Under the APL, a list was developed that defines those technical procedures that require the use of the hospital outpatient setting, its technical staff or equipment. These procedures are separated into separate groupings based upon the complexity and historical costs of the procedures. The groupings are as follows:

A) Surgical Groups

- i) Surgical group 1(a) consists of intense surgical procedures. Group 1(a) surgeries require an operating suite with continuous patient monitoring by anesthesia personnel. This level of service involves advanced specialized skills and highly technical operating room personnel using high technology equipment. The rate for this surgical procedure group shall be \$1,794.00.
- ii) Surgical group 1(b) consists of moderately intense surgical procedures. Group 1(b) surgeries generally require the use of an operating room suite or an emergency room treatment suite, along with continuous monitoring by anesthesia personnel and some specialized equipment. The rate for this surgical procedure group shall be \$1,049.00.
- iii) Surgical group 1(c) consists of low intensity surgical procedures. Group 1(c) surgeries may be done in an operating suite or an emergency room and require relatively brief operating times. Such procedures may be performed for evaluation or diagnostic reasons. The rate for this surgical procedure group shall be \$752.00.
- iv) Surgical group 1(d) consists of surgical procedures of very low intensity. Group 1(d) surgeries may be done in an operating room or emergency room, have a low risk of complications, and include some physician-administered diagnostic and therapeutic procedures. Certain dental procedures performed by dentists are included in this

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group. In order for a dental procedure to be eligible for reimbursement in the outpatient setting, the following criteria must be met: patient requires general anesthesia or conscious sedation; patient has a medical condition that places the patient at an increased surgical risk, such as, but not limited to, cardiopulmonary disease, congenital anomalies, history of complications associated with anesthesia, such as hyperthermia or allergic reaction, or bleeding diathesis; or the patient cannot be safely managed in an office setting because of behavioral, developmental, or mental disorder. The rate for this surgical procedure group shall be \$287.00.

## B) Diagnostic and Therapeutic Groups

- i) Diagnostic and therapeutic group 2(a) consists of advanced or evolving technologically complex diagnostic or therapeutic procedures. Group 2(a) procedures are typically invasive and must be administered by a physician. The rate for this surgical procedure group shall be \$941.00.
- ii) Diagnostic and therapeutic group 2(b) consists of technologically complex diagnostic and therapeutic procedures that are typically non-invasive. Group 2(b) procedures typically include radiological consultation or a diagnostic study. The rate for this procedure group shall be \$304.00.
- iii) Diagnostic and therapeutic group 2(c) consists of other diagnostic tests. Group 2(c) procedures are generally non-invasive and may be administered by a technician and monitored by a physician. The rate for this procedure group shall be \$176.00.
- iv) Diagnostic and therapeutic group 2(d) consists of therapeutic procedures. Group 2(d) procedures typically involve parenterally administered therapeutic agents. Either a nurse or a physician is likely to perform such procedures. The rate for this procedure group shall be

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\$136.00.

- C) Group 3 reimbursement for services provided in a hospital emergency department will be made in accordance with one of the three levels described in this Section. Emergency Services mean those services that are for a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect that the absence of immediate attention would result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The determination of the level of service reimbursable by the Department shall be based upon the circumstances at the time of the initial examination, not upon the final determination of the client's actual condition, unless the actual condition is more severe.
- i) Emergency Level I refers to Emergency Services provided in the hospital's emergency department for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that pose an immediate significant threat to life or physiologic function or requires an intense level of physician or nursing intervention. An "intense level" is defined as more than two hours of documented one-on-one nursing care or interactive treatment. The rate for this service shall be \$181.00.
  - ii) Emergency Level II refers to Emergency Services that do not meet the definition in this Section of Emergency Level I care, but that are provided in the hospital emergency department for a medical condition manifesting itself by acute symptoms of sufficient severity. The rate for this service shall be \$67.00.
  - iii) Non-Emergency/Screening Level means those services provided in the hospital emergency department that do not meet the requirements of Emergency Level I or II stated in

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this Section. For such care, the Department will reimburse the hospital either applicable current FFS rates for the services provided or a screening fee, but not both. The rate for this service shall be \$26.00.

