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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

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Elder Rights
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
270.10	Amendment
270.200	Amendment
270.205	Amendment
270.210	Amendment
270.215	Amendment
270.220	Amendment
270.225	Amendment
270.230	Amendment
270.235	Amendment
270.240	Amendment
270.241	New Section
270.245	Amendment
270.250	Amendment
270.255	Amendment
270.260	Amendment
270.265	Amendment
270.270	Amendment
270.275	Amendment
270.280	Amendment
270.285	Amendment
270.290	Amendment
270.295	Amendment
270.300	Amendment
- 4) Statutory Authority: Implementing Section 4.04(c) of the Illinois Act on the Aging [20 ILCS 105/4.04(c)] and Section 10 of the Adult Protective Services Act [320 ILCS 20/10] and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.01(11)].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments are being filed to make necessary updates for the expansion and transfer of authority to the Department for investigating allegations of abuse against adults with disabilities aged 18-59 living in domestic settings previously handled by the Office of the Inspector General for the Department of Human Services as a result of Public Act 98-49. Doing so will also

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

help build a more integrated adult protection and advocacy system for outreach, intake, early intervention, and investigatory services at the local level and thereby improve responsiveness to reported incidents.

Table of Contents: Changes the name of Part 270 and the headers for Subparts C and D to reflect the name of the new enabling Act. Updates Section headings to correspond with revisions in accompanying text. Adds a new Section 270.241.

Section 270.10: Updates terminology. Adds language to explain the purpose for the various programs comprising Adult Protection and Advocacy Services and the populations being served by the Department and its provider agencies.

Section 270.200: Updates Section heading and terminology. Adds language summarizing the principles upon which the Adult Protective Services Program is modeled in Illinois.

Section 270.205: Updates Section heading and terminology. Adds "fatality review teams" to the listing of services and activities of the Adult Protective Services Program.

Section 270.210: Updates terminology. Adds definitions for the following terms: "Abuse Fatality Review Team", "Adult Protective Services Hotline", "Adult Protective Services Provider Agency", "Adult with disabilities", "APS", "Capacity to Consent", "Case worker", "Disability", "Early Intervention Services", "Emergency", "Initial interview", "Report taker", "Self-determination", "Self-neglect", "Services", and "Suspicious death". Revises definition of other terms as follows: (1) by updating the name of the enabling Act under "Act"; (2) by eliminating an obsolete reference to board and care homes, updating an internal cross-reference to the IO/DD Community Care Act, and adding exclusions for facilities licensed under the Specialized Mental Health Rehabilitation Act and the Community Residential Alternative Act under "Domestic living situation"; (3) by adding language that describes the expanded jurisdiction of the Department to investigate allegations of abuse against adults with disabilities aged 18-58 living in domestic settings for "Alleged abuser", "Alleged victim", and "Eligible adult"; (4) by clarifying the referral function and adding "self-neglect" to listing of types of reports handled under "Intake"; (5) by adding an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services and updating the internal cross-references to the listing of other licensed occupations under "Mandated reporter"; and (6) by adding "self-neglect" to the types of reports under "Substantiated case". Eliminates obsolete definitions.

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Section 270.215: Updates terminology. Adds a clarification that the Adult Protective Services Program is contingent upon adequate funding. Explains the transition process for the contract termination of a regional administrative agency.

Section 270.220: Updates terminology. Specifies that the Department may designate an Area Agency on Aging to serve as a regional administrative agency or hold a competitive procurement. Explains the procurement and contracting processes for a regional administrative agency. Sets forth public awareness and education role of regional administrative agencies and lists information that must be included in producing related material. Clarifies that a regional administrative agency shall not serve as a legal guardian, an agency under the Illinois Power of Attorney Act, or a representative payee for any client in the program. Allow a waiver of this prohibition by the Department when there is documented evidence that no other qualified person or entity can serve in such capacity and the regional administrative agency is willing and qualified to take on such responsibilities. States record retention responsibilities for a regional administrative agency.

Section 270.225: Updates Section heading and terminology. Specifies the work days, closures, and staffing availability for APS provider agencies. Sets forth public awareness and education role of APS provider agencies and lists information that must be included in producing related material. Clarifies that APS provider agencies shall not serve as a legal guardian, an agency under the Illinois Power of Attorney Act. States record retention responsibilities for a regional administrative agency. Directs that APS supervisors must be involved in guiding and directing ANE case and share responsibility in the case workers' decisions and actions. Lists the qualifications for APS supervisors and APS case workers. Clarifies that the Department may suspend or remove any case worker or supervisor who fails or refuses to properly perform duties from the APS Case Worker Registry. Directs the APS provide agency to return to the Department the identification card of a case worker or supervisor who separates from employment.

Section 270.230: Updates Section heading and terminology. Explains new standard regarding mandated reporting requirement, which occurs when an eligible adult is unable to seek assistance because of a disability or other condition or impairment. Eliminates obsolete references to board and care homes. Clarifies that the identity of a person making a report of alleged or suspected abuse is confidential unless disclosure is consented to in writing or required by court order.

Section 270.235: Updates terminology. Re-arranges paragraph order to improve readability. Eliminates redundant provisions.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

Section 270.240: Updates Section heading and terminology. Revises the list of agencies and hotlines that are authorized to receive ANE reports. Specifies staffing requirements for APS provider agencies.

Section 270.241: Adds a new Section. Explains reporting requirements for suspicious deaths for report takers and provider agencies.

Section 270.245: Updates Section heading and terminology.

Section 270.250: Updates Section heading and terminology. Eliminates obsolete provisions. Adds to the list of information that must be documented in a confidential case records, including referrals to law enforcement, coroners or medical examiners; notification to a probate court, and suspicious death reports. Requires preparation of a final investigative report by a provider agency in all cases without regard to whether there is a substantiated finding.

Section 270.255: Updates Section heading and terminology. Explains how the provider agency develops a care plan. Directs the provider agency to consult with appropriate professionals and service providers, including establishing working relationships with disability agencies. Requires preparation of a final investigative report by a provider agency in all cases without regard to whether there is a substantiated finding. Eliminates obsolete provisions. Sets forth reporting requirements to a law enforcement agency, the coroner or medical examiner, and the probate court with jurisdiction over a guardian where a provider agency has reason to believe that the death of an eligible may be the result of abuse or neglect. Indicates that a case may be closed by a provider agency when the alleged victim is determined to be ineligible for services.

Section 270.260: Updates Section heading. Adds provision regarding determination to be made by a provider agency at the initial interview with an alleged victim and after an assessment of a reported incident is conducted. Sets forth the rights of an alleged victim under the Adult Protective Services Program. Explains how to determine whether an alleged victim lacks the capacity to consent and clarifies when the case worker may proceed with intervention in emergency and non-emergency situations by involving a guardian or agent; family, friends, or other caregivers; and the Illinois Guardianship and Advocacy Commission, the Office of State Guardian or other appropriate agency. Eliminates obsolete provisions.

Section 270.265: Updates Section heading and terminology. Eliminates obsolete

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

provisions regarding the Emergency Intervention Services fund.

Section 270.270: Updates terminology. Revises the list of professions represented by volunteers on a multi-disciplinary team. Directs law enforcement agencies, coroners, and medical examiners to supply records to the multi-disciplinary team as may be requested in particular cases.

Section 270.275: Updates terminology. Adds "self-neglect" to listing of types of confidential reports under the Adult Protective Services Program that cannot be disclosed except as specifically authorized by the Act once a case is closed. Clarifies that records generated as a result of such reports include, but is not limited to, referrals and intervention services. Clarifies the confidentiality requirements of such records. Updates the list of individuals authorized to access confidential records. Explains the record request process for releasing confidential records on the basis of a written authorization by an eligible adult or his or her legal representative or through the use of a subpoena accompanied by court order after an in camera inspection to determine relevancy.

Section 270.280: Updates terminology.

Section 270.285: Updates terminology.

Section 270.290: Updates terminology.

Section 270.295: Updates terminology.

Section 270.300: Updates terminology.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or enlarge any

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

State mandate.

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed rulemaking within 45 days after the date of publication of this Notice to:
- Karen Alice Kloppe  
Deputy General Counsel  
Illinois Department on Aging  
One Natural Resources Way, Suite 100  
Springfield, IL 62701-1789
- (217) 785-3346
- 13) Initial Regulatory Flexibility Analysis:
- A) Reporting of small businesses, small municipalities and not for profit corporations affected: Provider agencies under the Adult Protective Services Program will be affected by this rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: None. This rulemaking was not included on the most recent Regulatory Agenda because Public Act 98-49 was enacted after its publication.

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

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER II: DEPARTMENT ON AGING

PART 270

ADULT PROTECTION AND ADVOCACY SERVICES~~ELDER RIGHTS~~

SUBPART A: INTRODUCTION

Section  
270.10 Summary and Purpose

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section  
270.100 Long Term Care Ombudsman Program  
270.105 Definitions  
270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman  
270.115 Display of Ombudsman Poster  
270.120 Access to Resident Records  
270.130 Conflict of Interest

SUBPART C: ADULT PROTECTIVE SERVICES  
~~ELDER ABUSE AND NEGLECT~~ PROGRAM

Section  
270.200 Purpose and Program Model  
270.205 Adult Protective Services~~Elder Abuse and Neglect~~ Program  
270.210 Definitions  
270.215 Organizational Standards and Responsibilities: Department on Aging  
270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies  
270.221 Elder Abuse Fatality Review Teams  
270.225 Organizational Standards and Responsibilities: Adult Protective Services~~Elder Abuse~~ Provider Agencies  
270.230 ~~Elder~~ Abuse Reporting  
270.235 Immunity  
270.240 Intake of Abuse, Neglect and Financial Exploitation~~ANE~~ Reports  
270.241 Reporting a Suspicious Death

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

270.245	Access to <del>Alleged Victims</del> <u>Eligible Adults</u>
270.250	Minimum Assessment and Classification Standards
270.255	<del>Abuse, Neglect and Financial Exploitation</del> <u>ANE</u> Case Work, Follow-Up, Referrals <del>Referral to Law Enforcement</del> and Case Closure
270.260	Authority to Consent <del>to Services</del> and Court Petitions
270.265	<del>Early</del> <u>Emergency</u> Intervention Services
270.270	Multi-disciplinary Teams
270.275	Confidentiality and Disclosure

SUBPART D: ~~ADULT PROTECTIVE SERVICES~~ELDER ABUSE VOLUNTEER CORPS

## Section

270.280	Definitions
270.285	Selection and Screening
270.290	Training
270.295	Volunteer Agreement and Volunteer Responsibilities
270.300	Activities and Supervision

**AUTHORITY:** Implementing Section 4.04(c) of the Illinois Act on the Aging [20 ILCS 105/4.04(c)] and Section 10 of the Adult Protective Services Act [320 ILCS 20/10] and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.01(11)].

**SOURCE:** Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011; emergency amendment at 38 Ill. Reg. 2357, effective December 31, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

**Section 270.10 Summary and Purpose**

This Part describes the organization, standards and responsibilities of the programs that comprise the Department's ~~Adult Protection and Advocacy Services~~Elder Rights Programs.

- a) Services  
These services include the Long Term Care Ombudsman Program, the Adult Protective Services~~Elder Abuse and Neglect~~ Program and the Senior Legal

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

Assistance Program. ~~These programs are designed to expand and advance the rights of seniors.~~

- b) Purpose
- 1) The Long Term Care Ombudsman Program is designed to ensure that adults aged 60 and over and persons with disabilities aged 18 through 59 receive quality services in long term care facilities or in-home and community-based settings.
  - 2) The Adult Protective Services Program is designed to prevent abuse, neglect, financial exploitation, or self-neglect of adults with disabilities aged 18 through 59 and persons aged 60 or older who reside in a domestic living situation.
  - 3) The Senior Legal Assistance Program is designed to provide legal assistance to persons aged 60 or older.

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

SUBPART C: ADULT PROTECTIVE SERVICES  
~~ELDER ABUSE AND NEGLECT PROGRAM~~

**Section 270.200 Purpose and Program Model**

- a) This Subpart describes the organization of the Adult Protective Services~~Elder Abuse and Neglect~~ Program administered by and through the Illinois Department on Aging.
- b) The Adult Protective Services Program is modeled on the following principles:
- 1) advocacy intervention by APS provider agencies;
  - 2) the right to self-determination by the alleged victim to:
    - A) decide where and how he or she will live;
    - B) choose whether to accept social services or other community assistance; and

## DEPARTMENT ON AGING

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- C) make decisions different from those a reasonable adult would make that are not harmful to others.

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

**Section 270.205 Adult Protective Services~~Elder Abuse and Neglect~~ Program**

The Adult Protective Services~~Elder Abuse and Neglect~~ Program is designed to respond to eligible adults~~elder persons~~ who are victims of abuse, neglect, and financial exploitation (ANE). The services and activities of the program are:

- a) Intake of ANE reports
- b) Assessment
- c) Case work
- d) Follow-up
- e) Early~~Emergency~~ intervention services
- f) Multi-disciplinary teams
- g) Fatality review teams
- h) Public awareness/education.

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

**Section 270.210 Definitions**

*"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]*

"Abuse Fatality Review Team" means a regional interagency review team established pursuant to Section 15 of the Act. Abuse Fatality Review Team also has the same meaning as At-Risk Adult Fatality Review Team.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

*"Abuser" means a person who abuses, neglects, or financially exploits an eligible adult. [320 ILCS 20/2(a-5)]*

"Act" means the Adult Protective Services~~Elder Abuse and Neglect~~ Act [320 ILCS 20].

"Adult Protective Services Hotline" means the 24-hour toll-free statewide telephone number that can be called to report suspected cases of abuse, neglect or financial exploitation of eligible adults.

"Adult Protective Services Provider Agency" or "designated agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect and financial exploitation.

"Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose disability impairs his or her ability to seek or obtain protection from abuse, neglect or financial exploitation. [320 ILCS 20/2(a-6)]

"Allegation" means a charge or a claim of abuse, neglect, or financial exploitation.

"Alleged abuser" means a person who is reported as abusing, neglecting, or financially exploiting an adult with disabilities or older person.

"Alleged victim" means an adult with disabilities or~~the~~ older person who is reported as being abused, neglected, or financially exploited.

"ANE" means abuse, neglect, and financial exploitation.

"APS" means adult protective services.

"Assessment" means the process of obtaining and documenting information about the case to determine if there is reason to believe abuse, neglect or financial exploitation is occurring (or has occurred), and to ascertain the level of risk to the eligible adult of future abuse or harm.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

"Capacity to consent" to an assessment or services means an individual reasonably appears to be either:

able to receive and evaluate information related to the assessment or services;  
or

able to communicate in any manner decisions related to the assessment of the reported incident or services. (See 320 ILCS 20/9(d-5).)

*"Caregiver" means a person who either, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living. [320 ILCS 20/2(a-7)]*

"Case work" is the development and implementation of a service plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

"Case worker" means an employee of an APS provider agency who is authorized to receive and assess reports of alleged or suspected abuse, neglect and financial exploitation and to develop and implement a service plan for a client.

"Clear and convincing" is the standard of proof that must be met to reach a "verified" substantiation decision in the Adult Protective Services ~~ANE~~ Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a substantial certainty that the abuse, neglect or financial exploitation is occurring or has occurred.

"Client" is an eligible adult who is receiving services from the APS ~~elder abuse~~ provider agency.

"Combined service area" means a designated service area, within a planning and service area where a single APS provider agency is responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

The APS provider agency shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Confinement" means restraining or isolating an individual~~elder person~~ for other than bona fide medical reasons.

"Department" means the Department on Aging of the State of Illinois. [320 ILCS 20/2(b)]

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-129], or dementia as defined under the Alzheimer's Disease Assistance Act [410 ILCS 405/3(a-5)]. [320 ILCS 20/2(c-5)]

"Domestic living situation" means a residence where the eligible adult, at the time of the report, lives alone or with his or her family or a caregiver, or others, or ~~a board and care home or~~ other community-based unlicensed facility, but is not:

*A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];*

*A facility licensed under the IO/DDMR/DD Community Care Act [210 ILCS 47];*

*A facility licensed under the Specialized Mental Health Rehabilitation Act [210 ILCS 49];*

*A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];*

*A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;*

*A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor,*

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*which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];*

*A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35]; ~~and~~*

*A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; and*

*A "community residential alternative" as defined in the Community Residential Alternative Act [210 ILCS 140]. [320 ILCS 20/2(d)]*

"Early Intervention Services" are the services purchased by APS provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.

~~"Elder Abuse Hotline" means the 24 hour toll free statewide number that can be called to report suspected cases of elder abuse, neglect, or financial exploitation.~~

~~"Elder abuse provider agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect and financial exploitation.~~

*"Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself. [320 ILCS 20/2(e)]*

*"Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the APS provider agency has reason to believe the eligible adult is unable to consent to services that would alleviate that risk. [320 ILCS 20/2(f)]*

~~"Emergency Intervention Services" are the services purchased by elder abuse provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.~~

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"Emotional abuse" means verbal assaults, threats of maltreatment, harassment, or intimidation.

*"Financial exploitation" means the use of an eligible adult's~~older person's~~ resources by another to the disadvantage of ~~that adult~~the older person and/ or the profit or advantage of a person other than ~~that adult~~the older person. [320 ILCS 20/2(f-1)]*

"Follow-up" means the monitoring of substantiated cases of ANE for clients of the program.

"Guardian" means a person appointed by a court of competent jurisdiction, who is legally responsible for the care of a person who has been adjudicated by the court to be incompetent to manage his or her own affairs and/or property.

"Initial interview" means the preliminary contact made by an APS provider agency to determine the level of risk to an alleged victim, the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim, and his or her decisional capacity to consent to an assessment and/or services.

"Intake" means the point at which trained staff of the Illinois Department on Aging's Adult Protective Services Hotline and Senior HelpLine, a regional administrative agency, or APS~~an elder abuse~~ provider agency receives a report of alleged or suspected abuse, neglect, ~~or~~ financial exploitation or self-neglect and relays the report to a case worker for further assessment; screens the case to make an initial determination that the alleged victim is an eligible adult; and, if so, ~~opens a case file to keep a record of the case.~~

"Intervention" means an action initiated by the adult protective services~~elder abuse~~ case worker or the APS~~elder abuse~~ provider agency to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency, or supportive services to, or on behalf of, the eligible adult~~elder abuse victim or alleged victim~~.

*"Mandated reporter"* means any of the following persons while engaged in carrying out their professional duties:

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a professional or professional's delegate while engaged in:

social services,

law enforcement,

education,

the care of an eligible adult or eligible adults, or

*any of the occupations required to be licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], the Clinical Social Work and Social Work Practice Act [225 ILCS 20], the Illinois Dental Practice Act [225 ILCS 25], the ~~Dietitian~~[Dietetic and Nutritionist Nutrition Services Practice Act](#) [225 ILCS 30], the Marriage and Family Therapy Licensing Act [225 ILCS 55], the Medical Practice Act of 1987 [225 ILCS 60], ~~the Respiratory Care Practice Act [225 ILCS 106]~~, the Naprapathic Practice Act [225 ILCS 63], the Nurse Practice Act [225 ILCS 65], the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], the Illinois Occupational Therapy Practice Act [225 ILCS 75], the Illinois Optometric Practice Act of 1987 [225 ILCS 80], the Pharmacy Practice Act [225 ILCS 85], the Illinois Physical Therapy Act [225 ILCS 90], the Physician Assistant Practice Act of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987 [225 ILCS 100], the Professional Counselor and Clinical Professional Counselor Licensing ~~and Practice Act~~ [225 ILCS 107], ~~the Respiratory Care Practice Act [225 ILCS 106]~~, the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], the Veterinary Medicine and Surgery Practice Act of ~~2004~~[1994](#) [225 ILCS 115], and the Illinois Public Accounting Act [225 ILCS 450];*

*an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;*

*an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;*

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*an administrator, employee, or person providing services in or through an unlicensed community-based facility;*

*any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;*

*field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;*

*personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and [APS](#) provider agencies, and the Office of State Long Term Care Ombudsman; provided that attorneys contracted or employed by the Area Agencies and their senior legal services providers and licensed to practice in Illinois are not mandated to report ~~elder~~ abuse, although they may voluntarily do so;*

*any employee of the State of Illinois not otherwise specified in this definition who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;*

*a person who performs the duties of a coroner or medical examiner; or*

*a person who performs the duties of a paramedic or an emergency medical technician. [320 ILCS 20/2(f-5)]*

*"Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or ~~health~~[medical](#) care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]*

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"Passive neglect" means the failure by a caregiver to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

"Physical abuse" means the causing of physical pain or injury to an eligible adult.

"Preponderance of the evidence" is the standard of proof that must be met to reach a "some indication" substantiation decision in the [Adult Protective Services](#) ANE Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a reasonable certainty that more likely than not the abuse, neglect or financial exploitation is occurring or has occurred.

*"Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. [320 ILCS 20/2(h)]*

*"Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated. [320 ILCS 20/2(i)]*

"Report taker" means the trained staff of the Department's Adult Protective Services Hotline and Senior HelpLine, regional administrative agencies or APS provider agencies that performs intake of alleged or suspected abuse, neglect, financial exploitation or self-neglect.

"Reporter" means the person who calls, visits or otherwise communicates to an authorized intake agency allegations or suspicions that an eligible adult has been or is being abused, neglected, or financially exploited.

~~"Review team" means a regional interagency elder abuse fatality review team established pursuant to Section 15 of the Act. Each review team shall be comprised of representatives of the Department on Aging, the coroner's or medical examiner's office, the State's Attorney's office, local police departments,~~

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~~forensic units, the provider agency, and other interested parties, the purpose of which is to review suspicious or unexplained deaths of seniors in a domestic living situation.~~

~~"Senior HelpLine" means the Department's toll-free statewide number that can be called to report suspected cases of elder abuse, neglect and financial exploitation, or to obtain additional information about services available to eligible adults.~~

~~"Self-determination" means the right of an eligible adult with decisional capacity to:~~

~~decide where and how he or she will live;~~

~~choose whether to accept program services or other community assistance;  
and~~

~~make decisions different from those a reasonable adult would make, including "bad" decisions, that are not harmful to others.~~

~~*"Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety. [320 ILCS 20/2(i-5)]*~~

~~"Services" means medical, social, economic, legal, housing, law enforcement, or other protective, early, emergency or supportive action provided to, or on behalf of, the eligible adult.~~

~~"Sexual abuse" means any sexual activity with an eligible adult who is unable to understand, unwilling to consent, threatened, or physically forced to engage in such sexual activity.~~

~~"Shared service area" means the designated area within a planning and service area where two or more APS provider agencies are responsible for providing a~~

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response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the [APS](#) provider agencies involved. The [APS](#) provider agencies shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Source of information" means the point of origin of information about the client.

"State Triad" is a statewide, unincorporated, voluntary association of law enforcement, senior citizens and community groups, organized around the issue of senior safety, crime against the elderly, and financial exploitation of the elderly. The State Triad Council was created under the aegis of the National Association of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

"Substantiation" is the process by which an [APSElder-abuse](#) provider agency determines, after a review of all available information, that abuse, neglect or financial exploitation of an eligible adult has occurred.

*"Substantiated case" means a reported case of alleged or suspected abuse, neglect, ~~or~~ financial exploitation or self-neglect in which an ~~APS~~ provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred. [320 ILCS 20/2(j)]*

"Suspicious death" means an instance in which an APS provider agency reasonably believes that the death of an individual may be the result of abuse or neglect.

"Victim" means an eligible adult who is the subject of a substantiated report of abuse, neglect, or financial exploitation.

"Willful deprivation" is the deliberate denial to an eligible adult of required medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm. Willful deprivation shall not include the discontinuation of medical care or treatment when the eligible adult has expressed a desire to forego such medical care or treatment.

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

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**Section 270.215 Organizational Standards and Responsibilities: Department on Aging**

- a) Contingent upon adequate funding, the~~The~~ Department shall establish, design and manage a protective services program of response and services for eligible adults~~persons 60 years of age and older~~ who have been, or are alleged to be, victims of abuse, neglect, ~~or~~ financial exploitation, or self-neglect. The Department shall contract with or fund, or contract with and fund, regional administrative agencies, APS provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to the Act. [320 ILCS 20/3(a)]
- b) The Department shall have the overall responsibility for designing, managing and monitoring the Adult Protective Services~~Elder Abuse and Neglect~~ Program.
- c) The Department shall designate regional administrative agencies and approve the designation and termination of APS~~elder abuse~~ provider agencies. Designated APS~~elder abuse~~ provider agencies are agents of the Illinois Department on Aging.
- 1) If a regional administrative agency terminates its contract, it must so notify the Department in writing at least 30 days in advance and cooperate in the transition of functions and records to a successor agency so as to minimize risk to clients in the program.
- 2) The Department shall assume the functions in the Planning and Service Area until a replacement is selected through a competitive procurement process.
- d) The Department shall design and manage the programmatic and financial reporting system for the program. The Department shall develop and manage a monitoring/quality assurance system for the program.
- e) The Department shall develop and implement public awareness efforts designed to publicize the purposes and mode of operation of the program through public service announcements, posters, and brochures.
- f) The Department shall provide technical assistance, policy clarifications and/or interpretations to regional administrative agencies on adherence to the rules, standards, and procedures established for the program. The Department may

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provide technical assistance in case handling directly to the ~~APSElder abuse~~ provider agencies. The technical assistance provided by the Department may include legal advice and consultation. The Department's interpretation of statutes, rules, policy and procedure shall prevail.

- g) The Department shall provide training to ~~APSElder abuse~~ provider agency staff who will assess reports of ANE or who will supervise staff performing the assessment function. Regional administrative agency staff working in the program shall also be trained by the Department.
- h) The Department shall maintain a registry of all ~~APSElder abuse~~ provider agency and regional administrative agency staff ~~that has who have~~ successfully completed Department sponsored certification training and are employed in the program.
- i) The Department's "~~Adult Protective Services HotlineSenior HelpLine~~" and the "~~After Hours Line~~" shall receive reports of ANE and relay ~~thosesuch~~ reports to the appropriate ~~APSElder abuse~~ provider agency within the required timelines.
- j) *The Department shall also be responsible for, contingent upon adequate funding, coordination of efforts with other agencies, councils, and like entities, which may impact awareness of, and response to, ~~elder abuse, neglect, and financial exploitation, and promotion of prevention activities~~ for eligible adults. [320 ILCS 20/3.5**(b)**]*
- k) *The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of the Act during such fiscal year, together with any recommendations for future implementation. [320 ILCS 20/11]*
- l) The Department shall reimburse ~~APSElder abuse~~ provider agencies under contract at a uniform rate established by the Department. A separate rate shall be established for each of the following case activities completed by the ~~APSElder abuse~~ provider agency: assessment, case work, and follow-up.
- m) If a designated ~~APSElder abuse~~ provider agency terminates its contract to provide services, the Department, in coordination with the regional administrative agency, shall ensure that ~~elder abuse~~ services are available without interruption to eligible adults within the terminated ~~APSElder abuse~~ provider agency's service area.