- D) Group 4 for observation services is established to reimburse such services that are provided when a patient's current condition does not warrant an inpatient admission but does require an extended period of observation in order to evaluate and treat the patient in a setting that provides ancillary resources for diagnosis or treatment with appropriate medical and skilled nursing care. The hospital may bill for both observation and other APL procedures but will be reimbursed only for the procedure (group) with the highest reimbursement rate. Observation services will be reimbursed under one of three categories:
- i) for at least 60 minutes but less than six hours and 31 minutes of services, the rate shall be \$74.00;
  - ii) for at least six hours and 31 minutes but less than 12 hours and 31 minutes of services, the rate shall be \$222.00; or
  - iii) for at least 12 hours and 31 minutes or more of services, the rate shall be \$443.00.
- E) Group 5 for psychiatric treatment services is established to reimburse for certain outpatient treatment psychiatric services that are provided by a hospital that is enrolled with the Department to provide inpatient psychiatric services. Under this group, the Department will reimburse, at different rates, Type A and Type B Psychiatric Clinic Services, as defined in Section 148.40(d)(1). A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
- i) The rate for Type A psychiatric clinic services shall be \$68.00.
  - ii) The rate for Type A psychiatric clinic services provided by a Children's Hospital shall be \$102.00.

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- iii) The rate for Type B psychiatric clinic services shall be \$101.00.
  - iv) The rate for Type B psychiatric clinic services provided by a Children's Hospital shall be \$102.00.
- F) Effective July 1, 2012, subject to 89 Ill. Adm. Code 152.100, Group 6 for physical rehabilitation services shall no longer be in effect and outpatient physical rehabilitation services provided by a hospital shall be reimbursed through the non-institutional payment system, but will be reimbursed as a hospital service at the following rates of reimbursement:
- i) The rate for rehabilitation services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation shall be \$130.00.
  - ii) The rate for rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation shall be \$115.00.
  - iii) The rate for rehabilitation services provided by children's hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(3)(A), shall be \$130.00.
- 2) Each of the groups described in subsection (b)(1) of this Section will be reimbursed by the Department considering the following:
- A) The Department will provide cost outlier payments for specific devices and drugs associated with specific APL procedures. Such payments will be made if:
    - i) The device or drug is on an approved list maintained by the Department. In order to be approved, the Department will consider requests from medical providers and shall base its decision on medical appropriateness of the device or drug and the costs of such device or drug; and

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- ii) The provision of such devices or drugs is deemed to be medically appropriate for a specific client, as determined by the Department's physician consultants.
- B) Additional payment for such devices or drugs, as described in subsection (b)(2)(A) of this Section, will require prior authorization by the Department unless it is determined by the Department's professional medical staff that prior authorization is not warranted for a specific device or drug. When such prior authorization has been denied for a specific device or drug, the decision may be appealed as allowed by 89 Ill. Adm. Code 102.80(a)(7) and in accordance with the provisions for assistance appeals at 89 Ill. Adm. Code 104.
- C) The amount of additional payment for devices or drugs, as described in subsection (b)(2)(A) of this Section, will be based on the following methodology:
  - i) The product of a cost to charge ratio that, in the case of cost reporting hospitals as described in Section 148.130(d), or in the case of other non-cost reporting providers, equals 0.5 multiplied by the provider's total covered charges on the qualifying claim, less the APL payment rate multiplied by four;
  - ii) If the result of subsection (b)(2)(C)(i) of this Section is less than or equal to zero, no additional payment will be made. If the result is greater than zero, the additional payment will equal the result of subsection (b)(2)(C)(i) of this Section, multiplied by 80 percent. In such cases, the provider will receive the sum of the APL payment and the additional payment for such high cost devices or drugs.
- D) For county-owned hospitals located in an Illinois county with a population greater than three million, reimbursement rates for each of the reimbursement groups shall be equal to the amounts described in subsection (b)(1) of this Section multiplied by a factor of 2.72.