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- n) *The Department shall establish and coordinate a training program on the unique nature of ~~APSElder abuse~~ cases with other agencies and councils, including the Office of the Attorney General, the State Police, the State Triad, and other similar agencies. [320 ILCS 20/3.5(f)]*
- o) *The Department shall solicit financial institutions for the purpose of making information available to the general public warning of financial exploitation of ~~eligible adults~~~~the elderly~~ and related financial fraud or abuse, including such information and warning available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the manner of displaying or distributing such information is subject to the sole discretion of each financial institution. [320 ILCS 20/3.5(g)]*
- p) *The Department shall coordinate efforts with utility and electric companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud. [320 ILCS 20/3.5(h)]*

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

**Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies**

- a) The Department may designate an Area Agency on Aging to serve as a regional administrative agency or hold a competitive procurement for a Planning and Service Area.
- b) *Each regional administrative agency in turn shall designate APS provider agencies within its planning and service area with prior approval by the Department on Aging. [320 ILCS 20/3(b)]*
- ~~c~~b) A procurement process shall be held by the regional administrative agency for the designation of an APS provider agency in each service area at least every six years, except as provided in subsection (g)(1). The standard term for designation shall be for six years, unless such designation is terminated by action of the regional administrative agency or the Department, or unless a provider agency declines to continue its designation. The contract for services in a specified geographical area shall be awarded to a designated elder abuse provider agency for a period of one year. The contract for services may be renewed annually by the regional administrative agency, with the prior approval of the Department.

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- de) The contract for services in a specified geographical area shall be awarded to a designated APS provider agency for a period of one year. The contract for services may be renewed annually by the regional administrative agency, with the prior approval of the Department. A procurement process shall be held by the regional administrative agency for the designation of an elder abuse provider agency in each service area every six years, except as provided in subsection (f)(1).
- ed) If a review of the proposals submitted during a procurement process fails to produce an acceptable APS provider agency for the service area, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis under subsection (f).
- fe) The regional administrative agency, after notification to, and concurrence by, the Department, may terminate the designation of an APSElder abuse provider agency for failure to provide services in accordance with the contract and this Part.
- gf) If the designation of an APSElder abuse provider agency has been terminated, either at the initiative of the regional administrative agency or an APSElder abuse provider agency, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement process produces an acceptable APS provider agency for the service area.
- 1) When an APSorganization or agency has been selected on an emergency basis, the APS agency shall be designated for the balance of the fiscal year in which such designation was awarded, and for up to one additional year.
  - 2) Not later than two years following the emergency designation, the regional administrative agency shall conduct a procurement process for the designation of an APSElder abuse provider agency for the specified service area.
- hg) A regional administrative agency may elect, for its planning and service area, to designate APS provider agencies, from those agencies designated in accordance with subsections (a) through (f) of this Section, for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death

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or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (f) for procuring services for non-business hours for a combined or shared service area.

- iH) The regional administrative agencies shall provide technical assistance to APSElder abuse provider agencies and shall seek from Department staff policy clarifications and interpretations of standards and procedures.
- ji) Regional administrative agencies shall monitor the performance of APSElder abuse provider agencies, according to Departmental policies.
- k) The regional administrative agencies may assist the Department and APS provider agencies in raising public awareness and providing education on the issues of abuse, neglect, financial exploitation and self-neglect. The regional administrative agencies shall include the following information when producing any public education materials:
  - 1) identification as a part of the Adult Protective Services Program;
  - 2) voice and teletypewriter (TTY) phone numbers for the Department on Aging's toll free 24-hour Adult Protective Services Hotline; and
  - 3) a nondiscrimination clause.
- l) The regional administrative agency shall not serve as a legal guardian, an agent under the Illinois Power of Attorney Act [755 ILCS 45], or a representative payee for any client in the program. The Department may allow a waiver only if the APS provider agency has documented evidence that no other qualified person or entity exists to serve in the foregoing capacities on behalf of a client of the program and the regional administrative agency is willing and qualified to take on those responsibilities.
- m) The regional administrative agency shall retain all books, records and other documents relevant to the operation of the program for three full years after final payment on the agreement and all other pending matters are closed, unless transfer is authorized in writing by the Department. The APS provider agency must insure that records are purged by completely shredding or incinerating.

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

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**Section 270.225 Organizational Standards and Responsibilities: Adult Protective Services Elder Abuse Provider Agencies**

- a) The APSElder abuse provider agency shall enter into a written contract with the regional administrative agency to provide services in a specific geographical area in the regional administrative agency's planning and service area.
- b) The APSElder abuse provider agency shall provide such services in accordance with the Act and this Part.
- c) The APS provider agency shall be open for business and available to receive ANE reports not less than 246 working days per calendar year under the following conditions:
  - 1) The APS provider agency shall not be closed for more than four consecutive days, unless an alternative method of receiving ANE reports is approved by and on file with the regional administrative agency and the Department.
  - 2) If a recorded message is activated during business hours, there must be an option to talk directly to a report taker at that time, rather than leaving a message on voice mail.
  - 3) A report taker must be available at least seven hours each working day.
- d) The APS provider agencies may assist the Department by providing public awareness and education on the issues of abuse, neglect, financial exploitation and self-neglect. The APS provider agencies shall include the following information when producing any public education materials:
  - 1) identification as a part of the Adult Protective Services Program;
  - 2) voice and teletypewriter (TTY) phone numbers for the Department on Aging's toll free 24-hour Adult Protective Services Hotline; and
  - 3) a nondiscrimination clause.

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- e) The adult protective services agency shall not serve as a legal guardian or an agent under the Illinois Power of Attorney Act [755 ILCS 45] for any client in the program.
- f) The APS provider agency shall retain all books, records and other documents relevant to the operation of the program for three full years after final payment on the agreement and all other pending matters are closed, unless transfer is authorized in writing by the Department. The APS provider agency must insure that records are purged by completely shredding or incinerating.
- g) A contract to provide ~~adult protective~~elder abuse services may be terminated by the ~~APS~~elder abuse provider agency in accordance with the termination clause in the contract.
- h) Pursuant to the terms of their contract, APS provider agencies shall have sufficient staff to perform all duties and responsibilities of the program for which an agreement to perform is in effect.
- i) APS supervisors must be involved in guiding and directing ANE cases and share responsibility in the case workers' decisions and actions in ANE cases.
- j) Qualifications
  - 1) APS supervisors shall have:
    - A) Education
      - i) a Master's Degree in health, social sciences, social work, health care administration, gerontology, disability studies, criminal justice, or public administration, and one year experience in health or human services; or
      - ii) a Registered Nursing license, or a Bachelor of Science in Nursing (B.S.N.) or a Bachelor of Arts (B.A.)/Bachelor of Science (B.S.) in health, social sciences, social work, health care administration, gerontology, or criminal justice and three years experience in health or human services, including either one year of supervisory experience or one

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year of experience in aging, adults with disabilities or domestic violence programs or services;

- B) Department sponsored APS case worker certification and on-line forms training;
  - C) Department sponsored Phase II certification training within six months after the APS case worker certification, to be placed on the Department's APS Case Worker Registry;
  - D) Department sponsored APS supervisor's certification training;
  - E) Fourteen hours of participation by actual attendance at in-service training on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, State or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file;
  - F) Eleven hours of qualifying recertification every three years, which must be documented in the employee's personnel file.
- 2) APS case workers shall have:
- A) Education
    - i) Master's Degree in health, social services, social work, health care administration, gerontology, disability studies, criminal justice, public administration;
    - ii) a Registered Nursing license, or a B.S.N. or a B.A./B.S. in health, social sciences, social work, health care administration, gerontology, or criminal justice and one year experience in health or human services; or

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- iii) a Practical Nursing license, with two years experience in health or human services;
- B) Department sponsored APS case worker certification and on-line forms training;
- C) Department sponsored Phase II certification training within six months after the APS case worker certification, to be listed on the Department's APS Case Worker Registry;
- D) Twelve hours of participation by actual attendance at in-service training on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, State or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file;
- E) Eleven hours of qualifying recertification every three years, which must be documented in the employee's personnel file.
- k) The Department may suspend or remove from the APS Case Worker Registry any case worker or supervisor who fails or refuses to perform the duties of a case worker or supervisor in accordance with this Part.
- l) The APS provider agency must return to the Department, within 15 days, any identification card of a case worker or supervisor who separates from employment.

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

**Section 270.230 ~~Elder~~Abuse Reporting**

- a) *If any mandated reporter has reason to believe that an eligible adult, who*

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because of ~~disability or other condition or impairment~~~~dysfunction~~ is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under the Act or to the Department. [320 ILCS 20/4(a-5)]

- b) Whenever a mandated reporter is required to report under the Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, ~~board and care home~~, or agency, he or she shall make a report to an agency designated to receive such reports under the Act or to the Department in accordance with the provisions of the Act and may also notify the person in charge of the institution, facility, ~~board and care home~~, or agency or his or her designated agent that the report has been made. [320 ILCS 20/4(a-5)]
- c) Under no circumstances shall any person in charge of such institution, facility, ~~board and care home~~, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under the Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by the Act. [320 ILCS 20/4(a-5)]
- d) The identity of a person making a report of alleged or suspected abuse or neglect under the Act may be disclosed by the Department or other agency provided for in the Act only with such person's written consent or by court order, but is otherwise confidential. [320 ILCS 20/4(c)]
- e) Any mandated reporter who makes a report or any person who investigates a report under the Act shall testify fully in any judicial or administrative proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under the Act and the person making or investigating the report. [320 ILCS 20/4.2]

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

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**Section 270.235 Immunity**

- a) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under the Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability for such actions~~in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect.~~
- b) Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under the Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services.
- c) For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, ~~or~~ financial exploitation or self-neglect shall be presumed. [320 ILCS 20/4(b)]

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

**Section 270.240 Intake of Abuse, Neglect, and Financial ExploitationANE Reports**

- a) The following agencies and hotlines are authorized to receive ANE reports:
- 1) the Department on Aging's toll free 24-hour Adult Protective Services Hotline;
  - 2) the~~Illinois~~ Department on Aging's Senior HelpLine; ~~2) "After Hours" Line;~~
  - 3) Regional administrative agencies; and
  - 4) APSElder abuse provider agencies.

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- b) An APS~~elder abuse~~ provider agency receiving a report of ANE shall assign a priority to the report in accordance with the following:
- 1) Priority one reports are reports of abuse or neglect whenwhere the alleged victim~~elder person~~ is reported as being~~alleged to be~~ in serious physical harm or in immediate danger of death or serious physical harm. Priority one reports include, but are not limited to, the following:
    - A) physical abuse such as fractures, head injuries, internal injuries, or burns, when the injury is of a serious nature, such as to require medical treatment;
    - B) threats of serious injury or death;
    - C) lack of basic physical necessities severe enough to result in freezing, serious heat stress or starvation;
    - D) immediate medical attention is needed to treat conditions that could result in irreversible physical damages such as unconsciousness, acute pain, or severe respiratory distress;
    - E) alleged sexual abuse that has occurred in the last 72 hours;
    - F) threats of sexual abuse where the alleged abuser has access to the alleged victim; and
    - G) punishment by the alleged abuser, such as locking the alleged victim in the closet.
  - 2) Priority two reports are reports of abuse, neglect or financial exploitation in which the alleged victim~~alleging that an older person~~ is reported as being abused, neglected or exploited and the report taker has reason to believe that the consequences are less serious than priority one reports. Priority two reports include, but are not limited to, the following:
    - A) physical abuse involving scratches or bruises;
    - B) inadequate attention to physical needs such as insufficient food or

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medicine;

- C) unreasonable confinement; and
- D) probability of liquidation or depletion of an alleged victim's income and assets.

3) Priority three reports are reports of abuse, neglect or financial exploitation in which the alleged victim~~alleging that an older person is reported as~~ being emotionally abused by a caregiver or the alleged victim's~~older person's~~ financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate threat of harm to the alleged victim.

- c) If a report includes allegations or conditions of more than one priority, the report taker~~agency~~ that has received the report assigns it to the higher priority.
- d) An agency that is not an APSElder abuse provider agency shall forward the reports of ANE~~report~~ to the appropriate APSElder abuse provider agency within two hours~~the required time frame~~.
- e) The APSElder abuse provider agency is directed to respond to reports of ANE within required time frames, including making a good faith attempt to conduct a face-to-face visit with the alleged victim.
- f) The required time frames for each priority are: for "priority one" reports, 24 hours from the receipt of the report; "priority two" reports, 72 hours from the receipt of the report; and for "priority three" reports, seven calendar days from the receipt of the report.
- g) The following exceptions shall apply and extend the time frames specified by that priority:
  - 1) The alleged victim of the "priority one" report has been admitted to the hospital, in which case the required response time for a face-to-face visit is extended from 24 hours to the following work day.
  - 2) The report is a "priority two" or "priority three" report, the adult protective services ~~elder abuse~~ case worker is likely to be in danger, and a police

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officer or an appropriate other individual is called to investigate or escort the worker. An "appropriate other" escort may be, but is not limited to, a mental health professional, health professional, or significant relative. The required response time for a face-to-face visit is then extended until such a time as the police officer or "appropriate ~~escort~~other" is available, not to exceed three days beyond the required response time established for the priority.

- 3) The alleged victim~~client~~ does not wish or consent to a face-to-face visit within the time frame.

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

**Section 270.241 Reporting a Suspicious Death**

- a) When a report taker receives a report of a suspicious death, he or she shall promptly forward the report to the appropriate APS provider agency. The APS provider agency shall then immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner.
- b) Between 30 and 45 days after reporting a suspicious death, the APS provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken.
  - 1) Upon request by an APS provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an alleged victim.
  - 2) A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the alleged victim. [320 ILCS 20/3(C-5)]

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

**Section 270.245 Access to Alleged Victims~~Eligible Adults~~**

- a) The designated APS provider agencies shall have access to alleged victims~~eligible adults~~ who are~~have been~~ reported ~~or found~~ to be victims of abuse,

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*neglect, or financial exploitation in order to assess the validity of the report, assess other needs of the alleged victim~~eligible adult~~, and provide services in accordance with the Act. [320 ILCS 20/13(a)]*

- b) When the case worker is unable to access the alleged victim due to interference by another, the case worker shall seek the assistance of law enforcement. If the report is a "priority one", the APSElder-abuse case worker shall immediately seek police assistance in accessing the alleged victim. If the report is a "priority two" or a "priority three", ~~then~~ the APSElder-abuse case worker will make at least one additional attempt, and up to four additional attempts, to gain access to the residence prior to seeking police assistance.
- c) *Where access to an eligible adult is denied, the Office of the Attorney General, the Department, or the APS provider agency may petition the court for an order to require appropriate access where:*
- 1) *a caregiver or third party has interfered with the assessment or service plan, or*
  - 2) *the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation. [320 ILCS 20/13(b)]*
- d) If the initial face-to-face visit indicates that the alleged victim does not meet the eligibility~~age~~ criterion for the program, the APSElder-abuse provider agency will terminate the assessment, document this finding in the case record, and refer the person to other appropriate services or agencies.

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

**Section 270.250 Minimum Assessment and Classification Standards**

- a) An APSA provider agency designated to receive reports of alleged or suspected abuse, neglect, or financial exploitation under the Act shall, ~~upon receiving such a report,~~ conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the alleged victim~~eligible adult~~ who is the subject of the report and may include interviews or consultation with service agencies or individuals who may have knowledge of the alleged victim's~~eligible adult's~~ circumstances. [320 ILCS

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20/5(a)]

- b) A decision on the merits of each report must be made according to the following:
- 1) Verified: When there is clear and convincing evidence resulting in a determination that the specific injury or harm was the result of abuse, neglect, or financial exploitation.
  - 2) Some Indication: When there is a fair preponderance of evidence that suggests some indication of abuse, neglect, or financial exploitation has occurredexists.
  - 3) No Indication: When there is a lack of credible evidence indicating that abuse, neglect, or financial exploitation has occurredexists.
  - 4) Unable to Verify: This determination is used when the report does not meet the eligibility criteria of the program, the APSElder abuse provider agency is unable to locate the alleged victim, the APSElder abuse provider agency staff has been unable to gain access to the alleged victim, or the alleged victim refuses the assessment.
- c) Each report must be either substantiated, unsubstantiated, or unable to substantiate, as follows:
- 1) Substantiated: When one or more of the alleged types of ANE was classified as either "verified" or "some indication".
  - 2) Unsubstantiated: When all of the alleged types of ANE were determined to lack credible evidence that indicated abuse, neglect, or financial exploitation.
  - 3) Unable to substantiate: When the APS provider agency lacked jurisdiction; was unable to locate the alleged victim; was unable to access the alleged victim; the alleged victim was ineligible; the alleged victim refused to cooperate; or the alleged victim was deceased.
- d) If, after the assessment, the APS provider agency determines that the case is substantiated and the victim has consented to services, it shall develop a service care plan for the eligible adult.

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- e) The ~~APS elder abuse~~ provider agency shall ~~prepare~~establish a confidential case record to document each report of abuse, neglect, or financial exploitation, to include the following information where available and when applicable to the case:
- 1) essential client information, such as name, address, age, and phone number;
  - 2) descriptions of the reported, suspected or alleged abuse, neglect, or financial exploitation;
  - 3) investigative reports;
  - 4) injury location charts;
  - 5) records of financial transactions;
  - 6) summaries of conversations and communications with the eligible adult, the alleged or suspected abuser, and other sources of information;
  - 7) information relating to the mental competency of the eligible adult;
  - 8) information on the assessment of the eligible adult, including medical or psychiatric reports;
  - 9) summaries of the substantiation decision;
  - 10) summaries of services or interventions offered or arranged; ~~and~~
  - 11) reports on the termination, resolution or closure of the case;
  - 12) referrals to law enforcement, coroners or medical examiners;
  - 13) notification to probate court of a substantiated finding of abuse, neglect or financial exploitation by a guardian; and
  - 14) suspicious death reports and any follow-up documentation.

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- f) An APS provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect or financial exploitation of an eligible adult, whether or not there is a substantiated finding.

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

**Section 270.255 Abuse, Neglect and Financial Exploitation~~ANE~~ Case Work, Follow-Up, Referrals~~Referral to Law Enforcement~~ and Case Closure**

- a) Case Work  
*APS provider~~Provider~~ agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. [320 ILCS 20/3(c)]*
- 1) If, after the assessment, the APS provider agency determines that the case is substantiated, it shall develop a ~~caseservice care~~ plan for the eligible adult, ~~whenwhere he or she~~~~the adult~~ consents to services.
- A) *In developing a case plan, the APS provider agency may consult with any other appropriate professional and/or provider of services, such as advocacy, care coordination, counseling, education, emergency aid, financial, housing, law enforcement, legal, long term care, managed care, medical, nutrition, personal assistance, relocation, respite, social supports through charitable and community assistance, disability agencies, private means, or public benefit programs to meet identified needs for the purpose of stabilizing the abusive situation and reducing the risk of further harm, and such professionals and/or providers shall be immune from civil or criminal liability on account of those acts. [320 ILCS 20/5(a)]*
- B) *The case plan shall include alternatives suggested or recommended services that are appropriate to the needs of the eligible adult and that involve the least restriction of the eligible adult's activities commensurate with his or her needs. [320 ILCS 20/5(a)]*

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- i) The case worker shall use his or her professional judgment in advocating in the best interest, safety and welfare of the eligible adult.
  - ii) The eligible adult's interest in living in the most independent setting with the least restrictive alternatives for legal, medical and social services come before those of any other family community members.
  - iii) The case worker shall involve the eligible adult, and his or her family for support, if possible, in the development of the intervention, and explain, in a direct manner, the situation, the range of available options for services, and the consequences of failing to cooperate or refusing to accept services, so the eligible adult can exercise his or her maximum decision-making ability.
- C) The APS provider agencies shall establish working relationships with disability agencies for purposes of mutual training, referral and service response.
- 2) Only those services to which consent is given in accordance with Section 9 of the Act shall be provided, contingent upon the availability of those services. [320 ILCS 20/5(a)]
- b) Follow-up  
*All services provided to an eligible adult shall be reviewed by the APS provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department may grant a waiver to extend the service care plan for up to one additional year. [320 ILCS 20/7]*
- c) Referral  
*An APSA provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent*

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~~investigation.~~ [320 ILCS 20/5(b)]

- d) The "evidence of crimes" referred to in subsection (c) includes:
- 1) death that may have been the result of abuse or neglect;
  - 2) brain damage;
  - 3) loss or substantial impairment of a bodily function or organ;
  - 4) bone fracture;
  - 5) extensive burns;
  - 6) substantial disfigurement;
  - 7) sexual assault or aggravated sexual assault;
  - 8) serious bodily injury as the result of a pattern of repetitive actions;
  - 9) extensive swelling or bruising, depending on such factors as the eligible adult's physical condition, circumstances under which the injury occurred, and the number and location of bruises;
  - 10) serious symptoms resulting from the use of medications or chemical restraints, or the withholding of life sustaining medications (e.g., insulin);
  - 11) evidence of severe neglect, such as unreasonable decubiti;
  - 12) other activity that would place the eligible adult in imminent danger of death or serious bodily injury; or
  - 13) any felonious criminal activity directed at the eligible adult that the case worker directly observes.
- e) When an APS provider agency has reason to believe that the death of an eligible adult that occurs during the course of assessment, case work, or follow-up may be the result of abuse or neglect, the agency shall promptly report the matter to both the appropriate law enforcement agency and coroner or medical examiner and

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make subsequent contact with them in accordance with the timeframes set forth in Section 270.241(b). [320 ILCS 20/3(c-5)]

- f) Upon request by an APS provider agency, law enforcement agencies, coroners and medical examiners shall supply a summary of their action in response to a reported death of an eligible adult. The APS provider agency shall maintain a copy of the reports, and all follow-up with law enforcement, coroners and medical examiners shall be documented in the case record of the eligible adult.
- g) In all cases in which there is a substantiated finding of abuse, neglect or financial exploitation by a guardian, the APS provider agency shall, within 30 days after the finding, notify the probate court with jurisdiction over the guardianship.
- h) Case Closure  
An ~~APSelder abuse~~ provider agency shall close a case when:
- 1) the alleged victim refuses services;
  - 2) the alleged victim is deceased, unless the death was the apparent result of the ANE, subject to cooperation under subsection (c);
  - 3) the alleged victim has entered a long term care facility and resided there for 60 days; provided the Department may waive the 60 day limitation in cases in which~~where~~ the APS provider agency submits evidence that ~~the~~such a waiver is necessary to protect the safety and well being of the client;
  - 4) the alleged victim has moved out of the area; provided, if the alleged victim remains at risk and the ~~APSelder abuse~~ provider agency is aware of the new location, the APS provider agency shall refer the case to the ~~APSelder abuse~~ provider agency in the location of the new residence for case work and follow-up services;
  - 5) the victim is no longer at risk of ANE;
  - 6) the victim has received "uninterrupted" follow-up services for 12 months, which shall be considered an "administrative closure"; ~~or~~
  - 7) the report is not substantiated; or

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- 8) the alleged victim is determined to be ineligible for services.

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

**Section 270.260 Authority to Consent ~~to Services~~ and Court Petitions**

- a) The APS provider agency shall conduct an initial interview of the alleged victim to determine:
- 1) the level of risk to the alleged victim;
  - 2) the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim; and
  - 3) the alleged victim's decisional capacity to consent to an assessment and/or services.
- b) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim has decisional capacity, the APS provider agency will conduct an assessment of the reported incident of suspected abuse, neglect, financial exploitation or self-neglect in accordance with Section 270.250, put Early Intervention Services in place as needed under Section 270.265, and provide other services as appropriate in completing case work, follow-up, referral to law enforcement, and case closure under Section 270.255.
- 1) *If the alleged victim~~an eligible adult~~ consents to services being provided according to the case~~service care~~ plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services.*
  - 2) *If an adult withdraws his or her consent for an assessment of the reported incident or withdraws his or her consent for services and~~or~~ refuses to accept such services, the services shall not be provided. [320 ILCS 20/9(a)]*
- c) An alleged victim "lacks the capacity to consent" if qualified staff of an agency designated under the Act reasonably determine, that he or she appears either unable to receive and evaluate information related to the assessment or services

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or unable to communicate in any manner decisions related to the assessment of the reported incident or services. [320 ILCS 20/9(d-5)]

- d) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim lacks decisional capacity, and there is no immediate risk of harm, the APS provider agency will continue to intervene in order to determine if the alleged victim has a guardian or agent under an advance directive with authority to act on his or her behalf for consenting to an assessment and/or services.
- 1) Upon consent by the guardian or agent under an advance directive, services will be provided according to the case plan and shall be arranged to meet the alleged victim's needs, based upon the availability of resources to provide those services.
- 2) If the alleged victim either does not have a guardian or agent or the guardian or agent lacks authority to act, the APS provider agency shall either:
- A) Contact an immediate family member, other relative, close personal friend of the alleged victim, or other person identified by the alleged victim as being involved with his or her care, to petition the court for that individual's appointment as a guardian in accordance with Article XIa of the Probate Act of 1975 [755 ILCS 5/Art. XIa] for the purpose of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological, and medical condition; or
- B) notify the Illinois Guardianship and Advocacy Commission, the Office of State Guardian, or any other appropriate agency, of the potential need for appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological and medical condition. [320 ILCS 20/9(b)]
- ~~3b) If it reasonably appears to the Department or other agency designated under the Act that a person is an eligible adult and lacks the capacity to~~

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~~consent to necessary services, including an assessment, the Department or other agency may seek the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 [755 ILCS 5/Art. XIa] for the purpose of consenting to such services. [320 ILCS 20/9(b)]~~ If the APS ~~Department or elder abuse~~ provider agency seeks the appointment of a guardian pursuant to Article XIa of the Probate Act of 1975, the APS~~Department or elder abuse~~ provider agency shall notify the nearest relatives of the disabled person not less than 14 days prior to the scheduled hearing, as provided by Sections 11a-8 and 11a-10(f) of the Probate Act of 1975.

4e) ~~A guardian of the person of an eligible adult may consent to services being provided according to the service care plan. If a guardian or agent is the suspected abuser and he or she withdraws his or her consent for the assessment of the reported incident, or refuses to allow services to be provided to the alleged victim eligible adult, the APS provider~~Department, ~~an agency designated under the Act, or the Office of the Attorney General may request a court order seeking appropriate remedies, and may, in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian. [320 ILCS 20/9(c)]~~

e) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim lacks decisional capacity, and there is ongoing harm, a high risk of harm or another~~If an emergency exists, and the Department or other agency designated under the Act reasonably believes that a person is an eligible adult and lacks the capacity to consent to necessary services, the APS~~ provider~~Department or other agency may:~~

1) take appropriate action necessary to ameliorate the risk by consulting with any other appropriate professional and/or provider of services, through charitable and community assistance, disability agencies, private means, or public benefit programs, to meet identified needs, stabilize the abusive situation and reduce the risk of further harm, such as:

A) seeking assistance of law enforcement to gain access to the alleged victim;

B) obtaining emergency medical care;

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- C) petitioning for Orders of Protection, Restraining Orders, or orders freezing assets;
- D) purchasing early intervention services under Section 270.265; and
- E) applying for appointment of a representative payee; and/or
- 2) *request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, ~~or~~ financial exploitation or self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, ~~or~~ financial exploitation or self-neglect or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 [750 ILCS 60]. [320 ILCS 20/9(d)]*
- f) *Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident or services continues, the APS provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the alleged victimeligible adult from further harm. [320 ILCS 20/9(e)]*
- gf) *If the ~~APSElder abuse~~ provider agency has substantiated financial exploitation against an alleged victimeligible adult, and has documented a reasonable belief that the alleged victimeligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, ~~the Department~~, or the APS provider agency may petition for an order freezing the assets of the alleged victimeligible adult. The petition shall be filed in the county or counties in which the assets are located. [320 ILCS 20/13(d)]*

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

**Section 270.265 EarlyEmergency Intervention Services**

- a) ~~The Department shall establish a fund for elder abuse clients to be called the Emergency Intervention Services fund. Eligibility criteria to receive Emergency Intervention Services funds are as follows:~~

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- 1) ~~that there be an imminent threat to the health, welfare and/or safety of the client if the service is not available; and~~
  - 2) ~~community services/resources for which the client is eligible cannot be mobilized in a timely manner or are insufficient to protect the client's health, welfare and/or safety; and~~
  - 3) ~~client resources are insufficient or unavailable to purchase needed services falling under the Emergency Intervention Services categories.~~
- b) Services that may be purchased by the ~~APSelder abuse~~ provider agency for eligible adults include emergency aid, respite care, legal assistance, housing and relocation services, or other services designed to protect the health, welfare and/or safety of the eligible adult.
- be) The Department shall establish a maximum amount available to a victim ~~in~~within each year he or she receives services. The Department shall also establish procedures whereby the regional administrative agency and the Department may allow for additional expenditures of such funds as are necessary to obtain emergency ~~or essential~~ services to protect the client.

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

**Section 270.270 Multi-disciplinary Teams**

- a) Every ~~APSelder abuse~~ provider agency (~~EAPA~~) that has more than 7,200 ~~potential eligible adults~~persons 60 years of age and older in ~~its~~their designated service area shall develop and maintain a multi-disciplinary team (M-Team).
- b) The M-Team shall act in an advisory role to the ~~APSelder abuse~~ provider agency for the purpose of providing professional knowledge and expertise in the handling of complex ~~elder~~abuse cases.
- c) Each M-Team shall consist of one volunteer representative each from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. The ~~APS provider agency~~EAPA may choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or other related fields.

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- d) The M-Team shall meet a minimum of eight times a year.
- e) Each M-Team member shall sign a confidentiality agreement not to release any ~~elder abuse~~ client information.
- f) The ~~APS provider agency~~EAPA shall have written procedures for recruiting M-Team members; for preparing and conducting M-Team meetings; and for financial management of M-Teams.
- g) The Department shall provide funding to ~~APS provider agencies~~EAPAs to support the cost of staff time, mailings, meeting space and other costs related to M-Team meetings. M-Team members shall not be reimbursed for their services.
- h) Law enforcement agencies, coroners and medical examiners shall supply records to M-Teams as may be requested in particular cases.

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

**Section 270.275 Confidentiality and Disclosure**

- a) The ~~Adult Protective Services~~Elder Abuse and Neglect Act provides that the identity of any person making a report of alleged or suspected ~~elder~~ abuse, neglect, or financial exploitation may be disclosed only with that person's written consent or by court order.
- b) *All records concerning reports of ~~elder~~ abuse, neglect, ~~or~~ financial exploitation or self-neglect and all records generated as a result of ~~those~~ reports, including, but not limited to, referrals and intervention services, shall be confidential and shall not be disclosed or subject to subpoena except as specifically authorized by the Act or other applicable law and only after a case is closed [320 ILCS 20/8].*
- c) These confidential records are exempt from inspection and copying under the Freedom of Information Act [5 ILCS 140/7.5(y)].
- d) *Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, ~~or~~ financial exploitation or self-neglect as contained in such records, shall be allowed to the following persons and for the following persons:*

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- 1) Department staff, APS provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under the Act;
- 2) A law enforcement agency investigating a known or suspected case of ~~elder~~ abuse, neglect, ~~or~~ financial exploitation or self-neglect. ~~When~~Where ~~an APS~~ provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;
- 3) A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, ~~or~~ financially exploited or self-neglected or who has been referred to the Adult Protective Services~~Elder Abuse and Neglect~~ Program;
- 4) An eligible adult reported to be abused, neglected, ~~or~~ financially exploited; or self-neglected or ~~to that~~such adult's legal~~authorized~~ guardian or agent when access to those records is relevant to representing the interests of the eligible adult, and a complete authorization for release of records is submitted, unless the guardian or agent is the substantiated abuser or is the alleged abuser in an open case;
- 5) An executor or administrator of the estate of an eligible adult who is deceased when relevant to administration of the estate and a complete authorization for release of records is submitted;
- 6) A court or a guardian ad litem, upon its or his or her written finding that access to such records may be necessary for the determination of an issue before ~~the~~such court. However, such access shall be limited to an in camera inspection of the records, unless the court determines, following the in camera inspection, that disclosure of the information contained in the records is necessary for the resolution of an issue then pending before it;
- 7) In cases regarding self-neglect, a guardian ad litem;

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- 87) *A grand jury, upon its determination that access to such records is necessary for conduct of its official business;*
- 98) *Any person authorized by the Director, in writing, for audit, program monitoring or bona fide research purposes;*
- 109) *A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, or financial exploitation. The APS provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;*
- 1140) *A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between an APS provider agency and the coroner or medical examiner, under which the APS provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, ~~or~~ financial exploitation or self-neglect; ~~and~~*
- 1244) *Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act [225 ILCS 20] by APS provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging; [320 ILCS 20/8];*
- 13) *Department of Healthcare and Family Services staff when that Department is funding services to the eligible adult, including being given access to the identity of the eligible adult;*
- 14) *Department of Human Services staff when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including being given access to the identity of the eligible adult;*
- 15) *The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act [405 ILCS 40] shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected*

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

*abuse, neglect, financial exploitation or self-neglect of an eligible adult.*  
[320 ILCS 20/8]

- e) An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:
- 1) supporting documentation of the agency or guardianship evidencing current authority to act on behalf of the eligible adult or his or her estate; and
  - 2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.
- f) The release of records may be refused if evident that it is not in the best interest of the eligible adult.
- ge) All records must be maintained as confidential and stored in a designated and secure area within the APSelder abuse provider agency offices.

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

SUBPART D: ADULT PROTECTIVE SERVICES~~ELDER ABUSE~~ VOLUNTEER CORPS**Section 270.280 Definitions**

Activity Plan: The document that describes and records the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of the individual volunteer.

Agreement: The document signed by an authorized representative of the APSelder abuse provider agency and the volunteer in which the APSelder abuse provider agency appoints the volunteer as an agent and representative of the Adult Protective ServicesElder Abuse and Neglect Program and the volunteer accepts that appointment and the concomitant responsibilities. This agreement shall constitute the volunteer contract required by the State Employee Indemnification Act [5 ILCS 350].

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

APSElder abuse provider agency: An organization designated by the Department pursuant to Section 3 of the Act to provide services to eligible adults pursuant to that Act.

Companion-type services: Activities intended to assist the eligible adults served by the APSElder abuse provider agency, which may include, but are not limited to, visitations, assistance in transportation, and other personal assistance that does not involve medical, nursing or professional services.

Public awareness: Activities designed to educate and inform the public, which may include, but are not limited to, giving public presentations and speeches; participation in public informational fairs; representing the APSElder abuse provider agency with community, social service or senior advocacy groups; the creation or production of television or radio public service announcements; and the writing, editing or distribution of newspaper articles, magazine articles, press releases or information sheets.

Regional Administrative Agency: A public or private entity that has been designated by the Department pursuant to Section 3 of the Act.

Volunteer: An individual who has been appointed by the APSElder abuse provider agency to provide "public awareness services" to that agency or "companion-type services" to eligible adults in accordance with the APSElder abuse provider agency's Volunteer Plan and the individual volunteer's Activity Plan.

Volunteer Plan: The document created by the APSElder abuse provider agency and approved by the Department that describes the procedure for the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of volunteers.

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

**Section 270.285 Selection and Screening**

- a) Each APSElder abuse provider agency utilizing volunteers under this Subpart shall create a Volunteer Plan, approved by the Department, to recruit, select, screen, train, appoint, assign, supervise and evaluate volunteers.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

- b) The recruitment, selection, and screening of volunteer applicants shall be the responsibility of the [APSelder-abuse](#) provider agency. Each volunteer applicant shall submit the required personal, professional and background information (see subsection (c)) on a form prescribed by the Department.
- c) The [APSelder-abuse](#) provider agency shall conduct a screening of each volunteer applicant. This screening process may include, but is not limited to, personal interviews; reference checks; fingerprint checks; credit checks; medical and mental health checks; background checks; driving record checks; and reviews of professional disciplinary actions, criminal prosecutions, and police records.
- d) The purpose of the screening process is solely to determine the suitability of the volunteer applicant to serve as an appointed volunteer. The [APSelder-abuse](#) provider agency shall not seek any personal information on a volunteer applicant beyond that which is necessary to complete the screening process. The screening process of the volunteer applicant shall be the same regardless of expected assignment of the individual volunteer.
- e) Each volunteer applicant shall be required to sign an authorization for the release of the information the [APSelder-abuse](#) provider agency has determined to be necessary to complete the screening process. All such information gathered in the course of the background checks and reviews of volunteer candidates shall be held in the strictest confidence permitted by law.
- f) Upon the completion of the screening process, the [APSelder-abuse](#) provider agency shall notify the volunteer applicant whether he or she will be designated as a volunteer. The [APSelder-abuse](#) provider agency shall also inform those volunteer applicants who are not so selected of the basis for the decision. The decision of the [APSelder-abuse](#) provider agency is final.

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

**Section 270.290 Training**

- a) The training of volunteers is the responsibility of the [APSelder-abuse](#) provider agency, and shall be done according to the Volunteer Plan. Prior to being assigned any responsibilities, the volunteer must have satisfactorily completed an initial course of training of not less than six hours.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

- b) The initial volunteer training shall include materials on program procedures, [APSElder-abuse](#) provider agency organization, types of ~~elder~~-abuse and neglect, confidentiality, safety procedures, the dynamics of client interaction, and additional subjects as each [APSElder-abuse](#) provider agency deems necessary.
- c) Each volunteer shall take the advanced training deemed appropriate and necessary by the [APSElder-abuse](#) provider agency to undertake the activities to which the volunteer will be assigned.
- d) The initial volunteer training shall be repeated for classes of new volunteers as needed.
- e) As a part of the Volunteer Plan, the [APSElder-abuse](#) provider agency shall maintain copies of past and current training agendas.

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

**Section 270.295 Volunteer Agreement and Volunteer Responsibilities**

Each volunteer, upon being appointed, and prior to entering into his or her assigned activities, shall sign a volunteer agreement with the [APSElder-abuse](#) provider agency. The agreement shall have been approved by the Department, and shall include the name and contact information for the volunteer, the number of hours per week or month that the volunteer anticipates serving, a statement of the general activities to which the volunteer will be assigned, and the following stipulations by the volunteer:

- a) the volunteer agrees to maintain confidentiality as required by the Act, the standards of the [Adult Protective ServicesElder Abuse and Neglect](#) Program, and the policies of the [APSElder-abuse](#) provider agency, during and after the period of volunteer service;
- b) the volunteer acknowledges and accepts the responsibilities of being a mandated reporter for abuse of older adults, persons with disabilities, and children;
- c) the volunteer agrees to inform the [APSElder-abuse](#) provider agency, in writing, of the existence of any apparent conflict of interest, including a preexisting personal or professional relationship with any client of the program to whom the volunteer might be assigned;

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENTS

- d) the volunteer agrees to maintain the appropriate driver's license and statutorily required insurance coverage if the volunteer is to be acting as a driver for eligible adults; and
- e) the volunteer agrees to abide by all statutory law, administrative rules, Departmental policies, and [APSElder abuse](#) provider agency policies that apply to and govern the [APSElder abuse](#) provider agency.

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

**Section 270.300 Activities and Supervision**

- a) The [APSElder abuse](#) provider agency shall assign volunteers and provide supervision of each volunteer according to the Volunteer Plan. Each volunteer shall have an individualized Activity Plan, which shall include a job description of the specific assignment of the volunteer.
- b) A copy of the Activity Plan for each volunteer shall be maintained in the records of the [APSElder abuse](#) provider agency.
- c) Each individualized Activity Plan shall include a record of all the training, assignments, activities, supervision, and evaluations of the volunteer.
- d) The Volunteer Plan shall be available for inspection and copying by law enforcement agencies, the Regional Administrative Agency, and the Department on Aging.
- e) The individual Activity Plans shall be available for inspection and copying by law enforcement agencies in the course of conducting a criminal investigation, and by the Department and appropriate Regional Administrative Agency (with redactions of identifying client information as necessary to maintain confidentiality) for monitoring and supervisory purposes.

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Nurse Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1300
- 3) Section Number: 1300.30                      Proposed Action:  
Amend
- 4) Statutory Authority: Implementing the Nurse Practice Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: Section 1300.30 is being amended to increase the application and renewal fees for RNs and LPNs. This increase is necessary to fully cover the costs of the Nurse Education Scholarships (currently about \$1.1 million a year) handed out by Department of Public Health (DPH), but is funded from DFPR's Nursing Fund. Without either a fee increase or a decrease in funding for the scholarship program, the Nursing Fund will begin running into the red in the next fiscal year or two.
- 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 has no impact on local governments.
- 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:

Department of Financial and Professional Regulation  
Attention: Craig Cellini

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

320 West Washington, 3rd Floor  
Springfield, IL 62786

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None – Licensed nurses will be affected
  - B) Reporting, bookkeeping or other procedures required for compliance: Please see the new and revised requirement that follow in the proposed amendment to this Part.
  - C) Types of professional skills necessary for compliance: Nursing skills/training
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1300  
NURSE PRACTICE ACT

SUBPART A: GENERAL PROVISIONS

Section	
1300.10	Definitions
1300.20	Nursing Delegation
1300.30	Fees
1300.40	Renewals
1300.50	Restoration
1300.60	Granting Variances
1300.70	Fines
1300.80	Public Access to Records and Meetings
1300.90	Unethical or Unprofessional Conduct
1300.100	Refusal to Issue a Nurse License Based on Criminal History Record
1300.110	Mandatory Reporting of Impaired Nurses
1300.120	Impaired Nurse – Disciplinary and Non-Disciplinary
1300.130	Continuing Education

SUBPART B: LICENSED PRACTICAL NURSE

Section	
1300.200	Application for Examination or Licensure
1300.210	LPN Licensure Examination
1300.220	LPN Licensure by Endorsement
1300.230	Approval of Programs
1300.240	Standards for Pharmacology/Administration of Medication Course for Practical Nurses
1300.250	LPN Scope of Practice
1300.260	Standards for Professional Conduct for LPNs

SUBPART C: REGISTERED NURSE

Section

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

- 1300.300 Application for Examination or Licensure
- 1300.310 RN Licensure Examination
- 1300.320 RN Licensure by Endorsement
- 1300.330 Nurse Externship
- 1300.340 Approval of Programs
- 1300.350 Standards of Professional Conduct for Registered Professional Nurses
- 1300.360 RN Scope of Practice
- 1300.370 Provision of Conscious Sedation by Registered Nurses in Ambulatory Surgical Treatment Centers

## SUBPART D: ADVANCED PRACTICE NURSE

## Section

- 1300.400 Application for Licensure
  - 1300.410 Written Collaborative Agreements
  - 1300.420 Collaboration and Consultation
  - 1300.430 Prescriptive Authority
  - 1300.440 APN Scope of Practice
  - 1300.450 Delivery of Anesthesia Services by a Certified Registered Nurse Anesthetist Outside a Hospital or Ambulatory Surgical Treatment Center
  - 1300.460 Advanced Practice Nursing in Hospitals or Ambulatory Surgical Treatment Centers
  - 1300.470 Advertising
  - 1300.480 Reports Relating to APN Professional Conduct and Capacity
- 
- 1300.APPENDIX A Additional Certifications Accepted for Licensure as an Advanced Practice Nurse
  - 1300.EXHIBIT A Sample Written Collaborative Agreement

AUTHORITY: Implementing the Nurse Practice Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 34 Ill. Reg. 14012, effective September 17, 2010; amended at 37 Ill. Reg. 9467, effective July 5, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 1300.30 Fees**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

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

## a) Application Fees

- 1) The fee for application for a license as a registered professional nurse and a licensed practical nurse is \$50. In addition, applicants for an examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
- 2) The fee for a temporary restoration or endorsement permit for a license as an [advanced practice nurse](#) APN, a registered professional nurse and a licensed practical nurse is \$25.
- 3) The fee for a nurse externship permit is \$50.
- 4) The fee for application for a license as an advanced practice nurse is \$125.
- 5) The fee for application as an approved continuing education sponsor is \$500.

## b) Renewal Fees

- 1) The fee for the renewal of a practical nurse license shall be calculated at the rate of ~~\$40~~ [\\$30](#) per year.
- 2) The fee for the renewal of a [registered](#) professional nurse license shall be calculated at the rate of ~~\$40~~ [\\$30](#) per year.
- 3) The fee for the renewal of a license as an advanced practice nurse shall be calculated at the rate of \$40 per year.
- 4) The fee for renewal of an APN, LPN or RN continuing education sponsor approval is \$250 for 2 years.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

## c) General Fees

- 1) The fee for the restoration of a license other than from inactive status is ~~\$5020~~ plus payment of all lapsed renewal fees, but not to exceed ~~\$250125~~.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as registered professional nurses or licensed practical nurses in this State shall be the actual cost of producing such a roster.
- 7) The fee for processing a fingerprint card by the Department of State Police is the cost of processing, which shall be made payable to the State Police Services Fund and shall be remitted to the State Police for deposit into the Fund.

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers:                      Proposed Action:  
     140.2                                      Amend  
     140.3                                      Amend  
     140.6                                      Amend  
     140.441                                  Amend
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Article 7 of PA 98-104
- 5) Complete Description of the Subjects and Issues Involved: The proposed 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).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.24	Amend	37 Ill. Reg. 3362; March 22, 2013
140.28	Amend	37 Ill. Reg. 3362; March 22, 2013
140.55	Amend	37 Ill. Reg. 7078; May 24, 2013
140.80	Amend	37 Ill. Reg. 10941; July 19, 2013
140.462	Amend	37 Ill. Reg. 12637; August 16, 2013
140.523	Amend	37 Ill. Reg. 13998; September 6, 2013
140.12	Amend	37 Ill. Reg. 19971; December 20, 2013
140.440	Amend	37 Ill. Reg. 19971; December 20, 2013

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED 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
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

## SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 140.438 Diagnostic Imaging Services
- 140.440 Pharmacy Services
- 140.441 Pharmacy Services Not Covered
- 140.442 Prior Approval of Prescriptions
- 140.443 Filling of Prescriptions
- 140.444 Compounded Prescriptions
- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Care, Nursing and Public Health Providers
- 140.471 Description of Home Health Care Services
- 140.472 Types of Home Health Care Services
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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 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940

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thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990;

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amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment

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suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective

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September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective

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November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days;

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emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23,

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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. \_\_\_\_\_, effective \_\_\_\_\_.

## 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 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~~

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- 8) persons eligible for FamilyCare as described in 89 Ill. Adm. Code 120.32;
- 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.
- 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.

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- 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 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

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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. \_\_\_\_\_, effective \_\_\_\_\_)

**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;
  - 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;~~;~~

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- 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;
  - 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;

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- 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;
  - 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;

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- 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) 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. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 140.6 Medical Services Not Covered**

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

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- 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;
- f) Autopsy examinations;
- ~~g) Preventive services, except those provided through the Medichex program for children through age 20, and required school examinations;~~
- ~~h) Routine examinations;~~
- ~~g)†) Artificial insemination;~~
- ~~h)†) Abortion, except in accordance with Rule 4.03;~~
- ~~i)†) Medical or surgical procedures performed for cosmetic purposes;~~
- ~~j)†) Medical or surgical transsexual treatment;~~
- ~~k)†) Diagnostic and/or therapeutic procedures related to primary infertility/sterility;~~
- ~~l)†) Acupuncture;~~
- ~~m)†) Subsequent treatment for venereal disease, when such services are available through State and/or local health agencies;~~
- ~~n)†) Medical care provided by mail or telephone;~~
- ~~o)†) Unkept appointments;~~
- ~~p)†) Non-medically necessary items and services provided for the convenience of~~

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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. \_\_\_\_\_, effective \_\_\_\_\_)

## 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);

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- ~~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 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. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
686.10	Amend
686.25	Amend
686.30	Amend
686.100	Amend
686.120	Amend
686.130	Amend
686.200	Amend
686.210	Amend
686.220	Amend
686.230	Amend
686.235	New
686.240	Amend
686.250	Amend
686.260	Amend
686.270	Amend
686.280	Amend
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking pertains to the Department of Human Services (DHS), Home Services Program (HSP). This rulemaking will authorize the payment of an enhanced rate for health insurance costs to eligible Homemaker Service Providers. It will establish additional payment and financial reporting guidelines for Homemaker Service Providers who are eligible for the enhanced rate for health insurance costs. PA 97-732, which amends Section 5-20 of the Disabled Persons Rehabilitation Act, provides HSP with the authority to pay the enhanced rate for health insurance costs. HSP shall have the authority to set rates and fees for services in a fair and equitable manner, and pay the same rate for services that are identical to the Department on Aging (DOA). Specifically, proposed changes to this rulemaking include the following:
  - Language is added to 686.200 to indicate Homemaker Services Providers must be in compliance with all Medicaid provider requirements for the Illinois Department

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of Healthcare and Family Services (HFS) and DHS. With increased provider responsibilities required under the SMART Act (PA 97-689), the Division felt it was appropriate to add this reference.

- In Section 686.230, added language to indicate Homemaker Service Providers may appeal program decisions in addition to compliance reviews and establishes a 30 day time period in which to request an appeal.
- A new Section 686.235 is added for the enhanced rate for health insurance costs for eligible Homemaker Service Providers. The information outlines the type of health insurance plans, eligibility requirements and the annual insurance review for participating providers. This is comparable to DOA language for the Community Care Program (89 Ill. Adm. Code 240.1970).
- New language is added to Section 686.240 and 686.250 (payment information and financial reporting sections) to address the additional requirements for Homemaker Service Providers who receive the enhanced rate. In addition, a new paragraph is added to 686.250 to address financial reporting of rate-based wage increases for Homemaker employees.
- The percentages in 686.270 have been changed to be comparable with the DOA.
- Section 686.260 and 682.280 are amended to reflect the enhanced rate information.
- Edits and updates have been included to make the rules consistent with current programmatic language and standards.

- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules

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within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, IL 62762

217/557-1544

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Homemaker Service Providers doing business with the HSP who qualify for the enhanced rate for health insurance costs.
- B) Reporting, bookkeeping or other procedures required for compliance:
- Initial application for eligibility
  - Certification of insurance coverage
  - Annual insurance review as a condition of continued eligibility
  - Meeting HSP's payment and financial reporting requirements
- C) Types of professional skills necessary for compliance: Professional skills determined necessary by the Homemaker Service Provider for staff with responsibility for preparing for submission to the HSP.
- 14) Regulatory Agenda on which this rulemaking was summarized: July, 2013

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

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER d: HOME SERVICES PROGRAM

## PART 686

## PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

## SUBPART A: PERSONAL ASSISTANTS

Section	
686.10	Personal Assistant (PA) Requirements
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686.APPENDIX A Acceptable Human Service Degrees

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. 18174, effective November 30, 2000; amended at 25 Ill. Reg. 6282, effective May 15, 2001; amended at 26 Ill. Reg. 3994, effective February 28, 2002; amended at 28 Ill. Reg. 6453, effective April 8, 2004; amended at 29 Ill. Reg. 16508, effective October 17, 2005; amended at 31 Ill. Reg. 14238, effective September 27, 2007; emergency

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amendment at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days; emergency expired October 1, 2009; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: PERSONAL ASSISTANTS

**Section 686.10 Personal Assistant (PA) Requirements**

In order to be employed by a customer as a PA (89 Ill. Adm. Code 676.30~~(g)~~), an individual must:

- a) have a Social Security number and provide [the Department of Human Services \(DHS\)](#) with documented verification of this number;
- b) be a minor between 14 and 16 years of age who is not employed during school hours, has an employment certificate and meets all other requirements of the Child Labor Law [820 ILCS 205] and has an adult who is at least 21 years of age and who is legally responsible for the customer who will supervise the PA; be 16 years of age or older, enrolled in school and not employed during school hours; or be 17 years of age or older and not enrolled in school;
- c) have provided to the customer at least two written or verbal recommendations from present or former employers, the recommendation of a Center for Independent Living (CIL), or, if never employed, references from at least two non-relatives;
- d) be able to communicate with the customer to the satisfaction of the customer and counselor;
- e) be able to follow directions to the satisfaction of the customer and counselor;
- f) have previous experience and/or training that is adequate and consistent with the specific tasks required for safe and adequate care of the customer;
- g) if the customer has a contagious infectious disease, have a physician, health care institution (i.e., hospital, nursing home, home health agency), or CIL certify, in writing, that he/she has the knowledge of precautionary procedures for the control of contagious infectious diseases, if it is anticipated that he/she will come into contact with bodily fluids, or be evaluated by a Registered Nurse licensed pursuant to the [Illinois Nursing and Nursing Practices Nurse Practice Act of 1987](#)

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[225 ILCS 65] to determine that he/she has knowledge of ~~those such~~ procedures;

- h) complete an EMPLOYMENT AGREEMENT between the customer and PA that certifies the PA:
- 1) shall provide services to the individual in accordance with his/her SERVICE PLAN (IL 499-1049) (89 Ill. Adm. Code 676.30(u));
  - 2) shall submit a bi-monthly calendar listing actual hours worked each pay period (1-15; 16-last working day of the month), as verified by the customer and in accordance with the number of hours authorized by DHS. The PA shall not claim more hours than approved by DHS unless prior approval has been granted by the counselor to address a temporary increased service need;
  - 3) shall make available to DHS and other designated agencies those records described in subsection (h)(2);
  - 4) shall maintain all customer information as confidential and not for release, either in writing or verbally, to anyone other than those designated by DHS in writing;
  - 5) shall not subcontract to any other person, any of the services he/she has agreed to provide;
  - 6) shall provide services only while the individual is in his/her home or during the period covered by Section 684.60 (Provision of Services);
  - 7) shall agree that the customer is responsible for locating, choosing, employing, supervising, training, and disciplining as necessary the PA. Further, that the State of Illinois does not provide paid vacation, holiday, or sick leave; however, such absences shall be reported to the DHS counselor per the HOME SERVICES TIME SHEET (IL 488-2251) only for the purposes of processing payment;
  - 8) understands that DHS reports all payments made to a PA to the Illinois Department of Employment Security (DES) and that the PA may apply for unemployment benefits, but DES, not DHS, makes the determination as to whether the PA shall receive benefits;

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- 9) understands that he/she may apply for Workers' Compensation benefits through DHS and that some customers may carry such insurance coverage; however, DHS maintains that the customer, not DHS, is the employer for these purposes; and
- 10) understands that DHS will withhold Social Security tax (FICA) from payments made to him/her. Federal and State income tax shall be withheld if the PA completes and returns to DHS two separate W-4 forms;
  - i) complete an I-9 Immigration form, which must be retained by the customer;
  - j) for PAs starting on or after April 13, 1992, complete a PA STANDARDS (IL 488-2112) to be returned to DHS;
  - k) as of April 13, 1992, at the time of redetermination of eligibility of the customer by which he/she is employed, have completed by the customer, a PERSONAL ASSISTANT EVALUATION (IL 488-2089); and
  - l) if requested by the customer, give permission and the necessary information for the customer to request a conviction background check from the Illinois State Police. This permission will require the prospective PA to sign the appropriate form provided by the customer.