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- E) Reimbursement rates for hospitals not required to file an annual cost report with the Department may be lower than those listed in this Section.
  - F) Reimbursement for each APL group described in this subsection (b) shall be all-inclusive for all services provided by the hospital, regardless of the amount charged by a hospital. No separate reimbursement will be made for ancillary services or the services of hospital personnel. Exceptions to this provision are that hospitals shall be allowed to bill separately, on a fee-for-service basis, for professional outpatient services of a physician providing direct patient care who is salaried by the hospital; chemotherapy services provided in conjunction with radiation therapy services; and physical rehabilitation, occupational or speech therapy services provided in conjunction with any APL group described in this subsection (b). For the purposes of this Section, a salaried physician is a physician who is salaried by the hospital; a physician who is reimbursed by the hospital through a contractual arrangement to provide direct patient care; or a group of physicians with a financial contract to provide emergency department care. Under APL reimbursement, salaried physicians do not include radiologists, pathologists, nurse practitioners, or certified registered nurse anesthetists and no separate reimbursement will be allowed for such providers.
- 3) The assignment of procedure codes to each of the reimbursement groups in subsections (b)(1)(A) through (b)(1)(E) of this Section are detailed in the Department's Hospital Handbook and in notices to providers.
  - 4) A one-time fiscal year 2000 payment will be made to hospitals. Payment will be based upon the services, specified in this Section, provided on or after July 1, 1998, and before July 1, 1999, which were submitted to the Department and determined eligible for payment (adjudicated) by the Department on or prior to April 30, 2000, excluding services for Medicare/Medicaid crossover claims and claims that resulted in a zero payment by the Department. A one-time amount of:
    - A) \$27.75 will be paid for each service for procedure code W7183 (Psychiatric clinic Type A for adults).

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- B) \$24.00 will be paid for each service for APL Group 5 (Psychiatric clinic Type A only) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
  - C) \$15.00 will be paid for each service for APL Group 6 (Physical rehabilitation services) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).
- 5) County Facility Outpatient Adjustment
- A) Effective for services provided on or after July 1, 1995, county owned hospitals in an Illinois county with a population of over three million shall be eligible for a county facility outpatient adjustment payment. This adjustment payment shall be in addition to the amounts calculated under this Section and are calculated as follows:
    - i) Beginning with July 1, 1995, hospitals under this subsection shall receive an annual adjustment payment equal to total base year hospital outpatient costs trended forward to the rate year minus total estimated rate year hospital outpatient payments, multiplied by the resulting ratio derived when the value 200 is divided by the quotient of the difference between total base year hospital outpatient costs trended forward to the rate year and total estimated rate year hospital outpatient payments divided by one million.
    - ii) The payment calculated under this subsection (b)(5)(A) may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations.
    - iii) The county facility outpatient adjustment under this subsection shall be made on a quarterly basis.
  - B) County Facility Outpatient Adjustment Definition. The definitions of terms used with reference to calculation of the county facility

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outpatient adjustment are as follows:

- i) "Base Year" means the most recently completed State fiscal year.
  - ii) "Rate Year" means the State fiscal year during which the county facility adjustment payments are made.
  - iii) "Total Estimated Rate Year Hospital Outpatient Payments" means the Department's total estimated outpatient date of service liability, projected for the upcoming rate year.
  - iv) "Total Hospital Outpatient Costs" means the statewide sum of all hospital outpatient costs derived by summing each hospital's outpatient charges derived from actual paid claims data multiplied by the hospital's cost-to-charge ratio.
- 6) Critical Access Hospital Rate Adjustment  
Hospitals designated by the Illinois Department of Public Health as Critical Access Hospital (CAH) providers in accordance with 42 CFR 485.subpart F shall be eligible for an outpatient rate adjustment for services identified in subsections (b)(1)(A) through (b)(1)(F), excluding services for Medicare/Medicaid crossover claims. This adjustment shall be calculated as follows:
- A) An annual distribution factor shall be calculated as follows:
    - i) The numerator shall be \$33 million.
    - ii) The denominator shall be the RY 2011 total outpatient cost coverage deficit calculated in accordance with 89 Ill. Adm. Code 148.115, less the RY 2011 Rural Adjustment Outpatient Payments calculated in accordance with 89 Ill. Adm. Code 148.115, plus the annual outpatient supplemental payment calculated in accordance with 89 Ill. Adm. Code 148.456.
  - B) Hospital Specific Adjustment Value

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

For each hospital qualified under this subsection (b)(6) the hospital specific adjustment value shall be the product of each hospital's specific cost coverage deficit calculated in subsection (b)(6)(A)(ii) and the distribution factor calculated in subsection (b)(6)(A):

- C) Effective for dates of service on or after July 1, 2012, the final APL Rate Adjustment Values shall be the quotient of:
- i) The hospital specific adjustment value identified in subsection (b)(6)(B) divided by
  - ii) The total outpatient services identified in subsections (b)(1)(A) through (b)(1)(E), excluding services for Medicare/Medicaid crossover claims for calendar year 2009, adjudicated and contained in the Department's paid claims database as of December 31, 2010.
- D) Non-State Government Owned Provider Adjustment  
Final APL rates for hospitals identified in non-State government owned or operated providers in the State's Upper Payment Limits demonstration shall be adjusted when necessary to assure compliance with federal upper payment limits as stated in 42 CFR 447.304.
- E) Applicability  
The rates calculated in accordance with subsection (b)(6)(A) shall be effective for dates of service beginning January 1, 2011 and shall be adjusted each State fiscal year beginning July 1, 2011.
- i) For State fiscal year 2011, the rate year shall begin January 1, 2011 and end June 30, 2011.
  - ii) For State fiscal year 2012 and beyond, the rate year shall be for dates of services beginning July 1 through June 30 of the subsequent year.
  - iii) For purposes of this adjustment, a children's hospital identified in Section 149.50(c)(3)(B) shall be combined with the corresponding general acute care parent hospital.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- iv) Beginning with State fiscal year 2012 and each subsequent State fiscal year thereafter, the adjustment to the FY 2011 final APL Rate adjustment shall be limited to 2% in accordance with spending limits in 35 ILCS 5/201.5.
- 7) **No Year-End Reconciliation**  
With the exception of the retrospective rate adjustment described in subsection (b)(9) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (b).
- 8) **Rate Adjustments**  
With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in subsection (b)(5) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
  - A) The reimbursement rates described in subsection (b)(5) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.
  - B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- 9) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals reimbursed under the Ambulatory Care Program in the same manner as to encounter rate hospitals and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.
- 10) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

days after the close of the facility's fiscal year.

- c) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:
- 1) For inpatient hospital services provided pursuant to Section 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.240 through 148.300 and 89 Ill. Adm. Code 149.
  - 2) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate that will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2163 (1994). This rate will be that rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (1994).
  - 3) Payment for non-routine services. For services that are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (c)(3) but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.
  - 4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.
  - 5) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in this subsection (c) shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
    - A) The reimbursement rates described in this subsection (c) shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
  - 6) With the exception of the retrospective rate adjustment described in subsection (c)(5) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (c).
  - 7) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) of this Section shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.
  - 8) Effective July 1, 2013, hospitals and freestanding chronic dialysis centers will receive an add-on payment of \$60 per treatment day to the rate described in subsection (c)(2) for outpatient renal dialysis treatments or home dialysis treatments provided to Medicaid recipients under Title XIX of the Social Security Act, excluding services for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/ Medicare crossovers) and excluding services provided under Subpart D: State Chronic Renal Disease Program, as defined in Sections 148.600 through 148.640.
- d) Non Hospital-Based Clinic Reimbursement
- 1) County-Operated Outpatient Facility Reimbursement  
Reimbursement for all services provided by county-operated outpatient facilities, as described in Section 148.25(b)(2)(C), that do not qualify as either a Maternal and Child Health Program managed care clinics, as described in 89 Ill. Adm. Code 140.461(f), or as a Critical Clinic Provider, as described in subsection (e) of this Section, shall be on an all-inclusive per encounter rate basis as follows:
    - A) Base Rate. The per encounter base rate shall be calculated as follows:
      - i) Allowable direct costs shall be divided by the number of direct encounters to determine an allowable cost per encounter delivered by direct staff.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- ii) The resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section, shall be multiplied by the Medicare allowable overhead rate factor to calculate the overhead cost per encounter.
  - iii) The resulting product, as calculated in subsection (d)(1)(A)(ii) of this Section, shall be added to the resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section to determine the per encounter base rate.
  - iv) The resulting sum, as calculated in subsection (d)(1)(A)(iii) of this Section, shall be the per encounter base rate.
- B) Supplemental Rate
- i) The supplemental service cost shall be divided by the total number of direct staff encounters to determine the direct supplemental service cost per encounter.
  - ii) The supplemental service cost shall be multiplied by the allowable overhead rate factor to calculate the supplemental overhead cost per encounter.
  - iii) The quotient derived in subsection (d)(1)(B)(i) of this Section shall be added to the product derived in subsection (d)(1)(B)(ii) of this Section, to determine the per encounter supplemental rate.
  - iv) The resulting sum, as described in subsection (d)(1)(B)(iii) of this Section, shall be the per encounter supplemental rate.
- C) Final Rate
- i) The per encounter base rate, as described in subsection (d)(1)(A)(iv) of this Section, shall be added to the per encounter supplemental rate, as described in subsection (d)(1)(B)(iv) of this Section, to determine the per encounter final rate.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- ii) The resulting sum, as determined in subsection (d)(1)(C)(i) of this Section, shall be the per encounter final rate.
  - iii) The per encounter final rate, as described in subsection (d)(1)(C)(ii) of this Section, shall be adjusted in accordance with subsection (d)(2) of this Section.
- 2) Rate Adjustments  
Rate adjustments to the per encounter final rate, as described in subsection (d)(1)(C)(iii) of this Section, shall be calculated as follows:
  - A) The reimbursement rates described in subsections (d)(1)(A) through (d)(1)(C) and (e)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
  - B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
  - C) The final rate described in subsection (d)(1)(C) of this Section shall be no less than \$147.09 per encounter.
- 3) County-operated outpatient facilities, as described in Section 148.25(b)(2)(C), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (d).
- 4) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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applicable to encounter rate hospitals in the same manner as to hospitals reimbursed under the Ambulatory Care Program and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