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

**Section 686.25 Criminal Background Check**

- a) A Home Services Customer may require any PA candidate to submit to a criminal background investigation and to successfully complete a criminal background investigation as a condition of being selected as the PA to that Customer.
- b) In the event that a customer elects to require a PA candidate to submit to a criminal background investigation, the customer shall be obligated only to inform DHS-Division of Rehabilitation Services (DRS)/~~ORS~~ of his/her decision and ~~DHS-ORSDRSORS~~ will provide the Customer an appropriate form that the Customer may file with the Illinois State Police to initiate the criminal background investigation. The results of the criminal background investigation will be sent directly to the customer, and the customer shall have no obligation to

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share the results of the investigation with DHS-~~DRSORS~~. Nothing contained in this Section shall restrict a customer from extending a conditional offer of employment to any PA candidate pending the results of the background investigation.

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

**Section 686.30 Annual Review of PA Performance**

- a) Pursuant to 686.10(k), annually, at the time of redetermination of the individual's eligibility, a Personal Assistant Evaluation (IL 488-2089) shall be completed, by the customer with assistance of the counselor, for each PA providing services through [the Home Services Program \(HSP\)](#).
- b) PAs shall be evaluated based upon:
  - 1) accuracy of work (e.g., ranging from making many errors to few errors);
  - 2) cleanliness of working area (e.g., ranging from very untidy to exceptionally clean);
  - 3) use of work time (e.g., ranging from very wasteful to very efficient);
  - 4) responsibility (e.g., ranging from irresponsible to responsible);
  - 5) attendance (e.g., ranging from frequently absent or late to always prompt);  
and
  - 6) attitude towards the customer (e.g., ranging from disrespectful to respectful).
- c) The outcome of the evaluation shall be mediated by the counselor between the PA and the customer regarding any unresolved issues, up to and including replacement of the PA by the customer, if necessary.

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

**SUBPART B: ADULT DAY CARE PROVIDERS**

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**Section 686.100 Adult Day Care (ADC) Provider Requirements**

Adult Day Care (ADC) (see 89 Ill. Adm. Code 676.40) Providers must either be approved by DHS or by the Illinois Department on Aging (DonA'sDeA) pursuant to DonA'sDeA's rules found at 89 Ill. Adm. Code 240, with the exception that the term "the elderly" in 89 Ill. Adm. Code 240.1560(a)(1)(A)(ii) and (a)(2)(A)(ii) should be replaced with the term "individuals with disabilities". In order to be approved as an ADC Provider by DHS, the ADC Provider must meet all of the conditions specified by DonA'sDeA, as cited above, and:

- a) employ a full-time program director;
- b) employ the equivalent of a full-time program coordinator/director;
- c) employ a program nurse who is on duty at least a portion of every standard business day;
- d) employ a nutrition staff;
- e) comply with the provisions of:
  - 1) Section 504 of the Rehabilitation Act of 1973 (29 USC 701+2101), as amended;
  - 2) the Illinois Human Rights Act [775 ILCS 5];
  - 3) the Illinois Accessibility Code (71 Ill. Adm. Code 400);
  - 4) the Americans with Disabilities Act (42 USC 12101, et seq.); and
  - 5) the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.);
- f) record the administration of all prescribed medications for those customers served through HSP who are unable to self-administer medication as documented by a physician licensed pursuant to the Medical Practice Act [225 ILCS 60], a registered nurse licensed pursuant to the Nursing Practice~~Nursing and Advanced Practice Nursing~~ Act [225 ILCS 65], or as documented in the individual's Service Plan (IL 488-1049) (89 Ill. Adm. Code 676.30);

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- g) provide DHS with a record of the amount of pre-service training each employee has had;
- h) require, and provide DHS documentation of, at least 12 hours of in-service training for each staff person each fiscal year;
- i) successfully complete an Adult Day Care Provider Review ([IL 488-2129](#)) pursuant to Section 686.120;
- j) agree to and sign an Adult Day Care Provider Rate Agreement;
- k) maintain adequate records for planning, budgeting, administration and program evaluation and planning. These records shall be available to DHS and the United States Department of Health and Human Services (HHS), or any entity designated by DHS or HHS, and shall be maintained for a period of at least 5 years or until advised that all State and federal audits are completed. These records must include, but not be limited to:
  - 1) records of all referrals, including the disposition of each referral;
  - 2) all customer records;
  - 3) administrative records, including:
    - A) service statistics; and
    - B) billing and payment records;
  - 4) personnel records, including:
    - A) schedules and attendance records for staff and volunteers;
    - B) training records for staff and volunteers;
    - C) annual performance evaluations for all staff and, as appropriate, all volunteers; and
- l) have an Affirmative Action Plan in place which is approved by its governing body.

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

**Section 686.120 Compliance Review of ADC Providers**

- a) DHS-~~DRSORS~~ shall complete a review of each ~~Adult Day Care (ADC)~~ Provider, at least every two years, to ensure compliance with the criteria set forth in this Subpart.
- b) The review shall consist of an on-site review conducted by HSP staff using the Adult Day Care Review form (IL 488-2129). Written notification shall be provided to the ADC Provider prior to the review.
- c) Within 15 days after the completion of the review, a copy of the completed IL 488-2129, along with a letter stating the results of the review, shall be mailed to the ADC.
  - 1) If the ADC Provider is approved, included with the letter shall be an ADC Provider Rate Agreement for execution by the appropriate provider staff and return to DHS-~~DRSORS~~.
  - 2) If the ADC Provider is not approved, the letter shall contain specific information regarding:
    - A1) deficiencies found as a result of the review;
    - B2) the action necessary for the ADC Provider to come into compliance;
    - C3) the time frames within which the ADC Provider must come into compliance; and
    - D4) the information necessary for the ADC Provider to request re-evaluation after the compliance issues are addressed.

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

**Section 686.130 Appeal of Compliance Review for ADC Providers**

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- a) ADC Providers determined not to be in compliance with DHS-~~DRSORS~~ requirements as a result of the review may appeal the decision to the Bureau Chief of the Bureau of Home Services Program. The Bureau Chief shall conduct a review of the facts related to the rating and shall, within 15 working days, provide a written decision to the ADC Provider.
- b) If the ADC Provider is not satisfied with the decision of the Bureau Chief, the ADC Provider may request review of the Chief's decision by the DHS-~~DRSORS~~ Associate Director. The request must be in writing from the ADC provider and received by the DHS-~~DRSORS~~ Associate Director within 10 working days after the date the decision was rendered by the Bureau Chief. The decision of the DHS-~~DRSORS~~ Associate Director shall be final.

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

## SUBPART C: HOMEMAKER SERVICES

**Section 686.200 Homemaker Service Provider Requirements**

In order to provide Homemaker Services under HSP (see 89 Ill. Adm. Code 676.40), a Homemaker Service Provider must be in compliance with all Medicaid provider requirements for the Illinois Department of Healthcare and Family Services (HFS) and DHS.

- a) Only Homemaker Service Providers ~~those vendors~~ with an approved Homemaker Agreement ~~Agreements~~ may be used to provide Homemaker Services to individuals being served through Home Services Program ~~(HSP)~~.
- b) In order to be approved by HSPDHS, the Homemaker Service Provider ~~Agency~~ must comply with the following, to the satisfaction of HSPDHS:
- 1) provide a comprehensive array of services ~~that~~ which include, but are not limited to, those services described in Section 686.210;
  - 2) assure HSPDHS that all referrals will be responded to within 48 hours after receipt from HSPDHS;
  - 3) have written billing procedures and provide a copy to HSPDHS as part of the compliance review;

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- 4) have documented procedures to cover unexpected absences and emergencies to ensure services will be provided in an adequate and safe manner to all individuals served by the [Homemaker Service Provider](#) agency;
- 5) have written procedures to respond to customer and counselor complaints regarding services;
- 6) maintain comprehensive written job descriptions for, at a minimum, the positions of Executive Director ~~or~~ Administrator, supervisory staff, and [Homemakers](#) ~~direct service providers~~;
- 7) have established a local presence to ensure regular and on-going contact with [HSPDHS](#) and other appropriate community groups;
- 8) have procedures for regular and on-going recruitment of [Homemakers](#) ~~direct service providers~~ through local resources;
- 9) be ~~either~~ incorporated or provide [HSPDHS](#) with a copy of a written statement of purpose and function;
- 10) maintain adequate records for planning, budgeting, administration and program evaluation and planning. These records shall be available at all times to [HSPDHS](#) and the United States Department of Health and Human Services (HHS), or any entity designated by [HSPDHS](#) or HHS, and shall be maintained for a period of at least 5 years, or until advised that all State and federal audits are completed. These records must include, but not be limited to:
  - A) records of all referrals, including the disposition of each referral;
  - B) customer records, which include:
    - i) dates and times services were provided to each individual;
    - ii) dates and times of supervisor-[Homemaker](#) ~~homemaker~~ weekly conferences;
    - iii) semi-annual reports of supervisory visits with each

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customer served;

- iv) monthly service reports for each customer served that document a summary of services, actual or anticipated changes in the customer's condition, recommended changes in the current HSP Service Plan, and all customer contacts;
- v) records of all staffings held pertaining to the customer;
- vi) records of all financial transactions between the customer and any [Homemaker Service Provider](#) agency employee;

C) administrative records, which include:

- i) cumulative service statistics pertaining to any agreement with [HSP/DHS](#);
- ii) billing and payment records ~~that~~ which pertain to [HSP/DHS](#);

D) personnel records, which include:

- i) attendance records;
- ii) schedules for all direct service staff;
- iii) documentation regarding each individual's qualification for the position held;
- iv) wage rate and effective date for each staff member;
- v) job performance evaluations for each staff person that include annual evaluations and at least one probationary evaluation completed within the first six months of employment;
- vi) orientation and training attendance information for each staff member, which must include the name of each instructor, the date, the time and the title of each training program attended; and

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- vii) verification of liability insurance in the amounts of at least \$15,000 per person bodily injury, \$30,000 minimum per occurrence, and \$10,000 in property damage, per occurrence, if the employee will or could be expected to transport customers in the course of his/her work;
- 11) maintain insurance coverage against any and all liability, loss, damage and/or expense from wrongful or negligent acts of the [Homemaker Service Provideragency](#) or any of its employees and provide [HSPDHS](#) with written verification of [that](#) coverage;
  - 12) maintain written procedures on reporting loss and damage arising from the wrongful or negligent acts of the [Homemaker Service Provideragency](#) or any of its employees;
  - 13) agree to hold harmless DHS [and HSP](#) against any and all liability, loss, damage, cost, or expense arising from wrongful or negligent acts of the [Homemaker Service Provideragency](#) or any of its employees;
  - 14) assist [HSPDHS](#) in monitoring and evaluating the [Homemaker Service Provider'sagency's](#) performance under any agreement with [HSPDHS](#);
  - 15) maintain any and all information regarding individuals referred to the [Homemaker Service Provideragency](#) by [HSPDHS](#) as confidential and not for public release without the written consent of [HSPDHS](#) and the customer;
  - 16) maintain and have available for review by customers and purchasers of services policies governing:
    - A) the nature and scope of each service provided by the [Homemaker Service Provideragency](#);
    - B) a two-way receipt system for any time an employee of the [Homemaker Service Provideragency](#) handles an individual's money, food stamps or other negotiable items or tender;
    - C) personnel policies governing salary, leave time, hours of work,

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employee grievance procedures, and attendance at in and out-service trainings; and

- 17) have in place an Affirmative Action Plan ~~that~~<sup>which</sup> is approved by its governing body.
- c) At a minimum, each Homemaker ~~Service Provider~~<sup>Agency</sup> must employ qualified staff in the positions of:
- 1) Executive Director or Administrator for each local unit providing services, who is responsible for the administration of the Homemaker Services program and who, at a minimum, has or is making continued progress towards:
    - A) a Bachelor's degree in health, human services, or a related field;
    - B) licensure as a Registered Nurse pursuant to the ~~Nurse Practice Nursing and Advanced Practice Nursing Act [225 ILCS 65];~~ <sup>Nurse Practice Act [225 ILCS 65];</sup>
    - C) certification as a home health care administrator, medical clinic administrator, or other health services administrator; or
    - D) one year of related job experience in social services or in a health agency to replace each year of education required in subsections (c)(1)(A) through (C), provided that at least ~~one+~~ year of experience was in a program that provides services to individuals with disabilities.
  - 2) For the purposes of subsections (c)(1)(A) through (C) "continued progress" shall mean current registration and evidence of successful completion of course work in an accredited junior college, college, or university for a minimum of 2 semesters or 3 quarters of each academic year. Successful completion shall mean a grade of at least "C" in undergraduate course work or a grade of "B" in graduate course work;
  - 32) Supervisors, in a ratio of no less than the equivalent of ~~one+~~ full-time supervisor to the equivalent of every 20 full-time ~~Homemakers~~<sup>direct service providers</sup>, who ~~are~~<sup>is</sup> responsible for the supervision of ~~direct~~

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~~service~~ Homemaker staff and who, at a minimum, ~~have~~has:

- A) a Bachelor's degree with course work in social science, home economics, or nursing;
- B) knowledge and skill equivalent to completion of a Bachelor's degree, as described in subsection (c)(1)(A); or
- C) a high school diploma or its equivalent plus health service experience including at least 2 years supervisory experience;

43) Homemakers~~direct service providers~~ who have:

- A) been determined to be in good health;
- B) knowledge and skill equivalent to a high school diploma;
- C) experience as a homemaker, either in his or /her own home or through employment; and
- D) knowledge of:
  - i) nursing care;
  - ii) first aid;
  - iii) personal and environmental hygiene;
  - iv) household budgeting;
  - v) housekeeping;
  - vi) nutrition;
  - vii) food preparation; and
  - viii) clothing care.

d) Each supervisor and Homemaker~~direct service provider~~ must, at a minimum,

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participate in the following training programs:

- 1) Orientation, which shall include:
  - A) the philosophy and purpose of Homemaker Services~~homemaker services~~; and
  - B) the functions of Homemaker Services~~homemaker services~~;
- 2) In-service training, directed at increasing the Homemaker Service Provider's~~direct service provider's~~ knowledge and skills, of not less than 12 hours each year in areas including:
  - A) disability awareness; and
  - B) Acquired Immunodeficiency Syndrome (AIDS).
- e) The Homemaker Service Provider~~Agency~~ shall have a written policy and procedures governing a self-evaluation process to evaluate services and case management with an outcome of written recommendations to the governing body of the Homemaker Service Provider~~agency~~ to improve the services provided~~the agency provides~~.
- f) The Homemaker Service Provider~~agency~~ shall abide by provisions of the following federal and State laws and regulations regarding employment practices and compliance:
  - 1) Laws and Regulations
    - A1) Title VI of the Civil Rights Act of 1964 (42 USC 2000d);
    - B2) Section 504 of the Rehabilitation Act of 1973 (29 USC 701794);
    - C3) the Americans With~~with~~ Disabilities Act (42 USC 12101);
    - D4) the Illinois Human Rights Act [775 ILCS 5];
    - E5) the Health Care Worker~~Worker's~~ Background Check Act [225 ILCS 46]; and

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F6) the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

- 2) Further, the Homemaker Service Provider agency shall provide HSP ~~DHS~~ with a letter certifying compliance with the provisions of the laws listed in ~~this~~ subsection (f)(1) and a copy of the Affirmative Action Plan for the Homemaker Service Provider agency.

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

**Section 686.210 Services ~~That Which~~ Must Be Provided by Homemaker Service Providers Agencies**

An approved Homemaker Service Provider must provide professionally directed home management and personal care services through trained Homemaker employees to HSP customers when the customer does not have a responsible person or entity to assist him or her, and the customer requires teaching, performance and/or assistance with:

~~The Homemaker Agency must provide professionally directed home management and personal care services directly provided by trained homemakers to individuals served through HSP who require supportive, protective or teaching functions because of the lack of a responsible person or entity to provide such for the individual in the areas of:~~

- a) ~~teaching, performance and/or assistance with~~ household, financial and time management;
- b) nutrition, ~~teaching, performance and/or assistance with~~ meal planning and food preparation, which includes ~~preparation and nutrition, including the preparation of~~ specially prescribed diets and snacks;
- c) ~~teaching, performance and/or assistance with~~ personal care and hygiene ~~that which~~ is nonmedical ~~of a non-medical in~~ nature;
- d) observation and reporting of a customer's ~~the individual's~~ behavior and activities to HSP ~~DHS~~ for the purpose of assessment and service planning; and
- e) emergency services to meet an unforeseen need in the areas listed in subsections (a) through (d) ~~above~~ when required by the customer ~~contacted by the individual~~

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~~or DHS~~ and preapproved by HSP~~DHS~~.

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

**Section 686.220 Compliance Review of Homemaker Service Providers~~Agencies~~**

- a) ~~DHS ORS shall conduct a compliance review of any Homemaker Agency seeking an approved rate agreement with DHS and, at least every two years, shall conduct a compliance review of all Homemaker Agencies that have current rate agreements with DHS ORS for the purpose of determining compliance or continued compliance with the criteria set forth in this Subpart.~~
- b) ~~DHS ORS shall notify all Homemaker Agencies having current approved rate agreements, in writing, at least 10 working days prior to the date of the review to determine continued compliance.~~

HSP shall conduct a compliance review on all Homemaker Service Providers as a condition of determining compliance, or continued compliance, with the criteria established under this Subpart.

- a) A Homemaker Service Provider seeking an HSP rate agreement shall undergo a compliance review as a condition of approval by HSP.
- b) A Homemaker Service Provider with a current HSP rate agreement shall undergo a compliance review at least every two years as a condition of determining continued compliance under the program.
- c) All Homemaker Service Providers with current HSP rate agreements shall be notified in writing by HSP, at least 10 working days prior to the date of the compliance review.
- a) ~~DHS ORS shall conduct a compliance review of any Homemaker Agency seeking an approved rate agreement with DHS and, at least every two years, shall conduct a compliance review of all Homemaker Agencies that have current rate agreements with DHS ORS for the purpose of determining compliance or continued compliance with the criteria set forth in this Subpart.~~
- b) ~~DHS ORS shall notify all Homemaker Agencies having current approved rate agreements, in writing, at least 10 working days prior to the date of the review to determine continued compliance.~~

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

**Section 686.230 Appeal Rights of Compliance Review for Homemaker Service Providers**

- a) Homemaker Service Providers not satisfied with a DHS program decision or an HSP compliance ~~Agencies determined not to be in compliance with DHS ORS requirements, as a result of the~~ review, may submit an appeal request in writing ~~the decision~~ to the ~~Chief of the Bureau~~ Chief of the Home Services Program. Appeal requests must be filed within 30 days after the program decision or compliance review. The Bureau Chief shall conduct a review of the facts ~~related to the rating~~ and shall, within 15 working days, provide a written decision to the Homemaker Service Provider ~~Agency~~.
- b) If the Homemaker Service Provider ~~Agency~~ is not satisfied with the decision of the Bureau Chief, the Homemaker Service Provider ~~Agency~~ may request review of the Bureau Chief's decision by ~~the DHS ORS Associate~~ Director of DHS-DRS. The request must be in writing and received by ~~the DHS-DRS ORS Associate~~ Director within 10 working days after the date the decision was rendered by the Bureau Chief. The decision of ~~the DHS-DRS ORS Associate~~ Director shall be final.

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

**Section 686.235 Enhanced Rate for Health Insurance Costs**

An enhanced rate shall be paid to Homemaker Service Providers that offer health insurance coverage as a benefit to their Homemaker employees who provide services to customers under HSP.

- a) For purposes of this Section, "health insurance" means a Type 1 plan or a Type 2 plan as described in subsections (a)(1) and (2).
- 1) Type 1 Plan  
A Type 1 plan must comply with, be comparable to, or exceed required mandated benefits, coverages, and co-payment levels for individuals and group insurance policies and individual and group contracts for health maintenance organizations under the Illinois Insurance Code [215 ILCS

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5], the Health Maintenance Organization Act [215 ILCS 125], and associated regulations.

- 2) Type 2 Plan  
A Type 2 plan is employer-paid health insurance as part of collective bargaining with unionized Homemaker employees through a Taft-Hartley Multi-employer Health and Welfare Plan. The Labor Management Relations Act of 1947 (29 USC 141 et seq.) describes the requirements and coverage at 29 USC 186(c)(5).

b) Initial Application

- 1) An interested Homemaker Service Provider must submit an initial application at least 120 days prior to the end of each State fiscal year. The application may be obtained from and must be submitted to the Home Services Liaison for Health Insurance, Department of Human Services, 100 South Grand Avenue East, P.O. Box 19429, Springfield, Illinois 62794-9429.
- 2) Homemaker Service Providers that are found by HSP to have deficiencies may not apply for the enhanced rate until deficiencies are corrected to the satisfaction of HSP.

c) Eligibility

Eligibility requirements include:

- 1) Verification of a current rate agreement as a Homemaker Service Provider under the HSP.
- 2) A copy of a health insurance plan or a certification of insurance and the effective date of that document, to establish that:
  - A) the Homemaker Service Provider provides health insurance at its own expense for its Homemaker employees, which may include coverage for those employees' dependents; or
  - B) the Homemaker Service Provider will provide for health insurance as part of collective bargaining with unionized Homemaker employees, which may include coverage for those employees'

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dependents through a Taft-Hartley Multi-employer Health and Welfare Plan.

- 3) Specification of the total number of employees and the total number of Homemaker employees, together with a certification from a responsible party for the Homemaker Service Provider to the effect that:
    - A) under a Type 1 health insurance plan:
      - i) health insurance coverage is offered to all Homemaker employees who have worked at least an average of 20 hours per week for three consecutive months under HSP; and
      - ii) at least one quarter of the total number of Homemaker employees accept the offer of health insurance.
    - B) under a Type 2 health insurance plan:
      - i) health insurance coverage is offered to all of the Homemaker employees subject to the collective bargaining agreement who have worked at least an average of 20 hours per week for three consecutive months under HSP; and
      - ii) at least one quarter of the total number of Homemaker employees, or any higher percentage required under federal law, accept the offer of health insurance.
  - 4) Submission of any other relevant information requested by HSP for administrative or audit purposes.
- d) Notification  
It is the responsibility of a Homemaker Service Provider to notify HSP within 7 days of any change in its eligibility status, including, but not limited to, cancellation or termination of the health insurance plan or purchase of a new plan. A Homemaker Service Provider is only required to monitor participation by Homemaker employees in order to submit the initial application, the Annual Insurance Review required by subsection (e), and required financial reporting.

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e) Annual Insurance Review

- 1) Once a Homemaker Service Provider is determined eligible by HSP and is paid an enhanced rate for health insurance costs, the Homemaker Service Provider must thereafter substantiate its continued eligibility under subsection (c) by submitting appropriate supporting documentation at the same time as its annual financial report under Section 686.250.
- 2) As part of the Annual Insurance Review, an independent certified public accounting firm for the Homemaker Service Provider must verify the actual, documented expense for health insurance provided for the period listed as part of the required financial reporting under Section 686.250.
- 3) HSP reserves the right to require a Homemaker Service Provider to engage an independent certified public accounting firm, approved by HSP, to verify the information and data submitted by the Homemaker Service Provider if HSP is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the Homemaker Service Provider's expense.
- 4) HSP shall notify a Homemaker Service Provider in the event of a determination during the Annual Insurance Review that:
  - A) the Homemaker Service Provider is no longer eligible for continued payment of the enhanced rate for health insurance costs;
  - B) the total revenue from the enhanced rate for health insurance costs exceeds the actual, documented expenses for health insurance costs for the reporting period;
  - C) there was an error in eligibility of a Homemaker Service Provider for the prior reporting period;
  - D) there was an error in the amount of revenue from the enhanced rate for health insurance costs; or
  - E) there was an error in the amount of the health insurance costs.

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- 5) A Homemaker Service Provider may appeal an adverse eligibility decision regarding continued payment of the enhanced rate for health insurance costs or a repayment decision in accordance with Section 686.230. HSP will continue to pay the enhanced rate for health insurance costs until the appeal is resolved.
- 6) Supporting documentation may be subject to release under the Freedom of Information Act [5 ILCS 140] unless an exemption applies for confidentiality, privacy, or other proprietary business purpose and is marked accordingly on the face of any submission.

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

**Section 686.240 Payment Information for Homemaker Service ProvidersServices**

- a) Payment information for all Homemaker Service Providers
- 1a) Payment for Homemaker Services shall be at the rate specified in the rate agreement signed by HSP~~DHS~~ and the approved Homemaker Service Provider~~Agency~~.
- 2b) Services shall be paid in accordance with the time recorded by the Homemaker employee~~increments of not less than one quarter hour,~~ pursuant to the Service Plan (see 89 Ill. Adm. Code 676.30) developed for the customer~~individual~~.
- 3e) Homemaker Service Providers~~Agencies~~ shall submit monthly billings for approved services provided the previous month and monthly progress reports for each customer served by the Homemaker Service Provider~~agency~~ for the month being billed. ~~Billings may be submitted less frequently at the discretion of the Homemaker Agency.~~
- 4d) Payment for Homemaker Services shall be allowed only for those hours services are being provided to the individual being served through~~HSP~~. No payment shall be claimed for those periods that~~which~~ the Homemaker~~agency~~ employee spends traveling, in conferences, etc., or for expenses incurred by the Homemaker~~agency~~ employee.

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- 5) By accepting any payment under HSP, a Homemaker Service Provider agrees to repay the State of Illinois if:
- A) the total revenue from the monthly billings exceeds the actual, approved documented services under this Section for the reporting period;
  - B) an error occurred in the calculation of the monthly billing submitted to HSP and the provider was overpaid;
  - C) the Homemaker Service Provider received payment for services during a time the provider was determined ineligible to provide services under HSP; or
  - D) the Homemaker Service Provider misspent HSP funds or received funding from HSP while participating in fraudulent activity.
- b) Additional Payment Information for Homemaker Service Providers with the Enhanced Rate for Health Insurance Costs
- 1) If a Homemaker Service Provider is determined eligible for the enhanced rate for health insurance costs, HSP will thereafter calculate the appropriate payment based on the number of units of Homemaker Service accepted as billed for the eligible dates of service.
  - 2) A Homemaker Service Provider that makes a switch between a Type 1 and a Type 2 plan is not entitled to any retroactive payments for a period of time preceding the date on which benefits are actually available under the new plan.
  - 3) No Homemaker Service Provider is entitled to a duplicate payment for the same period of time or for the same units of Homemaker Service accepted as billed per contract.
  - 4) By accepting any payment under HSP, a Homemaker Service Provider agrees to repay the State of Illinois if:

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- A) the total revenue from the enhanced rate for health insurance costs exceeds the actual, documented expenses for its health insurance costs under this Section for the reporting period;
- B) an error in eligibility of a Homemaker Service Provider, or the amount of revenue from the enhanced rate for health insurance costs, or the amount of the health insurance costs is subsequently determined by the Homemaker Service Provider or HSP; or
- C) the Homemaker Service Provider misspent HSP funds or received funding from HSP for the enhanced rate for health insurance costs while participating in fraudulent activity.