- e) Critical Clinic Providers
  - 1) Effective for services provided on or after September 27, 1997, a clinic owned or operated by a county with a population of over three million, that is within or adjacent to a hospital, shall qualify as a Critical Clinic Provider if the facility meets the efficiency standards established by the Department. The Department's efficiency standards under this subsection (e) require that the quotient of total encounters per facility fiscal year for the Critical Clinic Provider divided by total full time equivalent physicians providing services at the Critical Clinic Provider shall be greater than:
    - A) 2700 for reimbursement provided during the facility's cost reporting year ending during 1998,
    - B) 2900 for reimbursement provided during the facility's cost reporting year ending during 1999,
    - C) 3100 for reimbursement provided during the facility's cost reporting year ending during 2000,
    - D) 3600 for reimbursement provided during the facility's cost reporting year ending during 2001, and
    - E) 4200 for reimbursement provided during the facility's cost reporting year ending during 2002.
  - 2) Reimbursement for all services provided by any Critical Clinic Provider shall be on an all-inclusive per-encounter rate that shall equal reported direct costs of Critical Clinic Providers for each facility's cost reporting period ending in 1995, and available to the Department as of September 1, 1997, divided by the number of Medicaid services provided during that cost reporting period as adjudicated by the Department through July 31, 1997.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EXPEDITED CORRECTION

- 3) Critical Clinic Providers, as described in this subsection (e), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (e).
- 4) The reimbursement rates described in this subsection (e) shall be no less than the reimbursement rates in effect on July 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.
- f) Critical Clinic Provider Pharmacies  
Prescribed drugs, dispensed by a pharmacy that is a Critical Clinic Provider, that are not part of an encounter reimbursable under subsection (e) of this Section shall be reimbursed at the rate described in subsection (e)(2) of this Section.
- g) Freestanding Emergency Centers  
A Freestanding Emergency Center (FEC), as defined in Section 148.25(h) of this Part, is eligible to enroll for reimbursement of emergency services.  
Reimbursement for the emergency services provided in an FEC shall be made at the applicable APL group rate identified in subsection (b) of this Section.  
Payment for salaried physician services performed in conjunction with an APL procedure shall be made in accordance with subsection (b) of this Section.

(Source: Amended at 35 Ill. Reg. 420, effective December 27, 2010; expedited correction at 38 Ill. Reg. 12618, effective December 27, 2010)

## CHIEF PROCUREMENT OFFICER FOR DEPARTMENT OF TRANSPORTATION

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Mr. Thomas Schahrer, Secretary-Treasurer, Leo P. Kelly Electric.
3. Date of Violation: December 31, 2013
4. Description of Violation: Mr. Schahrer, an affiliated person of the business entity Leo P. Kelly Electric, made a contribution of \$500.00 to the Dan Rutherford Campaign Committee, a campaign committee established to support the election of Dan Rutherford to Illinois public office. At the time of the contribution, Dan Rutherford was a declared candidate for the office of governor, and Leo P. Kelly Electric had in place active contracts with the State of Illinois, the total annual combined value of which was in excess of \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Department of Transportation has notified Leo P. Kelly of the apparent violation, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by Leo P. Kelly Electric of the violation and their understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, the Dan Rutherford Campaign Committee, is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## JUNE AGENDA

MICHAEL A. BILANDIC BUILDING  
ROOM 600C  
CHICAGO, ILLINOIS  
JUNE 17, 2014  
10:00 A.M.

***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*

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**Agriculture

1. Forever Green Illinois Program (8 Ill. Adm. Code 241)
  - First Notice Published: 38 Ill. Reg. 4549 – 2/21/14
  - Expiration of Second Notice: 7/11/14

Central Management Services

2. State Vehicles and Garage (44 Ill. Adm. Code 5040)
  - First Notice Published: 38 Ill. Reg. 3241 – 1/31/14
  - Expiration of Second Notice: 6/22/14
3. Pay Plan (80 Ill. Adm. Code 310)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## JUNE AGENDA

- First Notice Published: 38 Ill. Reg. 6751 – 3/28/14
- Expiration of Second Notice: 6/26/14

Children and Family Services

4. Licensing Standards for Day Care Centers (89 Ill. Adm. Code 407)
  - First Notice Published: 37 Ill. Reg. 13608 – 8/23/13
  - Expiration of Second Notice: 7/13/14

Financial and Professional Regulation

5. Illinois Dental Practice Act (68 Ill. Adm. Code 1220)
  - First Notice Published: 37 Ill. Reg. 13687 – 8/23/13
  - Expiration of Second Notice: 6/15/14
6. Medical Practice Act of 1987 (68 Ill. Adm. Code 1285)
  - First Notice Published: 37 Ill. Reg. 13821 – 8/30/13
  - Expiration of Second Notice: 7/11/14

Gaming Board

7. Video Gaming (General) (11 Ill. Adm. Code 1800)
  - First Notice Published: 37 Ill. Reg. 19812 – 12/13/13
  - Expiration of Second Notice: 7/1/14

Human Services

8. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
  - First Notice Published: 38 Ill. Reg. 7041 – 3/28/14
  - Expiration of Second Notice: 7/12/14
9. Partner Abuse Intervention (Repealer) (89 Ill. Adm. Code 501)
  - First Notice Published: 37 Ill. Reg. 19437 – 12/6/13
  - Expiration of Second Notice: 5/21/14
10. Partner Abuse Intervention (89 Ill. Adm. Code 501)
  - First Notice Published: 37 Ill. Reg. 19457 – 12/6/13
  - Expiration of Second Notice: 5/21/14

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## JUNE AGENDA

11. Rules of Conduct, Discipline, Suspension and Discharge Procedures (89 Ill. Adm. Code 827)

-First Notice Published: 38 Ill. Reg. 4292 – 2/14/14

-Expiration of Second Notice: 7/11/14

Insurance

12. Improper Claims Practice (50 Ill. Adm. Code 919)

-First Notice Published: 38 Ill. Reg. 4999 – 2/21/14

-Expiration of Second Notice: 6/26/14

Labor

13. Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120)

-First Notice Published: 38 Ill. Reg. 6520 – 3/21/14

-Expiration of Second Notice: 7/13/14

Pollution Control Board

14. General Provisions (35 Ill. Adm. Code 501)

-First Notice Published: 37 Ill. Reg. 18974 – 12/2/13

-Expiration of Second Notice: 6/4/14

15. Permits (35 Ill. Adm. Code 502)

-First Notice Published: 37 Ill. Reg. 19005 – 12/2/13

-Expiration of Second Notice: 6/4/14

16. Implementation Program (Repealer) (35 Ill. Adm. Code 504)

-First Notice Published: 37 Ill. Reg. 19074 – 12/2/13

-Expiration of Second Notice: 6/4/14

Public Health

17. Certification and Operation of Environmental Laboratories (77 Ill. Adm. Code 465)

-First Notice Published: 38 Ill. Reg. 2723 – 1/24/14

-Expiration of Second Notice: 7/12/14

18. Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code (77 Ill. Adm. Code 515)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## JUNE AGENDA

- First Notice Published: 38 Ill. Reg. 7490 – 4/4/14
- Expiration of Second Notice: 7/12/14