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

**Section 686.250 Financial Reporting of Homemaker Service Providers**

- a) Homemaker Service Providers shall be required to:
  - 1) complete and submit a Homemaker Cost Certification report that is based upon actual, documented expenditures.
    - A) The report must be submitted annually, within 60 days after the end of the reporting period, and may be prepared as a part of the Homemaker Service Provider's annual audit.
    - B) The report may be based on a calendar year or on the Homemaker Service Provider's fiscal year; however, once it is determined which time period is to be used, written approval from HSP shall be required for a change in that determination.
    - C) The report must demonstrate that the Homemaker Service Provider has expended a minimum of 77% of the total revenues due from HSP, including the customer incurred expense, for Homemaker costs as enumerated in Section 686.280. For purposes of this report, the phrase "total revenues due from HSP" does not include any amount received as an enhanced rate under Section 686.235 by a qualifying Homemaker Service Provider.

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- D) The report shall identify the Homemaker Service Provider's expenditures for Homemaker costs of Program support costs, and administrative costs as enumerated in Section 686.280.
- 2) complete and submit a Homemaker Cost Certification report to document compliance with any rate-based wage increase for Homemaker employees who provide services under HSP. The report must be submitted within 60 calendar days after issuance of written notification of the increase by HSP.
- b) The accuracy of the reports identified in subsections (a)(1) and (2) must be attested to by an authorized representative of the Homemaker Service Provider.
- c) HSP reserves the right to require the Homemaker Service Provider to engage an independent certified public accounting firm, approved by HSP, to verify the information and data submitted by the Homemaker Service Provider if HSP is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the Homemaker Service Provider's expense.
- d) HSP may take appropriate enforcement action in the following instances:
- 1) a Homemaker Service Provider did not submit a report;
  - 2) a report is inaccurate, incomplete or fraudulent; or
  - 3) a Homemaker Service Provider did not increase the wages paid to its Homemaker employees in the required amount as authorized by a rate increase under HSP.
- e) Homemaker Services Providers approved for the enhanced rate for health insurance costs:
- 1) shall not report the enhanced rate for health insurance costs paid by HSP as part of their revenue for purposes of the required financial reporting under this Section; and
  - 2) shall not report health insurance for Homemaker employees as an incurred cost for purposes of the required financial reporting under this Section.

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except for an amount in excess of the enhanced rate paid by HSP during a reporting period.

- f) Enforcement action towards a Homemaker Service Provider includes, but is not limited to the imposition of a corrective action plan, suspension of referrals from HSP, and/or termination of rate agreements with HSP.
- a) Homemaker Agencies will be required to submit a cost report, the Direct Service Worker Cost Certification, as specified below. The report must be based upon actual, documented expenditures.
  - 1) The report must be submitted annually, within 6 months after the end of the reporting period, and may be prepared as a part of the Homemaker Agency's annual audit.
  - 2) The report may be on either a calendar year basis or the Homemaker Agency's fiscal year, however, once a Homemaker Agency has elected to base the report on a calendar or fiscal year, this election can be changed only upon written approval of the Department.
- b) The cost report must demonstrate that the Homemaker Agency has expended a minimum of 73% of the total revenues due from the Department, to include the client incurred expense, for Direct Service Worker costs as enumerated in Section 686.280.
- e) The cost report shall identify the Homemaker Agency's expenditures for Direct Service Worker costs of Program Support costs, and Administrative costs as enumerated in Section 686.280.
- d) The accuracy of the report must be attested to by an authorized representative of the Homemaker Agency.
- e) The Department reserves the right to require the Homemaker Agency to engage an independent certified public accounting firm to verify the information and data submitted by the Homemaker Agency if the Department is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the Homemaker Agency's expense.

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

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**Section 686.260 Unallowable ~~Expenses~~Costs for Homemaker Service ~~Providers~~**

The following Homemaker Service Provider expenses~~Certain costs~~ shall not be considered by ~~HSP the Department in establishing a fixed rate of reimbursement for homemaker service:~~

- a) expenses resulting from transactions with related parties ~~or~~ parent organizations that are greater than the going market cost of the transactions to the Homemaker Service Provider~~provider~~;
- b) non-straightline depreciation;
- c) bad debts;
- d) special benefits to owners, including owner and key-man life insurance;
- e) compensation to non-working owners and officers;
- f) discounts, rebates, allowances, and charity grants offered by the Homemaker Service Provider~~agency~~;
- g) entertainment expenses;
- h) fundraising~~fund-raising~~;
- i) legal fees for litigation with governmental agencies;
- j) awards, grants and gifts to individuals;
- k) fines and penalties;
- l) contingency funds; ~~and~~
- m) losses on other grants and contracts; and-
- n) health coverage costs as described under Section 686.250(e)(2).

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

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**Section 686.270 Minimum ~~Homemaker Direct Service Worker~~ Costs for Homemaker Service Providers**

- a) As provided under Section 686.250(a)(1)(C), Homemaker Service Providers Agencies are required to expend a minimum of ~~77%~~ 73% of the total revenues due from the ~~HSP~~ Department, to include the ~~customer~~ reliant incurred expense, for ~~Homemaker Direct Service Worker~~ costs, as enumerated in Section 686.280, during a reporting year.
- 1) This percentage is to be adhered to on a statewide basis.
  - 2) The remaining ~~23%~~ 27% of the total revenues may be spent by the Homemaker Service Providers Agencies at their discretion on ~~administrative~~ Administrative or Program ~~support~~ Support costs, also delineated in Section 686.280.
- b) Failure of the Homemaker Service Provider Agency to meet the requirements in subsection (a) ~~above~~ may result in the following:
- 1) Within 60 days, the Homemaker Service Provider Agency will be required to submit a corrective action plan that shall include Homemaker Service Provider Agency payments to current ~~Homemakers~~ direct service workers in an amount that will, in total, bring the Homemaker Service Provider Agency into compliance with the requirements in subsection (a) ~~above~~. After ~~HSP's~~ the Department's review and approval of the corrective action plan, the Homemaker Service Provider Agency shall implement and observe it.
  - 2) Failure by the Homemaker Service Provider Agency to submit and/or observe a corrective action plan that is acceptable to ~~HSP~~ DHS shall result in termination after 60 days notice.

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

**Section 686.280 Cost Categories for Homemaker Services**

Homemaker Service Providers ~~Providers of homemaker service for which a fixed rate is established~~ will provide for cost reporting based on the following categories:

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- a) Homemaker~~Direct Service Worker~~ costs (costs paid to or on behalf of Homemakers~~direct service workers~~) that may include:
- 1) wages, time paid on behalf of the worker (i.e., vacation, sick leave, holiday and personal leave);
  - 2) health coverage for any Homemaker Service Provider that does not qualify for the enhanced rate for health insurance costs from the HSP or the amount of the cost incurred in excess of the enhanced rate paid to the Homemaker Service Provider during a reporting period, life insurance and disability insurance;
  - 3) retirement coverage;
  - 4) Federal Insurance Contributions Act (FICA) (26 USC 21);
  - 5) uniforms;
  - 6) worker's compensation;
  - 7) Federal Unemployment Tax Act (FUTA) (26 USC 23);
  - 8) travel time and travel reimbursement;
  - 9) unemployment insurance; and
  - 10) other costs approved, in advance, as Homemaker~~direct service~~ costs by HSP~~the Department~~.
- b) Administrative Costs:
- 1) personnel:
    - A) administrator;
    - B) assistant administrator;
    - C) accountant/bookkeeper;

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- D) clerical;
  - E) other office staff;
  - F) supervisor of [Homemakers](#)~~homemakers~~;
  - G) other personnel expenses;
- 2) consultant:
- A) auditors;
  - B) management consultants;
  - C) management fees from the parent organization;
  - D) other related consultant costs;
  - E) other consultant expenses;
- 3) non-personnel:
- A) office supplies;
  - B) office equipment (expense or depreciation based upon company policy);
  - C) telephone/facsimile;
  - D) conferences, conventions, meeting expenses;
  - E) subscriptions and reference materials;
  - F) postage and shipping;
  - G) advertising;
  - H) outside printing and art work;

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- D) membership dues;
  - J) moving and recruiting;
  - K) other general operating expenses;
  - L) profit;
- 4) occupancy:
- A) depreciation;
  - B) amortization of leasehold improvements;
  - C) rent;
  - D) property taxes;
  - E) interest;
  - F) other related occupancy costs.
- c) Program ~~support costs~~Support Costs that include all allowable costs not specifically made a part of Homemaker~~direct service~~ costs or administrative costs. These may include:
- 1) training expenses;
  - 2) malpractice insurance;
  - 3) Homemaker~~direct service worker~~ supervisor costs.

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

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 86 Ill. Adm. Code 5000
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5000.10	New
5000.20	New
5000.110	New
5000.120	New
5000.210	New
5000.300	New
5000.305	New
5000.310	New
5000.315	New
5000.320	New
5000.325	New
5000.330	New
5000.335	New
5000.340	New
5000.345	New
5000.350	New
- 4) Statutory Authority: Implementing and authorized by the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010]
- 5) A Complete Description of the Subjects and Issues Involved: The Rules set forth basic provisions regarding proceedings before the Tribunal, as well as various operational requirements for the Tribunal.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 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

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:  
  
James Conway  
Chief Administrative Law Judge  
Illinois Independent Tax Tribunal  
Phone: 312-814-4291  
james.conway@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on a regulatory agenda because the agency commenced operations in November, 2013, so it has not yet submitted a regulatory agenda.

The full text of the Proposed Amendments is identical to that of the text of the Emergency Amendments for this part, and can be found on page 2956.

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
350.10	Repeal
350.20	Repeal
350.30	Repeal
350.40	Repeal
350.50	Repeal
350.60	Repeal
350.70	Repeal
350.80	Repeal
350.90	Repeal
350.100	Repeal
350.110	Repeal
350.120	Repeal
350.130	Repeal
350.140	Repeal
350.210	Repeal
350.220	Repeal
350.230	Repeal
350.240	Repeal
350.250	Repeal
350.300	Repeal
- 4) Statutory Authority: Safety Inspection and Education Act [820 ILCS 220] and Health and Safety Act [820 ILCS 225]
- 5) A Complete Description of the Subjects and Issues Involved: This repeal is necessary to correlate with the OSHA requirements to become a certified State Plan.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Current OSHA Standards under 29 CFR
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED REPEALER

- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805(b)]
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing, within 45 days of this Notice to:
- Cheryl J. Neff, Division Manager  
Illinois Department of Labor  
900 South Spring Street  
Springfield, IL 62704
- 217/782-9386  
fax: 217/785-8776  
email: cheryl.neff@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: public sector workplaces in Illinois
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: DOL did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF PROPOSED REPEALER

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 350  
HEALTH AND SAFETY (REPEALED)

SUBPART A: INSPECTIONS AND CITATIONS

Section	
350.10	Purpose and Scope
350.20	Definitions
350.30	Availability of Rules and Standards
350.40	Petition for Variance from Standards
350.50	Inspection Authority
350.60	Advance Notice of Inspection
350.70	Representatives of Employers and Employees
350.80	Imminent Danger
350.90	Complaints by Employees
350.100	General Inspection Procedures
350.110	Violations
350.120	Review System for Contested Cases
350.130	Posting of Notice
350.140	Voluntary Compliance Program

SUBPART B: RECORDS OF INJURIES AND ILLNESSES

Section	
350.210	Emergency Notification
350.220	Recordable Injuries and Illnesses
350.230	Log of Injuries and Illnesses – OSHA 300
350.240	Injury and Illness Incident Report – OSHA 301
350.250	Annual Summary of Work-Related Injuries and Illnesses – OSHA 300A

SUBPART C: FEDERAL STANDARDS

Section	
350.300	Adoption of Federal Standards

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED REPEALER

**AUTHORITY:** Implementing and authorized by the Safety Inspection and Education Act [820 ILCS 220] and the Health and Safety Act [820 ILCS 225].

**SOURCE:** Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 23 Ill. Reg. 3993, effective October 1, 1999; amended at 23 Ill. Reg. 12447, effective October 2, 1999; amended at 24 Ill. Reg. 13693, effective August 23, 2000; amended at 25 Ill. Reg. 860, effective January 5, 2001; amended at 25 Ill. Reg. 10196, effective July 30, 2001; old Part repealed at 30 Ill. Reg. 5531 and new Part adopted at 30 Ill. Reg. 4777, effective March 13, 2006; amended at 34 Ill. Reg. 4793, effective March 16, 2010; old Part repealed at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INSPECTIONS AND CITATIONS

**Section 350.10 Purpose and Scope**

- a) The Health and Safety Act [820 ILCS 225] requires that employers covered by the Act provide to their employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees. The Act also requires that employers comply with occupational safety and health standards adopted under the Act and with the applicable rules issued under the Act. Under the Safety Inspection and Education Act [820 ILCS 220], the Department of Labor is authorized to enforce these standards, to conduct inspections, and to issue citations for violations of these standards.
- b) This Part contains the Department's rules under these Acts and sets forth general policies for enforcement of the inspection and citation provisions of these Acts in relation to public employers. In Illinois, private employers are not covered by this Part, they are covered by federal regulations adopted by the Occupational Safety and Health Administration.

**Section 350.20 Definitions**

## ILLINOIS DEPARTMENT OF LABOR

## NOTICE OF PROPOSED REPEALER

As used in this Part, the following terms shall have the meanings indicated:

"Acts" means the Safety Inspection and Education Act [820 ILCS 220] and the Health and Safety Act [820 ILCS 225].

"Calendar days" means each day and every day, including Saturdays, Sundays, and holidays.

"Department" means the Illinois Department of Labor.

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

"Employee" means every person in the service of:

the State, including members of the General Assembly, members of the Commerce Commission, members of the Workers' Compensation Commission, and all persons in the service of the public universities and colleges in Illinois;

an Illinois county, including deputy sheriffs and assistant state's attorneys;  
or

an Illinois city, township, incorporated village or school district, body politic, or municipal corporation;

whether by election, under appointment or contract, or hire, express or implied, oral or written.

"Employee representative" means any person authorized by the employees to represent their interests in collective bargaining and other labor relations matters.

"Health and Safety Act" means 820 ILCS 225.

"Imminent danger" means the existence of conditions or practices in a workplace that could reasonably be expected to cause death or serious physical harm to employees in the workplace immediately or before the danger of such death or harm can be eliminated through the citation procedures. Factors such as the location of the hazard, the proximity of the employees to the hazard, and the

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availability of alternatives to continued exposure to the hazard will be considered in determining whether a condition constitutes imminent danger.

"Officer" or "inspection officer" means any individual or agent of the Department of Labor who has been authorized by the Department to conduct inspections and issue citations under this Part.

"Post" or "post in a conspicuous location" means to attach the material to a bulletin board customarily used for notices to employees or, if such a bulletin board is not available in the workplace, to visibly display the notice in another location where the affected employees can be expected to have an opportunity to see and read the notice.

"Public employer" or "employer" means the State of Illinois and all political subdivisions, except State agencies that exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (42 USC 2021).

"Safety Inspection and Education Act" means 820 ILCS 220.

"Service of notice" or "serve" means personal delivery or delivery postage prepaid via regular United States Postal Service mail. When service is effected by mail, the date of service shall be the date of the United States Postal Service postmark.

"Working days" or "business days" means Mondays through Fridays, excluding State holidays.

**Section 350.30 Availability of Rules and Standards**

- a) Copies of the Acts and all rules and standards adopted under the Acts will be available for inspection and copying at the offices of the Department. These materials shall be made available in compliance with the Freedom of Information Act [5 ILCS 140].
- b) If an employer has obtained copies of these materials, he shall make them available upon request to any employee or authorized representative of any employee for review. The materials shall be made available for review at the place of business where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or authorized

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representative and the employer.

**Section 350.40 Petition for Variance from Standards**

- a) General. *The Director can grant either temporary or permanent variances from any of the State standards upon application by a public employer, as authorized by Section 4.2 of the Health and Safety Act. The petition shall be filed by the employer as soon as practicable when he or she finds that compliance has not been, or will not be, achieved.*
- b) The petition for a variance from a standard shall be granted if it meets the requirements of this Section and establishes:
  - 1) The reasons for the employer's inability to achieve compliance by the required date, such as the unavailability of necessary professional or technical personnel or of materials and equipment or because necessary construction or alteration of facilities cannot be completed by the effective date;
  - 2) A description of interim steps being taken to safeguard the employees against the hazard during the period of noncompliance;
  - 3) The details of an effective program for coming into compliance as quickly as practicable; and
  - 4) A statement that the employees have been notified of the petition and that a copy of the petition has been posted in a conspicuous location in the workplace for a period of at least 10 working days.
- c) Affected employees or their authorized representatives may participate in the hearing on the petition by filing a request to participate with the Department within 10 working days after the date of the posting of the petition or the service of the petition.
- e) Within 15 working days after receipt of the petition, the Department shall schedule a hearing on the petition, appoint an impartial hearing officer to conduct the hearing, and serve notice of the time and location of the hearing on the employer and any employees and employee representatives who have filed a request to participate in the hearing. The hearing shall be held within 45 calendar

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days after receipt of the petition.

- f) The Department shall fully consider the petition and any testimony presented by the employer, employees, and employee representatives. The requested variance shall be granted when the Department finds that the employer has made and is making a good faith effort to achieve compliance (such as ordering necessary materials and designing, planning, and scheduling alterations), that the health and safety of the employees is being safeguarded during the noncompliance period (such as by the use of barriers, prohibition of access to the hazardous area, or posting of warning notices), and that the non-compliant condition is due to circumstances beyond the control of the employer. If the Department finds that the conditions of this subsection have not been met, the variance shall be denied.
- g) If the employees or their authorized representatives do not file a request to participate or otherwise raise objections to the petition and the Department finds that the requested variance meets the conditions set forth in subsection (f), the Department shall issue the requested variance without holding a hearing.
- h) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance or one year, whichever is shorter, except that such a variance may be renewed not more than twice, so long as the requirements of this Section are met and if an application for renewal is filed at least 90 days prior to the expiration date of the variance. No interim renewal of a variance may remain in effect for longer than 180 days.
- i) Application. An application for a temporary order shall contain:
  - 1) the standard or portion of a standard from which the employer seeks a variance;
  - 2) a representation by the employer, along with qualified support, of the reasons for not being able to comply with the standard;
  - 3) a statement of the steps taken and to be taken (with specific dates) to protect employees from a hazard covered by the standard;
  - 4) a statement of when the employer expects to comply with the standard;  
and

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- 5) a certification that the employer has informed the employees and their authorized representatives of the application, their right to petition the Department for a hearing and a copy of the posting.
- j) Permanent Variance
- 1) The Director can issue an order for permanent variance from a safety standard when:
    - A) notice has been given to affected employees and the employees have been afforded the opportunity to participate in the hearing process; and
    - B) a preponderance of the evidence demonstrates that the conditions, practices, means, methods, operations or processes used or proposed to be used will provide employment and places of employment as safe and healthful as those that would be produced by compliance with the standard.
  - 2) The order may be modified or revoked upon application by an affected party at any time after six months following its issuance.

**Section 350.50 Inspection Authority**

- a) Inspection officers are authorized to:
  - 1) Enter without delay and at any times when employees are present any establishment, plant, workplace, or site where work is performed by an employee of a public employer covered by this Part;
  - 2) Inspect and investigate any such place of employment during normal working hours, including all conditions, structures, machines, equipment, devices, and materials in that place of employment;
  - 3) Collect and retain any necessary samples, including taking photographs and other means of documenting findings;
  - 4) Interview or confer privately with any employer, owner, operator, supervisor, or employee;

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- 5) Review any records required by this Part and any other records directly related to the purpose of the inspection, such as equipment maintenance records or equipment manufacturers' required or recommended maintenance and warranty specifications; and
  - 6) Leave the premises and initiate the compulsory process for entry if the public employer refuses to allow entry or the inspection to proceed.
- b) Officers shall comply with any internal security procedures of the employer regarding handling of any confidential information and records that must be reviewed during the course of an inspection.

**Section 350.60 Advance Notice of Inspection**

- a) The Department and its inspectors are prohibited from providing advance notice of inspections to the employer. However, advance notice may be given when the Department finds the existence of one or more of the following circumstances:
- 1) Where there appears to be an imminent danger and advance notice to the employer may enable the employer to abate the danger as quickly as possible;
  - 2) Where special preparations by the employer, such as ensuring the personal security and privacy of persons at the workplace or the inspection staff, are necessary prior to the inspection. Advance notice shall be limited to the time necessary to make required preparations; or
  - 3) Where the presence of specific individuals, such as a specific employee or appropriate technical personnel, is needed to aid in the inspection.
- b) When the Department provides advance notice of an inspection to an employer, the employer shall notify affected employees and any authorized representatives of employees.
- c) Any employee of the Department providing advance notice of an inspection to an employer in violation of this Section shall be subject to disciplinary action by the Department and criminal penalties as provided in the Safety Inspection and Education Act.

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**Section 350.70 Representatives of Employers and Employees**

- a) A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the inspection officer during the physical inspection of any workplace for the purpose of aiding in the inspection. The officer shall permit additional employer and employee representatives to accompany him or her during the inspection when the officer finds that additional representatives will not interfere with the inspection and will further aid in the inspection. The officer shall allow different individuals to serve as employer and employee representatives during different phases of the inspection, upon request by the employer or employees.
- b) If the inspection officer is unable to determine who has been authorized to serve as the representative of the employees or, if an employee representative is not available, the officer shall consult with a representative number of employees concerning safety and health matters in the workplace.
- c) The representative of the employees shall be an employee of the employer, unless the inspection officer determines that a non-employee has been appropriately authorized by the employees and that the non-employee has specialized skill and knowledge that will be useful in the inspection. The non-employees may include, but are not limited to, industrial hygienists, union representatives or safety engineers.
- d) The officer shall deny the right of accompaniment under this Section to any individual whose conduct is abusive or obstructive, or similarly interferes with a fair and orderly inspection.
- e) Participants are required to provide any information in their possession or under their control upon request of the inspection officer to assist in the inspection. All participants shall answer truthfully all questions posed to them and shall cooperate fully in the making of a proper inspection. Under Section 2.6 of the Safety Inspection and Education Act, *it is a Class 4 felony to provide false information during the inspection process.*

**Section 350.80 Imminent Danger**

- a) Whenever and as soon as an officer finds, on the basis of an inspection or

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investigation, that an imminent danger as defined in Section 350.20 exists in the workplace and that the imminent danger is not immediately abated in the presence of the officer, he or she shall notify the employees and the employer of the finding and shall recommend to the Director that legal action be sought to restrain the conditions or practices that are the cause of the imminent danger.

- b) If, upon review of the officer's findings and recommendations, the Director finds that an imminent danger exists in the workplace and has not been abated, he or she shall file a complaint, in the circuit court for the circuit in which the workplace is located, for appropriate relief directing the employer or employee to cease and desist from the practice or to alleviate the condition creating the imminent danger, as authorized by the Safety Inspection and Education Act.
- c) If the Director arbitrarily fails to seek relief under the Section, any affected employee or representative can bring action against the Director in circuit court for relief by mandamus to compel the Director to seek an order and for further relief as may be appropriate.

**Section 350.90 Complaints by Employees**

- a) **General.** Any employee or representative of employees who believes that conditions or practices exist in the workplace that constitute a violation of any health and safety standard adopted under the Health and Safety Act or that constitute an imminent danger to the health or safety of the employees may request an inspection of the workplace by the Department. The complaint can be formal or informal and will be handled as other unprogrammed inspections are handled.
- b) **Identity of Complainant.** The identity of the complainant shall be kept confidential unless the complainant requests otherwise.
- c) **Formalizing Oral Complaints.** Every effort will be made to formalize oral complaints, including seeking further clarification of the hazard, working conditions, locations, etc. Attempts will be made to elicit a complaint form signed by a current employee or employee representative. If a complaint is deemed to have no basis or relevance to the occupational safety and health standards, the complainant will be notified of the findings.
- d) **Formal Complaints.** The request shall be made by submission of a written

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complaint to the Department. The complaint shall contain:

- 1) The name and address of the employer;
  - 2) The specific location of the workplace that is the subject of the complaint;
  - 3) A description of the specific conditions or practices that the employees or representatives believe constitute a violation of the standards or an imminent danger;
  - 4) The specific standards that the employees or representatives believe have been violated, if known; and
  - 5) The signature and contact information of the employees or representatives submitting the complaint.
- e) If the Department determines that the complaint contains the required information and allegations of conditions that, if true, would constitute a violation of the standards, the Department shall conduct an expedited inspection of the workplace within 14 calendar days after receipt. The inspection shall be conducted as expeditiously as practicable considering the seriousness of the alleged violation or danger, the availability of inspection officers, the location of the workplace, and the complexity of the inspection.
- f) A copy of the complaint shall be provided to the employer or authorized representative during the opening conference.
- g) If the Department determines that the complaint, if true, would constitute an imminent danger, the Department shall conduct a special expedited inspection of the workplace. The inspection shall be conducted within one working day after the receipt of the complaint.
- h) Informal Complaints. Management within the Department's Public Safety Education Division will decide how to handle all complaints. Based upon the severity/legitimacy of the complaint, either an on-site inspection will be scheduled or a notification addressing the concern will be sent to the affected employer.
- i) Results. The employer, employees' representative and the complainant will be

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notified of the Department's findings within six months after the date the Department received the complaint.

- j) Nondiscrimination. No employer shall discharge or in any way discriminate against any employee who files a complaint with the Department. Any such "whistleblower" complaints will be thoroughly investigated and, if valid, appropriate relief will be sought in the circuit court of the nearest principal Department office (i.e., Cook or Sangamon County).

**Section 350.100 General Inspection Procedures**

- a) Scope. Comprehensive general inspections cover the majority of areas of concern in an establishment. When the focus of an inspection is limited to certain potentially hazardous areas, operations, conditions or practices, then the scope is considered to be a partial inspection.
- b) Conduct of Inspection. Times and places of inspections shall be set by the Department or the inspection officer.
  - 1) Presenting Credentials. At the beginning of an inspection, the inspection officer or officers shall identify themselves to the operator, supervisor, or agent in charge of the place of employment at the time of the inspection and present credentials signed by the Director to verify their identity. When the person in charge is not available, the inspection shall not be delayed unreasonably to await that individual's arrival. This delay should not normally exceed one hour. The physical inspection can be conducted without the representative of the employer being present.
  - 2) Refusal to Permit. If the public employer refuses entry upon being presented proper credentials or allows entry but then refuses to permit or hinders the inspection in some way, the inspector shall leave the premises and immediately report the refusal to the Area Manager. The Area Manager shall notify the Director and initiate the compulsory legal process and/or obtain an administrative warrant for entry.
  - 3) Forcible Interference. If an inspector encounters forcible resistance, opposition, interference, etc., or is assaulted or threatened with assault while engaged in the performance of official duties, all investigative activity shall cease. The Area Manager and Director shall be notified

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immediately and appropriate legal action taken.