Revenue

19. Income Tax (86 Ill. Adm. Code 100)
  - First Notice Published: 38 Ill. Reg. 5148 – 2/21/14
  - Expiration of Second Notice: 6/26/14
20. Income Tax (86 Ill. Adm. Code 100)
  - First Notice Published: 38 Ill. Reg. 5503 – 2/28/14
  - Expiration of Second Notice: 6/27/14
21. Home Rule County Retailers Occupation Tax (86 Ill. Adm. Code 220)
  - First Notice Published: 38 Ill. Reg. 6549 – 3/21/14
  - Expiration of Second Notice: 7/12/14
22. Home Rule Municipal Retailers' Occupation Tax (86 Ill. Adm. Code 270)
  - First Notice Published: 38 Ill. Reg. 6562 – 3/21/14
  - Expiration of Second Notice: 7/12/14
23. Regional Transportation Authority Retailers' Occupation Tax (86 Ill. Adm. Code 320)
  - First Notice Published: 38 Ill. Reg. 6575 – 3/21/14
  - Expiration of Second Notice: 7/12/14
24. Metro East Mass Transit District Retailers' Occupation Tax (86 Ill. Adm. Code 370)
  - First Notice Published: 38 Ill. Reg. 6588 – 3/21/14
  - Expiration of Second Notice: 7/12/14
25. Metro-East Park and Recreation District Retailers' Tax (86 Ill. Adm. Code 395)
  - First Notice Published: 38 Ill. Reg. 6601 – 3/21/14
  - Expiration of Second Notice: 7/12/14
26. County Water Commission Retailers' Occupation Tax (86 Ill. Adm. Code 630)
  - First Notice Published: 38 Ill. Reg. 6614 – 3/21/14
  - Expiration of Second Notice: 7/12/14
27. Special County Retailers' Occupation Tax for Public Safety (86 Ill. Adm. Code 670)
  - First Notice Published: 38 Ill. Reg. 6627 – 3/21/14

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## JUNE AGENDA

-Expiration of Second Notice: 7/12/14

28. Salem Civic Center Retailers' Occupation Tax (86 Ill. Adm. Code 690)
  - First Notice Published: 38 Ill. Reg. 6640 – 3/21/14
  - Expiration of Second Notice: 7/12/14
29. Non-Home Rule Municipal Retailers' Occupation Tax (86 Ill. Adm. Code 693)
  - First Notice Published: 38 Ill. Reg. 6653 – 3/21/14
  - Expiration of Second Notice: 7/12/14
30. County Motor Fuel Tax (86 Ill. Adm. Code 695)
  - First Notice Published: 38 Ill. Reg. 6666 – 3/21/14
  - Expiration of Second Notice: 7/12/14

Secretary of State

31. Uniform Commercial Code (14 Ill. Adm. Code 180)
  - First Notice Published: 38 Ill. Reg. 7088 – 3/28/14
  - Expiration of Second Notice: 7/2/14

State Universities Retirement System

32. Universities Retirement (80 Ill. Adm. Code 1600)
  - First Notice Published: 38 Ill. Reg. 7571 – 4/4/14
  - Expiration of Second Notice: 7/13/14
33. Universities Retirement (80 Ill. Adm. Code 1600)
  - First Notice Published: 38 Ill. Reg. 7863 – 4/11/14
  - Expiration of Second Notice: 7/13/14

**EMERGENCY RULE**State Universities Retirement System

34. Universities Retirement (80 Ill. Adm. Code 1600)
  - First Notice Published: 38 Ill. Reg. 11376 – 5/23/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of May 27, 2014 through June 2, 2014. These rulemakings are scheduled for review at the Committee's June 17, 2014 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>
7/11/14	<u>Department of Agriculture</u> , Forever Green Illinois Program (8 Ill Adm. Code 241)	2/21/14 38 Ill. Reg. 4549	6/17/14
7/13/14	<u>Department of Children and Family Services</u> , Licensing Standards for Day Care Centers (89 Ill. Adm. Code 407)	8/23/13 37 Ill. Reg. 13608	6/17/14
7/11/14	<u>Department of Financial and Professional Regulation</u> , Medical Practice Act of 1987 (68 Ill. Adm. Code 1285)	8/30/13 37 Ill. Reg. 13821	6/17/14
7/12/14	<u>Department of Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)	3/28/14 38 Ill. Reg. 7041	6/17/14
7/11/14	<u>Department of Human Services</u> , Rules of Conduct, Discipline, Suspension and Discharge Procedures (89 Ill. Adm. Code 827)	2/14/14 38 Ill. Reg. 4292	6/17/14
7/13/14	<u>Department of Labor</u> , Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120)	3/21/14 38 Ill. Reg. 6520	6/17/14
7/12/14	<u>Department of Public Health</u> , Certification and Operation of Environmental Laboratories (77 Ill. Adm. Code 465)	1/24/14 38 Ill. Reg. 2723	6/17/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