- 4) **Strike/Labor Dispute.** If an unanticipated labor dispute at a proposed inspection site is encountered, the inspector shall consult the Area Manager as to how to proceed. Programmed inspections may be deferred during a strike or labor dispute; however, unprogrammed inspections will proceed according to protocol.
  - 5) **Employee Participation.** Employees and/or their representatives must be given the opportunity to participate in all aspects of the inspection.
- c) **Opening Conference.** All affected employers shall be informed of the purpose and scope of the inspection and provided a copy of the complaint if applicable. The opening conference shall include employees unless the employer objects. The opening conference shall be kept as brief as possible. A separate opening conference will be held to cover the scope and details for the employees and/or their representatives if the employer initially objects.
- 1) **Walkaround Representatives.** Representatives of the employer and employees are allowed to accompany the inspector throughout the inspection process. Different representatives can be designated to represent different aspects of the inspection if necessary.
  - 2) **Disruptive Conduct.** The inspector may deny the right of accompaniment to any person whose conduct interferes with a full and orderly inspection.
  - 3) **Trade Secrets and Classified Areas.** In order to assure trade secret status or maintain classified security, employee representatives may be excluded from affected areas during the walkthrough. However, the inspector shall interview employees present in classified areas or involved in trade secret status work.
  - 4) **Examination of Records.** The inspector shall review the injury/illness records to the extent necessary to determine compliance and assess trends. Other written safety programs and records shall be reviewed at the inspectors' professional discretion.
- d) **Walkaround Inspection.** The purpose of the walkaround inspection is to identify potential safety and/or health hazards in the workplace. The inspection shall be

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conducted in such a manner as to eliminate unnecessary personal exposure to hazards and to minimize unavoidable exposure to the extent possible. The employer's safety and health program shall be evaluated to ascertain the employer's good faith. Apparent violations shall be brought to the attention of the employer and employee representatives at the time they are documented.

- 1) Collecting Samples. The inspector shall determine as soon as possible after the start of the inspection whether samples (i.e., air samples, noise samples, etc.) will be collected. Summaries of the sampling results will be provided to all parties present as soon as practicable.
  - 2) Taking Photographs/Video. The inspector shall take photographs or videotapes whenever there is a need. Any photos that support violations shall be properly labeled and included in the file.
  - 3) Interviews. A free and open exchange of information between the inspector and the employees is essential for an effective inspection. Interviews shall be conducted in a reasonable manner and normally will be conducted during the walkaround; however, they can be conducted at any time and any location. Privacy shall be maintained in the interview process if the employee so requests.
  - 4) Employer Abatement Assistance. Inspectors shall offer appropriate abatement assistance during the walkaround, suggesting how workplace hazards might be eliminated. The information shall provide guidance to the employer in developing acceptable abatement methods or in seeking appropriate professional assistance.
- e) Closing Conferences. At the conclusion of the inspection, the inspector shall conduct a closing conference with the employer and employee representatives, jointly or separately as circumstances dictate. The closing conference may be conducted at the site or by teleconference as deemed appropriate by the inspector. The inspector shall describe the apparent violations found during the inspection, abatement means, timeframes and other pertinent issues. Both the employer and the employee representatives shall be informed of their rights to appeal and to participate in any subsequent conferences, meetings or discussions, and of their right to contest. Conference attendance records shall become part of the file.

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- f) Special Inspection Procedures. Follow-up and monitoring inspections are necessary to determine if the previously cited violations have been corrected. Monitoring may be conducted to determine if hazards are being corrected and employees are being protected, whenever a long period of time is needed for an establishment to obtain compliance or verify compliance. Follow-up or monitoring inspections would not normally be conducted when evidence of abatement is provided by the employer.
- 1) Failure to Abate. If the employer has not corrected a violation for which a citation has been issued and the abatement date has passed, a failure to abate violation is issued. The Area Manager shall implement the appropriate measures to rectify the situation, be it extension of deadlines or institution of legal action.
  - 2) Reports. A copy of the original citation shall be reissued, along with a brief explanation of the outstanding citations. If more than one citation was originally issued and some hazards were corrected, it should be noted on the follow-up report. The follow-up inspection reports shall be included in the original (parent) case file.

**Section 350.110 Violations**

- a) Standards and Regulations. The Health and Safety Act states that each public employer has a responsibility to comply with the occupational safety and health standards promulgated under the Act. The specific standards are found in the federal Department of Labor's Occupational Safety and Health Standards in 29 CFR 1910 (see Section 350.300 for incorporation by reference information). Subparts A and B of 29 CFR 1910 specifically establish the source of the standards that are the basis of violations. The most specific subdivision of the standard shall be used for citing violations. Any employer who has been granted a variance from a standard can be cited for violating the standard with a reference to the fact that the provisions of the variance had not been met.
- b) Types of Violations. The citations will be classified according to the following categories:
  - 1) Other-than-Serious. This type of violation shall be cited where the most serious injury or illness that would be likely to result from a hazardous condition cannot reasonably be predicted to cause death or serious

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physical harm to exposed employees, but does have a direct and immediate relationship to their safety and health.

- 2) **Serious.** A serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition that exists, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in the place of employment, unless the employer did not, and could not with the exercise of reasonable discipline, know of the violation. Four elements must be considered before deeming a violation to be serious:
  - A) The type of accident or health hazard exposure that the violated standard is designed to prevent.
  - B) The most serious injury or illness that could reasonably be expected to result from the type of accident or health exposure.
  - C) Whether the results of the injury or illness could include death or serious physical harm.
  - D) Whether the employer knew, or with the exercise of due diligence could have known, of the hazardous condition.
- 3) **General Duty Clause.** The general duty provisions of the Health and Safety Act shall be used for citations only where there is no standard that applies to the particular hazard involved.
- 4) **Willful.** A willful violation exists under the Act when the evidence shows either an intentional violation of the Act or plain indifference to its requirements. It is not necessary that the violation be committed with a bad purpose or evil intent. It is sufficient that the violation was deliberate, voluntary or intentional.
- 5) **Criminal/Willful.** *Any employer who willfully violates any standard, rule or order promulgated under the Health and Safety Act, or of any regulations prescribed pursuant to that Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months or*

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*both* (Section 2.3 of Safety Inspection and Education Act). The following criteria shall be considered in investigating possible criminal/willful violations:

- A) The employer violated a specific standard. A criminal/willful violation cannot be based on a general duty clause violation.
  - B) The violation was willful in nature.
  - C) The violation of the standard caused the death of an employee. There must be evidence in the file that clearly demonstrates that the violation of the standard was the cause of, or a contributing factor to, an employee's death. When a willful violation is related to a fatality and a civil citation is issued, the case file must contain succinct documentation regarding the decision not to make a criminal referral.
- c) Repeated. An employer may be cited for a repeated violation if that employer has been cited previously for a substantially similar condition and that citation has become a final order.
- d) De Minimis. Violations of the standards that have no direct or immediate relationship to safety or health shall not be included in citations. The employer shall be verbally notified of the violations and the inspector shall record the violation and the notification in the case file.
- e) Writing Citations. The inspector shall, with reasonable promptness, issue a citation to the employer. To facilitate the prompt issuance of citations, the Area Manager may issue citations that are unrelated to health inspection air sampling prior to the receipt of sampling results.
- 1) Each citation shall include the following:
    - A) The date of the inspection;
    - B) A description of the conditions or practices found to be in violation of the health and safety standards;

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- C) The specific health and safety standards that have been or are being violated;
  - D) A specific abatement date based upon consideration of factors such as the availability of necessary materials, cost, degree of risk present prior to abatement, and extent of anticipated disruption of business;
  - E) A statement that the employer has the right to appeal the citation and a description of the procedures for appealing the citation; and
  - F) A statement that the employer may not discharge or discriminate against any employee because the employee has filed a complaint or otherwise provided information to the Department concerning any conditions or practices related to alleged health and safety violations or because of the employee's exercise of any other rights provided by the Health and Safety Act.
- 2) Issuance Time Frame. A citation shall not be issued when any violation alleged in the citation occurred six months or more prior to the date on which the citation is actually signed and dated.
  - 3) Mailing. Citations shall be sent by certified mail. Hand delivery of citations to the employer or an appropriate agent of the employer may be substituted for certified mailing if it is believed that this method would be more effective. Citations shall be mailed to employee representatives no later than one day after the citation is sent to the employer.
  - 4) Amending. A citation shall be amended or withdrawn when information is presented to the Area Manager indicating a need for the revision.
  - 5) Posting. A copy of the citation shall be posted prominently at or near the place where the violation occurred for three days or until the hazard is abated, whichever is longer.
- f) Abatement. The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation.

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- 1) Verification. The Area Manager is responsible for determining if abatement has been accomplished. When abatement is not accomplished during the inspection or the employer does not notify the Area Manager by letter of the abatement, either a follow-up inspection will be scheduled or a letter requesting confirmation of abatement will be mailed. The type of violation will dictate the degree of follow-up response.
  - 2) Contested Citation or Abatement Period. In situations where an employer contests either the period set for the abatement or the citation itself, the abatement period shall not begin until the citation and abatement period have been affirmed by the Area Manager.
  - 3) Long-term Abatement Date. Long-term abatement is abatement that will be completed more than one year from the citation issuance date. If it is difficult to set a specific abatement date when the citation is originally issued (e.g., because of extensive redesign requirements associated with appropriate engineering controls and uncertainty as to when the job can be finished), the inspector shall discuss the problem with the employer at the closing conference and, in appropriate cases, shall encourage the employer to seek an informal conference with the Area Manager.
    - A) A specific date for final abatement shall, in all cases, be included in the citation.
    - B) The employer is required to submit an abatement plan outlining the anticipated long-term abatement procedures.
- g) Penalties. The penalty structure is designed primarily to provide an incentive toward correcting violations voluntarily, not only to the offending employer but, more especially, to other employers who may be guilty of the same infractions. While penalties are not designed primarily as a punishment for violations, the penalty amounts should be sufficient to serve as an effective deterrent to violations.
- 1) Civil Penalties
    - A) Serious, Other-than-Serious and Failure to Abate. Any employer who has received a citation for any alleged violation that is determined to be of serious or other-than-serious nature under

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subsection (b)(1) or (b)(2) or for failure to abate shall be assessed a civil penalty of up to \$1,000 for each violation. This is a statutory minimum and is not subject to administrative discretion.

- B) Repeated Violations. An employer who repeatedly violates the Health and Safety Act may be assessed a civil penalty of not more than \$10,000 for each violation.
  - C) Willful Violations. An employer who willfully violates the Health and Safety Act may be assessed a civil penalty of not more than \$10,000.
- 2) Criminal Penalties.
- A) The Health and Safety Act provides for criminal penalties in the following cases:
    - i) Willful violation of a standard, rule or order causing the death of an employee.
    - ii) Giving unauthorized advance notice of an inspection.
    - iii) Giving false statements or information to the Department.
    - iv) Killing, assaulting or hampering the work of an inspector.
  - B) Criminal penalties are imposed by the court system after trials and not by the Illinois Department of Labor.

**Section 350.120 Review System for Contested Cases**

- a) The Director and/or his/her designee shall afford a hearing to any public employer who, within 15 days after receiving a citation, a proposed assessment of penalty or a notification of violation of a health and safety standard, makes a written request for a hearing. The interested employer can base the request on an appeal of the citation order, the notice of penalty or the abatement period.
- b) The Director and/or his/her designee shall afford a hearing to any employee or representative who makes a written request for a hearing within 15 working days

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after receipt of a citation order. The hearing will be limited to appealing the period of time fixed in the citation for the abatement of the violation.

- c) The Director, after considering the evidence presented in a formal hearing, will enter a final decision and order no later than 15 working days after the hearing that affirms, modifies or vacates the original citation, proposed penalty or abatement period.
- d) Any party adversely affected by a final violation order or determination of hearing by the Director and/or designee may obtain a judicial review by filing a complaint for review within 35 days after the order is entered. If no appeal is taken within the 35 days, the order of the Director shall become final.
- e) The Area Manager can conduct an informal review of citations and abatement dates upon request by interested parties or public employers prior to a formal appeal. The Area Manager may modify or withdraw a penalty, a citation or a citation item if the employer presents evidence that convinces the Area Manager that the changes are justified.
- f) Hearings conducted by the Department under this Part shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and 56 Ill. Adm. Code 120.

**Section 350.130 Posting of Notice**

- a) **Poster.** Each employer covered by this Part shall post and keep posted a notice to be furnished by the Department, upon request, informing employees of the protections and obligations provided for in the Acts. The notice shall contain a general description of the provisions of the Acts. The notice shall indicate that employees may contact the Department to obtain assistance or additional information, such as copies of the Acts and information concerning how to obtain copies of specific standards. The requirement that employers post the notice required in this subsection shall not be enforced until the Department has made the notice available to employers.
- b) **Location.** The notice shall be posted by the employer in each place of business in a conspicuous location or locations where notices to employees are customarily posted. Each employer shall take reasonable steps to insure that the notice is not altered, defaced, removed, or covered by other material.

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- c) Violation. An Other-than-Serious citation shall be issued with a proposed penalty of \$1,000 for not posting the Job Safety and Health Protection for Public Employees poster.

**Section 350.140 Voluntary Compliance Program**

- a) Advisory Inspection. Any employer covered by this Part may request an advisory inspection by the Department. The request shall include a statement signed by the employer or his representative that any violations discovered during the course of the requested inspection will be abated if the Department finds that the violations constitute conditions or practices that are likely to result in death or serious physical harm to the employees in the workplace. In making this determination, the Department will consider factors such as the location of the hazard, the proximity of the employees to the hazard, and the availability of alternatives to continued exposure to the hazard.
  - 1) The Department shall conduct an advisory inspection based on the employer's request, unless it finds that an employee complaint has been filed, that inspection officers are unavailable to conduct the inspection, or that a regular inspection will be, or has been, conducted that would make an advisory inspection duplicative.
  - 2) No citations shall be issued as a result of an advisory inspection. The employer shall be fully informed of any violations uncovered by the inspection and whether any citations would have been issued.
- b) Training and Education Programs. The Division will provide professional training programs and educational seminars upon request from any public employer, at no cost.
- c) Priority. Advisory inspections will be scheduled and conducted at the inspector's and employer's convenience, along with other programmed inspections.
- d) Public Information Programs. The Division will make staff available to present professional programs for seminars and meetings. The Division will also present public information programs on behalf of the Department on an as needed basis.
- e) Program Evaluations. Any written programs required by the standards can be

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submitted for professional review. A report will be provided outlining any changes or corrections.

- f) Ongoing Support. The staff of the Department's Public Safety Education Division will be available during normal office hours to answer questions and provide consultation on an as-needed basis.

## SUBPART B: RECORDS OF INJURIES AND ILLNESSES

**Section 350.210 Emergency Notification**

After the occurrence of an employment incident that is fatal to one or more employees or that results in hospitalization of three or more employees, the employer shall report the incident to the Department as soon as physically possible. The notification shall be made within eight hours after the incident or death. The employer shall notify the Department orally or in writing by telephone, facsimile or electronic mail. The notification shall relate the circumstances of the incident, the number of fatalities, the number of employees hospitalized, and the extent of the injuries.

**Section 350.220 Recordable Injuries and Illnesses**

- a) Records of occupational injuries and illnesses must be completed and maintained in accordance with the applicable provisions outlined in 29 CFR 1904 by the employer for every occupational death, every nonfatal occupational illness, and every nonfatal occupational injury that results in death, loss of consciousness, days away from work, restricted work activity or job transfer, or medical treatment beyond first aid. An injury or illness is considered work-related if an event or exposure in the work environment caused or contributed to the condition or significantly aggravated a preexisting condition.
- b) The following conditions must also be recorded, when they are work-related:
  - 1) Any needlestick injury or cut from a sharp object that is contaminated with another person's blood or other potentially infectious material;
  - 2) Any case requiring an employee to be medically removed under the requirements of an OSHA health standard; and

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- 3) Tuberculosis infection as evidenced by a positive skin test or diagnosis by a physician or other licensed healthcare provider after exposure to a known case of active tuberculosis.
  - 4) An employee's hearing test reveals that the employee has experienced a Standard Threshold Shift (STS) in hearing in one or both ears and the employee's total hearing level is 25 decibels or more above audiometric zero in the same ear or ears as the STS.
- c) Medical treatment includes managing and caring for a patient for the purpose of combating disease or disorder. The following are not considered medical treatment, thus are not recordable:
- 1) Visit to a doctor or healthcare professional solely for observation or counseling;
  - 2) Diagnostic procedures, including administering prescription medications that are used solely for diagnostic purposes; and
  - 3) Any procedure that can be labeled first aid.
- d) Incidents requiring only the following types of treatment are considered first aid and are not required to be recorded:
- 1) Using non-prescription medications at non-prescription strength;
  - 2) Administering tetanus immunizations;
  - 3) Cleaning, flushing, or soaking wounds on the skin surface;
  - 4) Using wound coverings, such as bandages, BandAids™, gauze pads, etc., or using SteriStrips™ or butterfly bandages;
  - 5) Using hot or cold therapy;
  - 6) Using any totally non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc;

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- 7) Using temporary immobilization devices while transporting a victim (splints, slings, neck collars, or backboards);
- 8) Drilling a fingernail or toenail to relieve pressure, or draining fluid from blisters;
- 9) Using eye patches;
- 10) Using simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhered to the eye;
- 11) Using irrigation, tweezers, cotton swabs or other simple means to remove splinters or foreign material from areas other than the eye;
- 12) Using finger guards;
- 13) Using massages;
- 14) Drinking fluids to relieve heat stress.

**Section 350.230 Log of Injuries and Illnesses – OSHA 300**

- a) Each employer shall maintain in each workplace an OSHA 300 log of all recordable occupational injuries and illnesses for that workplace. The name of the establishment, the city and state and the year must be designated at the top of the log. Within seven calendar days after receiving information about a case, the employer shall:
  - 1) Decide if the case is recordable under the recordkeeping provisions of Section 350.220.
  - 2) Determine whether the incident is a new case or a recurrence of an existing one.
  - 3) Establish whether the case was work-related.
  - 4) Decide which form to fill out as the injury/illness incident report form required under Section 350.240(a), OSHA 301: Injury and Illness Incident Report, or the Illinois Workers' Compensation Commission Form 45:

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Employer's First Report of Injury, or a suitable substitute that contains the same information as either of those two forms.

- b) The OSHA 300 log shall contain the following information for each recordable injury and illness:
- 1) A unique case number assigned by the employer to this specific illness or injury to facilitate comparisons with the supplementary record of the illness or injury;
  - 2) The name of the affected employee, unless protected as a privacy case due to the nature of the injury/illness;
  - 3) The job title of the employees;
  - 4) The date of the injury or onset of illness;
  - 5) Where the event occurred;
  - 6) A description of the injury or illness, parts of the body affected, and object/substance that directly injured or made the person ill (i.e., second degree burns on right forearm from acetylene torch);
  - 7) The most serious result from each case:
    - A) Death;
    - B) Days away from work;
    - C) Remained at work; job transfer or restriction (see federal form);
    - D) Remained at work; other recordable cases (see federal form);
  - 8) The designation of injury or the type of illness (i.e., skin disorder, respiratory condition, poisoning, hearing loss, all other illnesses);
  - 9) The number of days the injured or ill worker was either on job transfer or restriction or away from work.

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- c) The OSHA 300 log and its supplementary information must be retained for five years by the employer.

**Section 350.240 Injury and Illness Incident Report – OSHA 301**

- a) In addition to the OSHA 300 log of injuries and illnesses, each employer shall maintain in each workplace a supplementary record of each recordable occupational injury and illness for that workplace. The employer shall complete the incident report and make it available as early as practicable, but no later than seven calendar days after receiving information that a recordable injury or illness has occurred. The OSHA 301, or the Illinois Workers' Compensation Commission Form 45 or a suitable substitute that contains the same information may be used as the supplementary record. Records shall be available to any agency requesting them pursuant to Section 4(b) of the Health and Safety Act.
- b) The OSHA 301 injury and illness incident report shall contain the following information for each recordable injury and illness:
  - 1) Information about the employee:
    - A) Full name and address.
    - B) Date of birth and date of hire.
    - C) Gender.
  - 2) Information about the physician or other health care professional:
    - A) Name of physician or health care professional.
    - B) Location where treatment was administered.
    - C) If an emergency room was visited or if the employee was hospitalized overnight as an in-patient.
  - 3) Information about the case:
    - A) Case number corresponding to the Log of Injuries/Illnesses.

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- B) Date of Injury or Illness.
  - C) Time employee began work and time of event, if known.
  - D) What the employee was doing just before the incident occurred.
  - E) What happened.
  - F) What was the injury or the illness.
  - G) What object or substance directly harmed the employee.
  - H) If the employee died, date of death.
- c) The name and title of the individual who completed the form, along with the telephone number and the date of completion.
- d) This form must be kept on file for five years following the year to which it pertains. The Incident Report Form has to be completed within 7 days after notice of the injury or illness. These forms shall be maintained for at least 5 years.

**Section 350.250 Annual Summary of Work-Related Injuries and Illnesses – OSHA 300A**

- a) Each employer shall post an annual summary of work-related injuries and illnesses for each workplace. The summary shall be presented on OSHA Form 300A.
- b) The summary shall present the year's totals of injuries and illnesses, including the following:
  - 1) Number of cases, including:
    - A) Total number of deaths;
    - B) Total number of cases, with days away from work;
    - C) Total number of cases, with job transfer or restriction; and

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- D) Total number of other recordable cases.
- 2) Number of days:
  - A) Total number of days away from work; and
  - B) Total number of days of job transfer or restriction.
- 3) Injury and Illness Types:
  - A) Total number of injuries; and
  - B) Total number of skin disorders, respiratory conditions, poisonings and all other illnesses.
- c) The summary shall also contain the establishment information (agency name, complete address, SIC/NAICS code), some employment figures (NAICS code, average number of employees and total hours worked) and certification by an executive of the State or local agency. Knowingly falsifying this document can result in a fine.
- d) All establishments must complete the summary page, even if no work-related injuries or illnesses occurred during the year. Employees, former employees and their representatives have the right to review the Injury/Illness Log (Form 300) in its entirety. They also have limited access to the Injury/Illness Incident (OSHA Form 301) form based on privacy rights (29 CFR 1904.35, Employee Involvement).
- e) The OSHA 300A summary page must be posted from February 1 to April 30 of the year following the year covered by the form. It must be posted in a conspicuous location where employees have the opportunity to view.
- f) The OSHA 300A annual summary must be retained for five years, along with the supplementary information.

## SUBPART C: FEDERAL STANDARDS

**Section 350.300 Adoption of Federal Standards**

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- a) Incorporations. All materials incorporated by this Section are incorporated as of the date specified and do not include any later amendments or editions.
- 1) Pursuant to Section 4 of the Health and Safety Act, the Department hereby incorporates by reference the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration as effective October 31, 2009. These standards are located at 29 CFR 1904, 1910, 1915, and 1926.
  - 2) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies of the federal Occupational Safety and Health Administration material may also be obtained at <http://www.osha-slc.gov/SLTC/respiratoryprotection/index.html>.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998)

Questions & Answers on the Respiratory Protection Standard, OSHA Memorandum (Aug. 17, 1998)

Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998)

Small Entity Compliance Guide for the Revised Respiratory Protection Standard, OSHA Directorate of Health Standards Programs (Sept. 30, 1998)

Illinois Fire Chiefs Association – A Guideline on OSHA's 1998 Update of Its 1971 Respiratory Protection Standard (Mar. 9, 1999)
  - 3) The following interpretation of 29 CFR 1910 and 1926, Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic (1998); 29 CFR 1915 and 1926, Occupational Exposure to Asbestos (1998); 29 CFR 1910, Methylene Chloride (1998); 29 CFR 1910, Permit-Required Confined Spaces (1998); and 29 CFR 1910, 1915, 1917, 1918, and 1926, Powered Industrial Truck Operator

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Training (1999) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998)

Preamble: Occupational Exposure to Asbestos; 63 Fed. Reg. 35137 (June 29, 1998)

Preamble: Methylene Chloride; Final Rule, 63 Fed. Reg. 50711 (Sept. 22, 1998)

Preamble: Permit-Required Confined Spaces; Final Rule, 63 Fed. Reg. 66018 (Dec. 1, 1998)

Preamble: Powered Industrial Truck Operator Training; Final Rule, 63 Fed. Reg. 66238 (Dec. 1, 1998)

- 4) The following interpretation of 29 CFR 1910, Dipping and Coating Operations (1999) is incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Dipping and Coating Operations; Final Rule, 64 Fed. Reg. 13897 (Mar. 23, 1999)

- 5) The following interpretation of 29 CFR 1926, Safety Standards for Steel Erection (2001) and 29 CFR 1910, Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries (2001) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Safety Standards for Steel Erection; Final Rule, 66 Fed. Reg. 5196 (Jan. 18, 2001)

Preamble: Occupational Exposure to Bloodborne Pathogens;

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Needlesticks and Other Sharps Injuries; Final Rule, 66 Fed. Reg. 5318 (Jan. 18, 2001)

- 6) The following interpretation of 29 CFR 1910.36, 1910.37, 1910.38 and 1910.39, Exit Routes, Emergency Action Plans and Fire Prevention Plans, Final Rule (Nov. 11, 2002); 29 CFR 1904, Occupational Injury and Illness Recording and Reporting, Final Rule (July 1, 2002 and December 17, 2002 update); 29 CFR 1910.139, Termination of Rulemaking Respiratory Protection for M. Tuberculosis, Final Rule (Dec. 31, 2003); 29 CFR 1915.52, Fire Protection in Shipyard Employment, Final Rule (Sept. 15, 2004); and 29 CFR 1910 et al., Standards Improvement Project – Phase II (Jan. 5, 2005) are incorporated into this Part. Copies are available at any of the Department's offices. Copies may also be obtained at <http://www.osha.gov>.
- 7) The following interpretations of 29 CFR 1910, 1915 and 1926, Assigned Protection Factors, Final Rule (Aug. 24, 2006); 29 CFR 1926, Roll-Over Protective Structure, Final Rule (Dec. 29, 2005, corrected July 20, 2006); 29 CFR 1910.1026, Occupational Exposure to Hexavalent Chromium, Final Rule (Feb. 28, 2006, corrected June 23, 2006); 29 CFR 1926, Steel Erection: Slip Resistance of Skeletal Structural Steel, Final Rule (Jan. 18, 2006); 29 CFR 1910, 1915 and 1926, Electrical Installation Requirements, subpart S, Final Rule (Feb. 14, 2007, corrected Oct. 29, 2008); 29 CFR 1915, Updating National Consensus Standards in OSHA Standard for Fire Protection in Shipyard Employment, Final Rule (Jan. 3, 2007); 29 CFR 1910, Employer Payment for Personal Protective Equipment, Final Rule (Nov. 15, 2007, clarified Dec. 12, 2008); and 29 CFR 1910, Updating OSHA Standards Based on National Consensus Standards, Final Rule (Mar. 14, 2008, Dec. 14, 2007, Sept. 9, 2009) are incorporated into this Part. Copies are available at any of the Department's offices, on the Department website [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol) or the OSHA website <http://www.osha.gov>.
- b) The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Such amendments will be adopted by reference, or substitute provisions that provide equivalent protection will be adopted. Amendments will be adopted through filing with the Secretary of State and publication in the Illinois Register as required by Section 5-40 of the Illinois Administrative

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Procedure Act [5 ILCS 100/5-40].

- c) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991). The dates listed in paragraph (i) of 29 CFR 1910.1030 are not applicable to Illinois public sector employers. The effective date (paragraph (i)(1) of the adopted standard) for the Illinois public sector shall be January 19, 1993. The compliance date for paragraph (i)(2) of the adopted standard shall be February 18, 1993, the date for paragraph (i)(3) shall be March 20, 1993, and the date for paragraph (i)(4) shall be April 19, 1993.
- d) The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are one, two, three, and four years, respectively, after August 1, 1994.

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- 1) Heading of the Part: Health and Safety
- 2) Code Citation: 56 Ill. Adm. Code 350
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
350.10	New
350.20	New
350.30	New
350.40	New
350.50	New
350.60	New
350.70	New
350.80	New
350.90	New
350.100	New
350.110	New
350.120	New
350.130	New
350.140	New
350.150	New
350.160	New
350.170	New
350.180	New
350.190	New
350.200	New
350.210	New
350.220	New
350.250	New
350.260	New
350.270	New
350.280	New
350.290	New
350.300	New
350.310	New
350.320	New
350.330	New
350.340	New
350.350	New
350.360	New

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350.370	New
350.380	New
350.390	New
350.400	New
350.410	New
350.420	New
350.430	New
350.500	New
350.600	New
350.700	New
350.APPENDIX A	New
350.APPENDIX B	New

- 4) Statutory Authority: Safety Inspection & Education Act [820 ILCS 220] and Health and Safety Act [820 ILCS 225]
- 5) A Complete Description of the Subjects and Issues Involved: This update is necessary to correlate with the OSHA requirements to become a certified State Plan.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Current OSHA Standards under 29 CFR
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805(b)]
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments may be submitted in writing, within 45 days of this Notice to;

Cheryl J. Neff, Division Manager  
Illinois Department of Labor  
900 South Spring Street

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Springfield, IL 62704

217/782-9386

fax: 217/785-8776

email: cheryl.neff@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: public sector workplaces in Illinois
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: DOL did not anticipate the need for this rulemaking at the time the agendas were published..

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

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 350  
HEALTH AND SAFETY

SUBPART A: INSPECTIONS AND CITATIONS

Section	
350.10	Definitions
350.20	Purpose and Scope
350.30	Posting of Notice; Availability of the Acts, Regulations and Applicable Standards
350.40	Authority for Inspection
350.50	Objection to Inspection
350.60	Entry Not a Waiver
350.70	Advance Notice of Inspections
350.80	Conduct of Inspections
350.90	Representatives of Employers and Employees
350.100	Trade Secrets
350.110	Consultation with Employees
350.120	Complaints by Employees
350.130	Inspection not Warranted; Informal Review
350.140	Imminent Danger
350.150	Citations; Policy Regarding Employee Rescue Activities
350.160	Petitions for Modification of Abatement Date
350.170	Proposed Penalties
350.180	Posting of Citations
350.190	Employer and Employee Contests before the Administrative Law Judges of the Hearings Division
350.200	Failure to Correct a Violation for which a Citation has been Issued
350.210	Abatement Verification
350.220	Informal Conferences

SUBPART B: INJURY/ILLNESS RECORDKEEPING REQUIREMENTS

Section	
350.250	Purpose and Definitions
350.260	Recording Criteria

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350.270	Determination of Work-Relatedness
350.280	Determination of New Cases
350.290	General Recording Criteria
350.300	Recording Criteria for Needlestick and Sharps Injuries
350.310	Recording Criteria for Cases Involving Medical Removal under IDOL-Adopted OSHA Standards
350.320	Recording Criteria for Cases Involving Occupational Hearing Loss
350.330	Recording Criteria for Work-Related Tuberculosis Cases
350.340	Forms
350.350	Multiple Establishments
350.360	Covered Employees
350.370	Annual Summary
350.380	Retention and Updating
350.390	Employee Involvement
350.400	Prohibition Against Discrimination
350.410	Reporting Fatalities and Hospitalization Incidents to the Illinois Department of Labor
350.420	Providing Records to Government Representatives
350.430	Requests from the Illinois Department of Public Health/Bureau of Labor Statistics for Data

## SUBPART C: VARIANCES FROM STANDARDS

Section	
350.500	Petition for Variance from Standards

## SUBPART D: CONSULTATION PROGRAM

Section	
350.600	Purpose

## SUBPART E: ADOPTION OF FEDERAL STANDARDS

Section	
350.700	Adoption of Federal Standards

350.APPENDIX A	Decision Tree
350.APPENDIX B	Sample Abatement Plan or Progress Report (Non-mandatory)

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**AUTHORITY:** Implementing and authorized by the Safety Inspection and Education Act [820 ILCS 220] and the Health and Safety Act [820 ILCS 225].

**SOURCE:** Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 23 Ill. Reg. 3993, effective October 1, 1999; amended at 23 Ill. Reg. 12447, effective October 2, 1999; amended at 24 Ill. Reg. 13693, effective August 23, 2000; amended at 25 Ill. Reg. 860, effective January 5, 2001; amended at 25 Ill. Reg. 10196, effective July 30, 2001; old Part repealed at 30 Ill. Reg. 5531 and new Part adopted at 30 Ill. Reg. 4777, effective March 13, 2006; amended at 34 Ill. Reg. 4793, effective March 16, 2010; old Part repealed at 38 Ill. Reg. \_\_\_\_\_, and new Part adopted at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INSPECTIONS AND CITATIONS

**Section 350.10 Definitions**

The definitions and interpretations contained in Section .01 of the Health and Safety Act and Section .02 of the Safety Inspection and Education Act shall apply when those terms are used in this Part.

Acts – the Health and Safety Act [820 ILCS 225] and Safety Inspection and Education Act [820 ILCS 220].

Department or IDOL – the Illinois Department of Labor.

Director – the Director of the Department of Labor.

Division – the Illinois Department of Labor Safety Inspection and Education Division.

Division Manager – the employee or officer regularly or temporarily in charge of the Safety Inspection and Education Division, Illinois Department of Labor, or any other person or persons who are authorized to act for that employee or officer.

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The latter authorizations may include general delegations of the authority of the Division Manager under this Part to an Enforcement Inspector/Officer or delegations to the officer for more limited purposes, such as the exercise of the Division Manager's duties under Section 350.160.

Enforcement Inspector/Officer or Inspector – a person authorized by the Safety Inspection and Education Division, Illinois Department of Labor, to conduct inspections.

Inspection – any inspection of an employer's establishment or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint filed under Section 350.120(a) and (c), any re-inspection, follow-up inspection, accident investigation or other inspection conducted under Section 2 of the Safety Inspection and Education Act.

Working Days – Mondays through Fridays, but not including State holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

**Section 350.20 Purpose and Scope**

The Health and Safety Act requires, in part, that every employer covered under the Acts furnish to his or her employees employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees. The Act also requires that employers comply with occupational safety and health standards promulgated under the Acts, and that employees comply with standards, rules, regulations and orders issued under the Acts that are applicable to their own actions and conduct. The Safety Inspection and Education Act authorizes the Illinois Department of Labor to conduct inspections and to issue citations and proposed penalties for alleged violations. The purpose of this Subpart A is to prescribe rules and to set forth general policies for enforcement of the inspection, citation, and proposed penalty provisions of the Acts. In situations in which this Subpart A sets forth general enforcement policies rather than substantive or procedural rules, the policies may be modified in specific circumstances in which the Director or his or her designee determines that an alternative course of action would better serve the objectives of the Acts.

**Section 350.30 Posting of Notice; Availability of the Acts, Regulations and Applicable Standards**

## ILLINOIS DEPARTMENT OF LABOR

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- a) Job Safety and Health Poster
- 1) Each employer shall post and keep posted a notice or notices, to be furnished by the IDOL Safety Inspection and Education Division, informing employees of the protections and obligations provided for in the Acts, and that, for assistance and information, including copies of the Acts and of specific safety and health standards, employees should contact the employer or the nearest IDOL office. The notice or notices shall be posted by the employer in each establishment (see subsection (b)) in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that the notices are not altered, defaced or covered by other material.
  - 2) Reproductions or facsimiles of State posters shall constitute compliance with the posting requirements of Section 2.5 of the Safety Inspection and Education Act if the reproductions or facsimiles are at least 8½ by 11 inches and the font size at least 10 point.
- b) Establishment means a single physical location where business is conducted or where services or operations are performed. (For example: An office, warehouse or central administrative office.) When distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each establishment, to the extent that the notices have been made available by the Safety Inspection and Education Division. When employers are engaged in activities that are physically dispersed, such as construction, transportation, and electric, gas and sanitary services, the notice or notices required by this Section shall be posted at the location to which employees report each day. When employees do not usually work at, or report to, a single establishment (such as technicians, engineers, etc.), the notice or notices shall be posted at the location from which the employees operate to carry out their activities. In all cases, the notice or notices shall be posted in accordance with the requirements of subsection (a).
- c) Copies of the Acts, all regulations published in this Chapter, and all applicable standards will be available at all IDOL offices and on the IDOL website at [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol). If an employer has obtained copies of these materials, he or she shall make them available upon request to any employee or the employee's authorized representative for review in the establishment where

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the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or his or her authorized representative and the employer.

- d) Any employer failing to comply with the provisions of this Section shall be subject to citation and penalty in accordance with the provisions of Section 2.6 of the Safety Inspection and Education Act.

**Section 350.40 Authority for Inspection**

- a) Enforcement Inspector/IDOL Officers are authorized to enter without delay and at reasonable times any establishment, construction site, or other area, workplace or environment where work is performed by an employee of a public employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials in the place of employment; to question privately any employer, owner, operator, agent or employee; and to review records required by the Acts, regulations and other records that are directly related to the purpose of the inspection.
- b) Prior to inspecting areas containing information deemed classified by a State agency in the interest of national security, Inspectors shall have obtained the appropriate security clearance.

**Section 350.50 Objection to Inspection**

- a) Upon a refusal to permit the Enforcement Inspector/Officer, in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any area within the place of employment to inspect, to review records, or to question any employer, owner, operator, agent or employee, in accordance with Section 350.40 or to permit a representative of employees to accompany the Inspector during the physical inspection of any workplace, in accordance with Section 350.90, the Inspector shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised. The Inspector shall endeavor to ascertain the reason for the refusal and shall immediately report the refusal and the reason for the refusal to the Enforcement Supervisor. The Enforcement Supervisor shall consult with the

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Division Manager and Chief Legal Counsel, who shall take appropriate action, including compulsory process, if necessary.

- b) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the Division Manager and Chief Legal Counsel, circumstances exist that make the pre-inspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process in advance of an attempt to inspect or investigate include, but are not limited to:
  - 1) When the employer's past practice either implicitly or explicitly puts the Director on notice that a warrantless inspection will not be allowed;
  - 2) When an inspection is scheduled far from the local office and procuring a warrant prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain a warrant and return to the worksite;
  - 3) When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of the equipment or expert.
- c) With the approval of the Division Manager and Chief Legal Counsel, compulsory process may also be obtained by the Enforcement Supervisor or his or her designee.
- d) For purposes of this Section, the term compulsory process shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances in which compulsory process is relied upon to seek entry to a workplace under this Section.

**Section 350.60 Entry Not a Waiver**

Any permission to enter, inspect, review records, or question any person shall not imply or be conditioned upon a waiver of any cause of action, citation or penalty under the Acts. Enforcement Inspectors/Officers are not authorized to grant a waiver.

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**Section 350.70 Advance Notice of Inspections**

- a) Advance notice of inspections may not be given, except in the following situations:
- 1) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;
  - 2) In circumstances in which the inspection can most effectively be conducted after regular business hours or when special preparations are necessary for an inspection;
  - 3) When necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection and in other circumstances in which the Division Manager determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.
- b) In the situations described in subsection (a), advance notice of inspections may be given only if authorized by the Division Manager, except that, in cases of apparent imminent danger, advance notice may be given by the Enforcement Inspector/Officer without such authorization if the Division Manager is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of such representative is known to the employer. Upon the request of the employer, the Inspector will inform the authorized representative of employees of the inspection, provided that the employer furnishes the Inspector with the identity of the representative and with other information as is necessary to enable him or her promptly to inform the representative of the inspection. An employer who fails to comply with his or her obligation under this subsection promptly to inform the authorized representative of employees of the inspection, or to furnish information necessary to enable the Inspector promptly to inform the representative of the inspection, may be subject to citation and penalty. Advance notice in any of the situations described in subsection (a) of this Section shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

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- c) Section 2.6 of the Safety Inspection and Education Act provides that any person who gives advance notice of any inspection to be conducted under the Act, without authority from the Director or his or her designees, shall have committed a Class B misdemeanor and shall be subject to all repercussions, if convicted.

**Section 350.80 Conduct of Inspections**

- a) Subject to Section 350.40, inspections shall take place at such times and in such places of employment as the Division Manager or the Inspector may direct. At the beginning of an inspection, Inspectors shall present their credentials to the owner, operator or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records they wish to review. However, the designation of records shall not preclude access to additional records specified in Section 350.40.
- b) Inspectors shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See Section 350.100, Trade Secrets.) As used in this subsection, "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices by employees in order to monitor their exposures.
- c) In taking photographs and samples, Inspectors shall take reasonable precautions to ensure that actions with flash, spark-producing or other equipment would not be hazardous. Inspectors shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.
- d) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.
- e) At the conclusion of an inspection, the Inspector shall confer with the employer or his or her representative and informally advise the employer of any apparent safety or health violations disclosed by the inspection. During the conference, the employer shall be afforded an opportunity to bring to the attention of the Inspector any pertinent information regarding conditions in the workplace.

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- f) Inspections shall be conducted in accordance with this Part.

**Section 350.90 Representatives of Employers and Employees**

- a) Enforcement Inspectors/Officers shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the Inspector during the physical inspection of any workplace for the purpose of aiding the inspection. An Inspector may permit additional employer representatives and additional representatives authorized by employees to accompany him or her when he or she determines that additional representatives will further aid the inspection. A different employer and employee representative may accompany the Inspector during each different phase of an inspection if this will not interfere with the conduct of the inspection.
- b) Inspectors shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this Section. If there is no authorized representative of employees, or if the Inspector is unable to determine with reasonable certainty who is the representative, he or she shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.
- c) The representatives authorized by employees shall be employees of the employer. However, if, in the judgment of the Inspector, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the Inspector during the inspection.
- d) Inspectors are authorized to deny the right of accompaniment under this Section to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to the provisions of Section 350.100. With regard to information classified by an agency of State Government in the interest of homeland security, only persons authorized to have access to the information may accompany an Inspector in areas containing the information.

**Section 350.100 Trade Secrets**

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- a) *All information reported to or otherwise obtained by the Director of Labor or his or her representative in connection with any inspection or proceeding under the Acts that contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out the Acts. In any such proceeding, the Director of Labor or the court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets.* [820 ILCS 225/22]
- b) *Any person who violates the confidentiality of trade secrets commits a Class B misdemeanor.* [820 ILCS 225/22]
- c) At the commencement of an inspection, the employer may identify areas in the establishment that contain or might reveal a trade secret. If the Enforcement Inspector/Officer has no clear reason to question the identification, information obtained in those areas, including all negatives and prints of photographs and environmental samples, shall be labeled "Confidential– Trade Secret" and shall not be disclosed.
- d) Upon the request of an employer, any authorized representative of employees in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. When there is no such representative or employee, the Inspector shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

**Section 350.110 Consultation with Employees**

Enforcement Inspectors/Officers may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Acts that he or she has reason to believe exists in the workplace to the attention of the Inspector.

**Section 350.120 Complaints by Employees**

- a) Any employee or representative of employees who believes that a violation of the Acts exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the

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Division Manager or to an Enforcement Inspector/Officer. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or his or her agent by the Inspector no later than at the time of inspection, except that, upon the request of the person giving the notice, his or her name and the names of individual employees referred to in the notice shall not appear in the copy or on any record published, released or made available by IDOL.

- b) If, upon receipt of the notification required by subsection (a), the Enforcement Supervisor determines that the complaint meets the requirements set forth in subsection (a) and that there are reasonable grounds to believe that the alleged violation exists, the Enforcement Supervisor shall cause an inspection to be made as soon as practicable to determine if the alleged violation exists. Inspections under this Section shall not be limited to matters referred to in the complaint.
- c) Prior to or during any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the Inspector, in writing, of any violation of the Acts that he or she has reason to believe exists in the workplace. The notice shall comply with the requirements of subsection (a).
- d) *A person may not discharge or in any way discriminate against any employee because the employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to the Acts; has testified or is about to testify in any such proceeding; or, on behalf of himself or herself or others, exercises any right afforded by the Acts. [820 ILCS 220/2.2]*

**Section 350.130 Inspection not Warranted; Informal Review**

- a) If the Enforcement Supervisor determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a complaint under Section 350.120, he or she shall notify the complaining party in writing of that determination. The complaining party may obtain review of the determination by submitting a written statement of position to the Division Manager and, at the same time, providing the employer with a copy of the statement by certified mail. The employer may submit an opposing written statement of position with the Division Manager and, at the same time, provide the complaining party with a copy of such statement by certified mail. Upon the request of the complaining party or the employer, the Division Manager,

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at his or her discretion, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral views presented, the Division Manager shall affirm, modify or reverse the determination of the Enforcement Supervisor and furnish the complaining party and the employer written notification of this decision and the reasons for the decision. The decision of the Division Manager shall be final and not subject to further review.

- b) If the Enforcement Supervisor determines that an inspection is not warranted because the requirements of Section 350.120(a) have not been met, he or she shall notify the complaining party in writing of that determination. The determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 350.120(a).

**Section 350.140 Imminent Danger**

Whenever, and as soon as, an Enforcement Inspector/Officer concludes on the basis of an inspection that conditions or practices exist in any place of employment that could reasonably be expected to immediately cause death or serious physical harm or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by the Acts, he or she shall inform the affected employees and employers of the danger and that he or she is recommending a civil action to restrain the conditions or practices and for other appropriate relief in accordance with the provisions of Section 2(b)(7) of the Safety Inspection and Education Act. Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger even though, after being informed of the danger by the Inspector, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.

**Section 350.150 Citations; Policy Regarding Employee Rescue Activities**

- a) The Enforcement Supervisor, on behalf of the Division Manager, shall review the inspection report of the Enforcement Inspector/Officer. If, on the basis of the report, the Enforcement Supervisor believes that the employer has violated a requirement of Section 3 of the Health and Safety Act, of any standard, rule or order promulgated pursuant to section 3 of the Health and Safety Act, or of this Chapter, he or she shall, if appropriate, consult with the Chief Legal Counsel and shall issue to the employer a citation on behalf of the Division Manager. An appropriate citation shall be issued even though, after being informed of an alleged violation by the Inspector, the employer immediately abates, or initiates steps to abate, the alleged violation. Any citation shall be issued with reasonable

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promptness after termination of the inspection. No citation may be issued under this Section after the expiration of 6 months following the occurrence of any alleged violation.

- b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provisions of the Act, standard, rule, regulation or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.
- c) If a citation is issued for a violation alleged in a request for inspection under Section 350.120(a) or a notification of violation under Section 350.120(c), a copy of the citation shall also be sent to the employee or representative of employees who made the request or notification.
- d) After an inspection, if the Enforcement Supervisor determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under Section 350.120(a) or a notification of violation under Section 350.120(c), the informal review procedures prescribed in Section 350.130 shall be applicable. After considering all views presented, the Division Manager shall affirm the determination of the Enforcement Supervisor, order a re-inspection, or issue a citation if he or she believes that the inspection disclosed a violation. The Division Manager shall furnish the complaining party and the employer with written notification of his or her determination and the reasons for that determination. The determination of the Division Manager shall be final and not subject to review.
- e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the Acts has occurred unless there is a failure to contest as provided for in the Acts or, if contested, unless the citation is affirmed by the Administrative Law Judge.
- f) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:
  - 1) the employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or

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- 2) the employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or
- 3) the employee:
  - A) is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; and
  - B) the employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual; and
  - C) the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue and not to attempt rescue, and to instruct employees of the hazards of attempting rescue without adequate training or equipment.
- g) For purposes of this Section, the term imminent danger means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated.

**Section 350.160 Petitions for Modification of Abatement Date**

- a) An employer may file a petition for modification of an abatement date when he or she has made a good faith effort to comply with the abatement requirements of a citation, but the abatement has not been completed because of factors beyond his or her reasonable control.
- b) A petition for modification of an abatement date shall be in writing and shall include the following information:

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- 1) All steps taken by the employer, and the dates of the action, in an effort to achieve compliance during the prescribed abatement period.
  - 2) The specific additional abatement time necessary to achieve compliance.
  - 3) The reasons the additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.
  - 4) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.
  - 5) A certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with subsection (c)(1) and a certification of the date upon which the posting and service was made.
- c) A petition for modification of abatement date shall be filed with the Division Manager or his or her designee who issued the citation no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.
- 1) A copy of the petition shall be posted in a conspicuous place where all affected employees will have notice of the petition or near the location where the violation occurred. The petition shall remain posted for a period of 10 working days. When affected employees are represented by an authorized representative, the representative shall be served with a copy of the petition.
  - 2) Affected employees or their representatives may file an objection in writing to the petition with the Division Manager. Failure to file the objection within 10 working days after the date of posting of the petition or after service upon an authorized representative shall constitute a waiver of any further right to object to the petition.

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- 3) The Director or his or her duly authorized agent shall have the authority to approve any petition for modification of an abatement date filed pursuant to subsection (b) and this subsection (c). Uncontested petitions shall become final orders.
  - 4) The Director or his or her authorized representative shall not exercise his or her approval power until the expiration of 15 working days from the date the petition was posted or served by the employer pursuant to subsections (c)(1) and (2).
- d) When any petition is objected to by the Director or affected employees, the petition, citation and any objections shall be forwarded to the Chief Administrative Law Judge within 3 working days after the expiration of the 15 day period set out in subsection (c)(4).

**Section 350.170 Proposed Penalties**

- a) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the Division Manager shall notify the employer by certified mail or by personal service by the Enforcement Inspector/Officer of the proposed penalty under Section 2.3(b) of the Safety Inspection and Education Act or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty is the final order of the Director of Labor and not subject to review by any court or agency unless, within 15 working days from the date of receipt of the notice, the employer notifies the Division Manager in writing that he or she intends to contest the citation or the notification of proposed penalty before an Administrative Law Judge.
- b) The Division Manager shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with Section 2.3(b) of the Safety Inspection and Education Act.
- c) Appropriate penalties may be proposed with respect to an alleged violation even though, after being informed of the alleged violation by the Inspector, the employer immediately abates, or initiates steps to abate, the alleged violation.

**Section 350.180 Posting of Citations**

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- a) Upon receipt of any citation under the Acts, the employer shall immediately post the citation, or a copy of the citation, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided in this subsection. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, the citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, when employers are engaged in activities that are physically dispersed (see Section 350.30(b)), the citation may be posted at the location to which employees report each day. When employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced or covered by other material.
- b) Each citation, or a copy, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The filing by the employer of a notice of intention to contest under Section 350.190 shall not affect the posting responsibility under this Section unless and until the Administrative Law Judge issues a final order vacating the citation.
- c) An employer to whom a citation has been issued may post a notice in the same location where the citation is posted indicating that the citation is being contested before an Administrative Law Judge, the notice may explain the reasons for the contest. The employer may also indicate that specified steps have been taken to abate the violation.
- d) Any employer failing to comply with the provisions of subsections (a) and (b) shall be subject to citation and penalty in accordance with provisions of Section 2.3(b) of the Safety Inspection and Education Act.

**Section 350.190 Employer and Employee Contests before the Administrative Law Judges of the Hearings Division**

- a) Any employer to whom a citation or notice of proposed penalty has been issued may, under Section 2.4 of the Safety Inspection and Education Act, notify the Division Manager in writing that he or she intends to contest the citation or proposed penalty before an Administrative Law Judge. The notice of intention to contest shall be postmarked within 15 working days after receipt by the employer

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of the notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. The Division Manager shall immediately transmit the notice to the Chief Administrative Law Judge in accordance with IDOL's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

- b) Any employee or representative of employees of an employer to whom a citation has been issued may, under Section 2.4 of the Safety Inspection and Education Act, file a written notice with the Division Manager alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable. The notice shall be postmarked within 15 working days after the receipt by the employer of the notice of proposed penalty or notice that no penalty is being proposed. The Division Manager shall immediately transmit the notice to the Chief Administrative Law Judge in accordance with 56 Ill. Adm. Code 120.

**Section 350.200 Failure to Correct a Violation for which a Citation has been Issued**

- a) If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Division Manager shall, if appropriate, consult with the Chief Legal Counsel, and he or she shall notify the employer by certified mail or by personal service by the Enforcement Inspector/Officer of that failure and of the penalty proposed to be assessed under Section 2.3 of the Safety Inspection and Education Act. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the Administrative Law Judge in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.
- b) Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under Section 2.3 of the Safety Inspection and Education Act, notify the Division Manager in writing that he or she intends to contest the notification or proposed additional penalty before an Administrative Law Judge. The notice of intention to contest shall be postmarked within 15 working days after the receipt by the employer of the notification of failure to correct a violation and of the proposed additional penalty. The Division Manager shall immediately transmit the notice to the Chief Administrative Law Judge in accordance with 56 Ill. Adm. Code 120.

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- c) Each notification of failure to correct a violation and of proposed additional penalty shall state that it is the final order of the Administrative Law Judge and not subject to review by any court or agency unless, within 15 working days from the date of receipt of the notification, the employer notifies the Division Manager in writing that he or she intends to contest the notification or the proposed additional penalty before an Administrative Law Judge.

**Section 350.210 Abatement Verification**

IDOL inspections are intended to result in the abatement of violations of the Acts. This Section sets forth the procedures the Division will use to ensure abatement. These procedures are tailored to the nature of the violation and the employer's abatement actions.