7/12/14	<u>Department of Public Health</u> , Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code (77 Ill. Adm. Code 515)	4/4/14 38 Ill. Reg. 7490	6/17/14
7/12/14	<u>Department of Revenue</u> , Home Rule County Retailers' Occupation Tax (86 Ill. Adm. Code 220)	3/21/14 38 Ill. Reg. 6549	6/17/14
7/12/14	<u>Department of Revenue</u> , Home Rule Municipal Retailers' Occupation Tax (86 Ill. Adm. Code 270)	3/21/14 38 Ill. Reg. 6562	6/17/14
7/12/14	<u>Department of Revenue</u> , Regional Transportation Authority Retailers' Occupation Tax (86 Ill. Adm. Code 320)	3/21/14 38 Ill. Reg. 6575	6/17/14
7/12/14	<u>Department of Revenue</u> , Metro East Mass Transit District Retailers' Occupation Tax (86 Ill. Adm. Code 370)	3/21/14 38 Ill. Reg. 6588	6/17/14
7/12/14	<u>Department of Revenue</u> , Metro East Park and Recreation District Retailers' Tax (86 Ill. Adm. Code 395)	3/21/14 38 Ill. Reg. 6601	6/17/14
7/12/14	<u>Department of Revenue</u> , County Water Commission Retailers' Occupation Tax (86 Ill. Adm. Code 630)	3/21/14 38 Ill. Reg. 6614	6/17/14
7/12/14	<u>Department of Revenue</u> , Special County Retailers' Occupation Tax for Public Safety (86 Ill. Adm. Code 670)	3/21/14 38 Ill. Reg. 6627	6/17/14
7/12/14	<u>Department of Revenue</u> , Salem Civic Center Retailers' Occupation Tax (86 Ill. Adm. Code 690)	3/21/14 38 Ill. Reg. 6640	6/17/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

7/12/14	<u>Department of Revenue, Non-Home Rule Municipal Retailers' Occupation Tax (86 Ill. Adm. Code 693)</u>	3/21/14 38 Ill. Reg. 6653	6/17/14
7/12/14	<u>Department of Revenue, County Motor Fuel Tax (86 Ill. Adm. Code 695)</u>	3/21/14 38 Ill. Reg. 6666	6/17/14
7/13/14	<u>State Universities Retirement System, Universities Retirement (80 Ill. Adm. Code 1600)</u>	4/4/14 38 Ill. Reg. 7571	6/17/14
7/13/14	<u>State Universities Retirement System, Universities Retirement (80 Ill. Adm. Code 1600)</u>	4/11/14 38 Ill. Reg. 7863	6/17/14

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 38, Issue 24 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.

**PROPOSED RULES**

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77 - 475	.....	12007

**ADOPTED RULES**

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83 - 715	5/29/2014 .....	12029
32 - 360	5/29/2014 .....	12031
32 - 609	5/29/2014 .....	12088
89 - 140	5/30/2014 .....	12141
89 - 147	5/30/2014 .....	12173
59 - 150	5/29/2014 .....	12358
35 - 720	5/27/2014 .....	12378
35 - 721	5/27/2014 .....	12442
77 - 661	6/2/2014 .....	12509
92 - 1030	7/1/2014 .....	12515
92 - 1060	7/1/2014 .....	12566
92 - 1066	7/1/2014 .....	12582
26 - 218	5/30/2014 .....	12603

**APPROVAL OF EXPEDITED  
CORRECTION**

89 - 148	12/27/2010 .....	12618
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**REGULATORY AGENDA**

35 - 1500	.....	12616
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## ORDER FORM

<input type="checkbox"/> Print Version of the Illinois Register <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (2012-2013 Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register (1977 – 2003) Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices (2010) Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
<b>TOTAL AMOUNT OF ORDER</b>	\$ _____

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Check    Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover    (There is a \$2.00 processing fee for credit card purchases.)
Card #: _____ Expiration Date: _____
Signature: _____

**Send Payment To:** Secretary of State  
 Department of Index  
 Administrative Code Division  
 111 E. Monroe  
 Springfield, IL 62756

**Fax Order To:** (217) 557-8919

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

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