- a) **Scope and Application**  
This Section applies to employers who receive a citation for a violation of the Acts.
- b) **Definitions**
  - 1) Abatement means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by the Division during an inspection.
  - 2) Abatement date means:
    - A) For an uncontested citation item, the later of:
      - i) The date in the citation for abatement of the violation;
      - ii) The date approved by the Division or established in litigation as a result of a petition for modification of the abatement date (PMA); or
      - iii) The date established in a citation by an informal settlement agreement.
    - B) For a contested citation item for which the Administrative Law Judge has issued a final order affirming the violation, the later of:

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- i) The date identified in the final order for abatement; or
      - ii) The date computed by adding the period allowed in the citation for abatement to the final order date;
      - iii) The date established by a formal settlement agreement.
  - 3) Affected employees means those employees who are exposed to the hazards identified as violations in a citation.
  - 4) Final order date means:
    - A) For an uncontested citation item, the 15<sup>th</sup> working day after the employer's receipt of the citation;
    - B) For a contested citation item:
      - i) The 30<sup>th</sup> day after the date on which a decision or order of an Administrative Law Judge has been docketed; or
      - ii) When review has been directed, the thirtieth day after the date on which the Administrative Law Judge issues his or her decision or order disposing of all or pertinent parts of a case; or
      - iii) The date on which an appeals court issues a decision affirming the violation in a case in which a final order of an Administrative Law Judge has been stayed.
  - 5) Movable equipment means a hand-held or non-hand-held machine or device, powered or unpowered, that is used to do work and is moved within or between worksites.
- c) Abatement Certification
- 1) Within 10 calendar days after the abatement date, the employer must certify to the Division Manager that each cited violation has been abated, except as provided in subsection (c)(2).

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- 2) The employer is not required to certify abatement if the Enforcement Inspector/Officer, during the on-site portion of the inspection:
    - A) Observes, within 24 hours after a violation is identified, that abatement has occurred; and
    - B) Notes in the citation that abatement has occurred.
  - 3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by subsection (h), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.
- d) Abatement Documentation
- 1) The employer must submit to the Division Manager, along with the information on abatement certification required by subsection (c)(3), documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the Division Manager indicates in the citation that abatement documentation is required.
  - 2) Documents demonstrating that abatement is complete may include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.
- e) Abatement Plans
- 1) The Division Manager may require an employer to submit an abatement plan for each cited violation when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.
  - 2) The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, when necessary, how employees

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will be protected from exposure to the violative condition in the interim until abatement is complete.

## f) Progress Reports

- 1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:
  - A) That periodic progress reports are required and the citation items for which they are required;
  - B) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;
  - C) Whether additional progress reports are required; and
  - D) The dates on which additional progress reports must be submitted.
- 2) For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

## g) Employee Notification

- 1) The employer must inform affected employees and their representatives about abatement activities covered by this Section by posting a copy of each document submitted to the Division Manager or a summary of the document near the place where the violation occurred.
- 2) When the posting does not effectively inform employees and their representatives about abatement activities (for example, for employers who have mobile work operations), the employer must:
  - A) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

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- B) Take other steps to communicate fully to affected employees and their representatives about abatement activities.
- 3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the Division Manager.
- A) An employee or an employee representative must submit a request to examine and copy abatement documents within 3 working days after receiving notice that the documents have been submitted.
  - B) The employer must comply with an employee's or employee representative's request to examine and copy abatement documents within 5 working days after receiving the request.
- 4) The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the Division Manager and that abatement documents are:
- A) Not altered, defaced or covered by other material; and
  - B) Remain posted for 3 working days after submission to the Division Manager.
- h) Transmitting Abatement Documents
- 1) The employer must include, in each submission required by this Section, the following information:
- A) The employer's name and address;
  - B) The inspection number to which the submission relates;
  - C) The citation and item numbers to which the submission relates;
  - D) A statement that the information submitted is accurate; and
  - E) The signature of the employer or the employer's authorized representative.

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- 2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Division Manager receives the document is the date of submission.
- i) Movable Equipment
    - 1) For serious, repeat and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the worksite or between worksites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this Section, as well as the posting requirements of Section 350.180.
    - 2) The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued.
    - 3) If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:
      - A) For hand-held equipment, immediately after the employer receives the citation; or
      - B) For non-hand-held equipment, prior to moving the equipment within or between worksites.
    - 4) For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 1926.200(h) is deemed to meet the requirements of this Section when the information required by subsection (i)(2) is included on the tag.
    - 5) The employer must assure that the tag or copy of the citation attached to movable equipment is not altered, defaced or covered by other material.
    - 6) The employer must assure that the tag or copy of the citation attached to movable equipment remains attached until:

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- A) The violation has been abated and all abatement verification documents required by this Section have been submitted to the Division Manager;
- B) The cited equipment has been permanently removed from service or is no longer within the employer's control; or
- C) The Administrative Law Judge issues a final order vacating the citation.

**Section 350.220 Informal Conferences**

At the request of an affected employer, employee or representative of employees, the Division Manager may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at the conference shall be subject to 56 Ill. Adm. Code 120. If the conference is requested by the employer, an affected employee or his or her representative shall be afforded an opportunity to participate, at the discretion of the Division Manager. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Division Manager. Any party may be represented by counsel at the conference. No conference or request for a conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest as prescribed in Section 350.190.

## SUBPART B: INJURY/ILLNESS RECORDKEEPING REQUIREMENTS

**Section 350.250 Purpose and Definitions**

- a) Purpose  
The purpose of this Subpart B is to require employers to record and report work-related fatalities, injuries and illnesses. Recording or reporting a work-related injury, illness or fatality does not mean that the employer or employee was at fault, that a standard or rule has been violated, or that the employee is eligible for workers' compensation or other benefits.
- b) Definitions  
For purposes of this Subpart B, the following terms have the meanings ascribed in this subsection:

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Establishment – a single physical location where business is conducted or where services or industrial operations are performed. For activities in which employees do not work at a single physical location, such as construction, transportation, and electric, gas and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc., that either supervise those activities or are the base from which personnel carry out those activities.

One location contains two or more establishments if:

Each group represents a distinctly separate function (i.e., police, fire); or

Each establishment is engaged in different economic activity;

No one SIC (Standard Industrial Classification) applies to the joint activities; or

Separate reports are routinely prepared for each group on the number of employees and/or wages.

An establishment can include more than one physical location if:

The employer operates the locations as a single operation under common management;

The locations are all located in close proximity to each other; and

The employer keeps one set of records for the locations, such as records on the number of employees, their wages and salaries and other kinds of business information. For example, one establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

When an employee telecommutes from home, the employee's home is not a business establishment and a separate OSHA 300 Log (Log of Work-Related Injuries and Illnesses) is not required. Employees who telecommute must be linked to one establishment.

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Injury or Illness – an abnormal condition or disorder. Injuries include, but are not limited to, a cut, fracture, sprain or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder or poisoning. Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of this Subpart's recording criteria.

Physician or Other Licensed Health Care Professional – an individual whose legally permitted scope of practice (i.e., license, registration or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this Subpart.

**Section 350.260 Recording Criteria**

- a) **Basic Requirement**

Every public employer that is required by this Part to keep records of fatalities, injuries and illnesses must record each fatality, injury and illness that:

  - 1) is work-related;
  - 2) is a new case; and
  - 3) meets one or more of the general recording criteria of Section 350.290 or the recording criteria applying to specific cases in Sections 350.300 through 350.330.
- b) **Implementation**
  - 1) **Criteria for Recording Work-Related Injuries and Illnesses**

The criteria for recording work-related injuries and illnesses are found in various Sections of this Part as follows:

    - A) Determination of work-relatedness: Section 350.270.
    - B) Determination of a new case: Section 350.280.
    - C) General recording criteria: Section 350.290.

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- D) Additional criteria (needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases): Sections 350.300 through 350.330.
- 2) Appendix A includes a decision tree to assist reporters in determining what particular injuries or illnesses are recordable.

**Section 350.270 Determination of Work-Relatedness**

- a) **Basic Requirement**

An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in subsection (b)(2) specifically applies.
- b) **Implementation**
  - 1) **Work Environment**

The work environment is defined as the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.
  - 2) **Exceptions**

An injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related and, therefore, is not recordable:

    - A) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
    - B) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.

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- C) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball or baseball.
- D) The injury or illness is solely the result of an employee eating, drinking or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in).  
EXAMPLE: if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related. However, if the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
- E) The injury or illness is solely the result of an employee doing personal tasks (unrelated to the employment) at the establishment outside of the employee's assigned working hours.
- F) The injury or illness is solely the result of personal grooming, self medication for a non-work-related condition, or intentionally self-inflicted.
- G) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
- H) The illness is the common cold or flu. Contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work.
- I) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

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- 3) **Determining whether the Precipitating Event Occurred in the Work Environment**  
If it is not obvious whether the precipitating event or exposure occurred in the work environment, the employer must evaluate the employee's work duties and environment to decide whether one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.
- 4) **Aggravating Pre-Existing Conditions**  
A pre-existing injury or illness has been significantly aggravated, for purposes of injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:
  - A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.
  - B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.
  - C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.
  - D) Medical treatment in a case in which no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.
- 5) **Pre-existing Conditions**  
An injury or illness is a pre-existing condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.
- 6) **Travel Status**  
Injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of the employer. Examples of

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these activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the following exceptions:

- A) When a traveling employee checks into a hotel or motel, or other temporary residence, he or she establishes a home away from home. The employee's activities after he or she checks into the temporary residence must be evaluated by the employer for work-relatedness in the same manner as the employer evaluates the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a home away from home and is reporting to a fixed worksite each day, injuries or illnesses are not work-related if they occur while the employee is commuting between the temporary residence and the job location.
  - B) Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).
- 7) **Work at Home**  
Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. **EXAMPLE:** If an employee drops a box of work documents and injures his or her foot, the case is considered work-related. If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work-related. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee

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working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

**Section 350.280 Determination of New Cases**

- a) **Basic Requirement**  
An injury or illness is a new case if:
  - 1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body; or
  - 2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.
  
- b) **Implementation**
  - 1) **Recurrences**  
For occupational illnesses in which the signs or symptoms recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. **EXAMPLES:** Occupational cancer, asbestosis, byssinosis and silicosis.
  - 2) **New Cases**  
When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, the incident must be treated as a new case because the episode or recurrence was caused by an event or exposure in the workplace.
  - 3) **Advice of a Health Care Professional**  
The employer is not required to seek the advice of a physician or other licensed health care professional. However, if such advice is sought, the employer must follow the licensed health care professional's recommendation about whether the case is a new case or a recurrence. If the employer receives recommendations from 2 or more licensed health care professionals, he or she must make a decision as to which

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recommendation is the most authoritative, best documented or best reasoned and record the case based upon that recommendation.

**Section 350.290 General Recording Criteria**

- a) **Basic Requirement**

An injury or illness meets the general recording criteria, and is, therefore recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. A case meets the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.
- b) **Implementation**
  - 1) **Recording Required**

A work-related injury or illness must be recorded if it results in one or more of the following:

    - A) Death (see subsection (b)(2)).
    - B) Days away from work (see subsection (b)(3)).
    - C) Restricted work or transfer to another job (see subsection (b)(4)).
    - D) Medical treatment beyond first aid (see subsection (b)(5)).
    - E) Loss of consciousness (see subsection (b)(6)).
    - F) A significant injury or illness diagnosed by a physician or other licensed health care professional (see subsection (b)(7)).
  - 2) **Employee Death**

The employer must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. He or she must also report any work-related fatality to IDOL within 8 hours, as required by Section 350.410.

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- 3) **Days Away from Work**

When an injury or illness involves one or more days away from work, record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, enter an estimate of the days that the employee will be away and update the day count when the actual number of days is known. Begin counting days away on the day after the injury occurred or the illness began. Begin counting days away on the day after the injury occurred or the illness began.
- 4) **Advice of Health Care Professional**
  - A) When a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway, record the injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If the licensed health care professional recommends days away, encourage the employee to follow that recommendation. The days away must be recorded whether or not the employee follows the licensed health care professional's recommendation. If recommendations are received from 2 or more licensed health care professionals, the employer must decide which is the most authoritative and record the case based upon that recommendation.
  - B) When a licensed health care professional recommends that the worker return to work but the employee stays at home anyway, end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.
- 5) **Non-Work Days**
  - A) The number of calendar days the employee was unable to work as a result of the injury or illness shall be counted, regardless of whether the employee was scheduled to work on those days. Weekend days, holidays, vacation days or other days off are

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included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

- B) When a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, record the case only if the employer receives information from a licensed health care professional indicating that the employee should not have worked or should have performed only restricted work during the weekend. The injury or illness must be recorded as a case with days away from work or restricted work and the day counts must be entered, as appropriate.
- 6) **Day Before Scheduled Time Off**  
When a worker is injured or becomes ill on the day before scheduled time off, such as a holiday, planned vacation, or temporary closing, the case needs to be recorded only if the employer receives information from a licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. The injury or illness shall be recorded as a case with days away from work or restricted work and the day counts shall be entered, as appropriate.
- 7) **Limitation on Days Counted**
- A) The employer may cap the total days away at 180 calendar days. The employer is not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate.
  - B) The employer may stop counting days if an employee who is away from work because of an injury or illness retires or leaves employment. If the employee leaves employment for some reason unrelated to the injury or illness, such as retirement, or to take another job, stop counting days away from work or days of restriction/job transfer. If the employee leaves because of the injury or illness, estimate the total number of days away or days of

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restriction/job transfer and enter the day count on the OSHA 300 Log.

- C) If a case occurs in one year but results in days away during the next calendar year, only record the injury or illness once. Enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when the annual summary is prepared, estimate the total number of calendar days the employee is expected to be away from work, use this number to calculate the total for the annual summary, and update the initial log entry later when the day count is known or reaches the 180-day cap.
- 8) Restricted Work or Job Transfer
- A) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and entering the number of restricted or transferred days in the restricted workdays column. Restricted work occurs when, as the result of a work-related injury or illness:
    - i) The employer keeps the employee from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or
    - ii) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.
  - B) For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

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- C) Do not record restricted work or job transfers if the employer or the licensed health care professional imposes the restriction or transfer only for the day on which the injury occurred or the illness began.
- D) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from the employer or licensed health care professional keeps the employee from performing one or more of his or her routine job functions or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and the case must be recorded.
- E) A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.
- F) The case is not considered restricted work if the injured or ill worker produces fewer services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work. The case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.
- G) Restrictions from a licensed health care professional may be vague, such as limiting the employee to only "light duty" or instructing the employee to "take it easy for a week". If the licensed health care professional's recommendation is not clear, ask whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "yes", the case does not involve a work restriction and does not have to be recorded as such. If the answer to one or both of these questions is "no", the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the

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licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

- H) If a licensed health care professional recommends a job restriction meeting the definition, but the employee does all of his or her routine job functions anyway, record the injury or illness on the OSHA 300 Log as a restricted work case. If a licensed health care professional recommends a job restriction, ensure that the employee complies with that restriction. If recommendations are received from 2 or more physicians or other licensed health care professionals, make a decision as to which recommendation is the most authoritative and record the case based upon that recommendation.
- I) Job Transfers
- i) If an injured or ill employee assigned to a job other than his or her regular job for part of the day, the case involves transfer to another job. This does not include the day on which the injury or illness occurred.
- ii) Both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. EXAMPLE: if the employer assigns, or a licensed health care professional recommends that the employer assign, an injured or ill worker to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. Record an injury or illness that involves a job transfer by placing a check in the box for job transfer.
- J) Count days of job transfer or restriction in the same way days away from work are counted, using subsection (b)(3) through (b)(7). The only difference is that, if the injured or ill employee is assigned to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for the cases.

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- 9) Medical Treatment Beyond First Aid
- A) If a work-related injury or illness results in medical treatment beyond first aid, record it on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, enter a check mark in the box for cases in which the employee received medical treatment but remained at work and was not transferred or restricted.
- B) Medical treatment means the management and care of a patient to combat disease or disorder. For the purposes of this Subpart B, medical treatment does not include:
- i) Visits to a physician or other licensed health care professional solely for observation or counseling;
  - ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or
  - iii) First aid as defined in subsection (b)(9)(C).
- C) For the purposes of Subpart B, first aid means the following:
- i) Using a non-prescription medication at non-prescription strength (for medications available in both prescription and non-prescription form, a recommendation by a licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);
  - ii) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

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- iii) Cleaning, flushing or soaking wounds on the surface of the skin;
- iv) Using wound coverings such as bandages, Band-Aids, gauze pads, etc., or using butterfly bandages or Steri-Strips (other wound closing devices such as sutures, staples, etc., are considered medical treatment);
- v) Using hot or cold therapy;
- vi) Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);
- vii) Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);
- viii) Drilling of a fingernail or toenail to relieve pressure or draining fluid from a blister;
- ix) Using eye patches;
- x) Removing foreign bodies from the eye using only irrigation or a cotton swab;
- xi) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
- xii) Using finger guards;
- xiii) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or
- xiv) Drinking fluids for relief of heat stress.

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- D) No other treatments are considered first aid for the purposes of this Subpart B.
  - E) The professional status of the person providing the treatment has no effect on what is considered first aid or medical treatment. Even when these treatments are provided by a licensed health care professional, they are considered first aid. Similarly, treatment beyond first aid is considered to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.
- 10) Refusal of Medical Treatment  
If a licensed health care professional recommends medical treatment, encourage the injured or ill employee to follow that recommendation. However, the case must be recorded even if the injured or ill employee does not follow the licensed health care professional's recommendation.
- 11) Loss of Consciousness  
Record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.
- 12) Significant Diagnosed Injury or Illness
- A) Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.
  - B) Most significant injuries and illnesses will result in one of the criteria listed in this Part, i.e., death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be

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recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

**Section 350.300 Recording Criteria for Needlestick and Sharps Injuries**

- a) **Basic Requirement**

Record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030). Enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, do not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in Section 350.340(b)(6) through (b)(9)).
- b) **Implementation**
  - 1) **Other potentially infectious materials is defined in the Bloodborne Pathogens standard at 29 CFR 1910.1030(b). These materials include:**
    - A) **Human bodily fluids, tissues and organs; and**
    - B) **Other materials infected with the HIV or hepatitis B virus, such as laboratory cultures or tissues from experimental animals.**
  - 2) **All cuts, lacerations, punctures and scratches need to be recorded only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material record the case only if it meets one or more of the recording criteria in Section 350.290.**

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- 3) If an injury is recorded and the employee is later diagnosed with an infectious bloodborne disease, update the OSHA 300 Log. The classification of the case on the OSHA 300 Log must be updated if the case results in death, days away from work, restricted work or job transfer. The description must also be updated to identify the infectious disease and change the classification of the case from an injury to an illness.
- 4) If an employee is splashed with or exposed to blood or other potentially infectious material without being cut or scratched, record the incident on the OSHA 300 Log as an illness if:
  - A) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or
  - B) It meets one or more of the recording criteria in Section 350.290.

**Section 350.310 Recording Criteria for Cases Involving Medical Removal under IDOL-Adopted OSHA Standards**

- a) Basic requirement  
If an employee is medically removed under the medical surveillance requirements of an OSHA standard, record the case on the OSHA 300 Log.
- b) Implementation
  - 1) Enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how the employer decides to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, enter the case on the OSHA 300 Log by checking the poisoning column.
  - 2) Some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde and benzene.

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- 3) When the employer voluntarily removes the employee from exposure before the medical removal criteria in an OSHA standard are met, the case does not need to be recorded on the OSHA 300 Log.

**Section 350.320 Recording Criteria for Cases Involving Occupational Hearing Loss**

- a) **Basic Requirement**  
If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level is 25 dB or more above audiometric zero (averaged at 2000, 3000 and 4000 Hz) in the same ear or ears as the STS, record the case on the OSHA 300 Log.
- b) **Implementation**
  - 1) An STS is defined in the occupational noise exposure standard (29 CFR 1910.95(g)(10)(i)) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 dB or more at 2000, 3000 and 4000 Hz in one or both ears.
  - 2) **Evaluating the Current Audiogram to Determine Whether an Employee has an STS and a 25-dB Hearing Level**
    - A) **STS.** If the employee has never previously experienced a recordable hearing loss, compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).
    - B) **25-dB Loss.** Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000 and 4000 Hz to determine whether the employee's total hearing level is 25 dB or more.
  - 3) When determining whether an STS has occurred, adjust the employee's current audiogram results by using Table F-1 or F-2, as appropriate, in

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Appendix F of 29 CFR 1910.95. Do not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.

- 4) If the employee's hearing is retested within 30 days of the first test, and the retest does not confirm the recordable STS, the employer is not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, record the hearing loss illness within 7 calendar days after the retest. If subsequent audiometric testing performed under the testing requirements of the 29 CFR 1910.95 noise standard indicates that an STS is not persistent, you may erase or line-out the recorded entry.
- 5) In determining whether a hearing loss case is work-related, use Section 350.270 to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, consider the case to be work-related.
- 6) If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, the employer is not required to consider the case work-related or to record the case on the OSHA 300 Log.
- 7) When entering a recordable hearing loss case on the OSHA 300 Log, check the 300 Log column for hearing loss.

**Section 350.330 Recording Criteria for Work-Related Tuberculosis Cases**

- a) **Basic Requirement**  
If any employee has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a TB infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, record the case on the OSHA 300 Log by checking the respiratory condition column.
- b) **Implementation**

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- 1) A positive TB skin test result obtained at a pre-employment physical does not need to be recorded because the employee was not occupationally exposed to a known case of active TB in the workplace.
- 2) If the employer obtains evidence that the case was not caused by occupational exposure, the employer may line-out or erase the case from the Log under the following circumstances:
  - A) The worker is living in a household with a person who has been diagnosed with active TB;
  - B) The Illinois Department of Public Health has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or
  - C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure.

**Section 350.340 Forms**

- a) **Basic Requirement**  
Use the OSHA 300 (Log of Work-Related Injuries and Illnesses), 300-A (Summary of Work-Related Injuries and Illnesses) and 301 (Injury and Illness Incident Report) forms, or equivalent forms for recorded injuries or illnesses.
- b) **Implementation**
  - 1) Enter information about the employer's business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.
  - 2) Complete an OSHA 301 Incident Report form, or an equivalent form (i.e., Form 45 for Illinois Workers Compensation Commission), for each recordable injury or illness entered on the OSHA 300 Log.

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- 3) Enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within 7 calendar days after receiving information that a recordable injury or illness has occurred.
- 4) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report or supplement an insurance form by adding any additional information required.
- 5) Records may be kept on a computer if the computer can produce equivalent forms when they are needed, as described under Sections 350.390 and 350.420.
- 6) If there are privacy concerns, do not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under Section 350.390(b)(2). Keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so the cases can be updated and provide the information to the government if asked to do so.
- 7) Consider only the following injuries or illnesses to be privacy concern cases:
  - A) An injury or illness to an intimate body part or the reproductive system;
  - B) An injury or illness resulting from a sexual assault;
  - C) Mental illnesses;
  - D) HIV infection, hepatitis, or tuberculosis;
  - E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material; and

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- F) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.
  
- 8) If the employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, he or she may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. Enter enough information to identify the cause of the incident and the general severity of the injury or illness, but do not include details of an intimate or private nature. EXAMPLE: A sexual assault case could be described as "injury from assault", or an injury to a reproductive organ could be described as "lower abdominal injury".
  
- 9) If the employer decides to voluntarily disclose the OSHA forms to persons other than government representatives, employees, former employees or authorized representatives, remove or hide the employees' names and other personally identifying information, except in the following instances. Disclose the forms with personally identifying information only to:
  - A) an auditor or consultant hired by the employer to evaluate the safety and health program;
  - B) the extent necessary for processing a claim for workers' compensation or other insurance benefits; or
  - C) a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information (45 CFR 164.512).

**Section 350.350 Multiple Establishments**

- a) **Basic Requirement**  
Keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.
  
- b) **Implementation**

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- 1) Keep OSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year), but the employer does not have to keep a separate OSHA 300 Log for each such establishment. One OSHA 300 Log may be kept that covers all of the employees short-term establishments. Include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.
- 2) Keep the records for an establishment at the employer's headquarters or other central location if the employer can:
  - A) Transmit information about the injuries and illnesses from the establishment to the central location within 7 calendar days after receiving information that a recordable injury or illness has occurred; and
  - B) Produce and send the records from the central location to the establishment within the time frames required by Sections 350.390 and 350.420 when the employer is required to provide records to a government representative, employees, former employees or employee representatives.
- 3) Each employee must be linked to one of the employer's establishments for recordkeeping purposes. Record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment or on an OSHA 300 Log that covers that employee's short-term establishment.
- 4) When an employee of one of the employer's establishments is injured or becomes ill while visiting or working at another of the employer's establishments, or while working away from any of the employer's establishments the injury or illness must be recorded. If the injury or illness occurs at one of the employer's establishments, record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of the employer's establishments, record the case on the OSHA 300 Log at the establishment at which the employee normally works.

**Section 350.360 Covered Employees**

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- a) **Basic Requirement**  
Record on the OSHA 300 Log the recordable injuries and illnesses of all employees on the employer's payroll, whether they are labor, executive, hourly, salary, part-time, seasonal or migrant workers. Record the recordable injuries and illnesses that occur to employees who are not on the employer's payroll if the employer supervises these employees on a day-to-day basis.
- b) **Implementation**
  - 1) A self-employed person who is injured or becomes ill while doing work at an establishment is not covered by this Part.
  - 2) Injury or illness to employees obtained from a temporary help service, employee leasing service or personnel supply service (the direct employer) must be recorded if the establishment employer supervises these employees on a day-to-day basis.
  - 3) If a contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If the employer in the establishment supervises the contractor employee's work on a day-to-day basis, that employer must record the injury or illness.
  - 4) A direct employer or contractor does not also record the injuries or illnesses occurring to temporary, leased or contract employees supervised by the establishment employer on a day-to-day basis. The establishment employer and the direct employer or contractor should coordinate efforts to make sure that each injury and illness is recorded only once, either on the establishment employer's OSHA 300 Log (if the establishment employer provides day-to-day supervision) or on the direct employer's or contractor's OSHA 300 Log (if that entity provides day-to-day supervision).

**Section 350.370 Annual Summary**

- a) **Basic Requirement**  
At the end of each calendar year:

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- 1) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;
  - 2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;
  - 3) Certify the summary; and
  - 4) Post the annual summary.
- b) Implementation
- 1) The employer must review the entries as extensively as necessary to make sure that they are complete and correct.
  - 2) To complete the annual summary:
    - A) Total the columns on the OSHA 300 Log (if no recordable cases, enter zeros for each column total);
    - B) Enter the calendar year covered, the employer's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log; and
    - C) If using an equivalent form other than the OSHA 300-A Summary form, the summary used must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.
  - 3) A management executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.
  - 4) The management executive who certifies the log must be:
    - A) The highest ranking management official working at the establishment; or

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- B) The highest ranking supervisor at the establishment who has signature authority for the highest ranking management official.
- 5) Post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.
- 6) Post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

**Section 350.380 Retention and Updating**

- a) **Basic Requirement**  
Save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for 5 years following the end of the calendar year that these records cover.
- b) **Implementation**
  - 1) During the storage period, update the stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, remove or line out the original entry and enter the new information.
  - 2) The employer is not required to update the annual summary, but may do so if he or she wishes.
  - 3) The employer is not required to update the OSHA 301 Incident Reports, but may do so if he or she wishes.

**Section 350.390 Employee Involvement**

- a) **Basic Requirement**  
Employees and their representatives must be involved in the recordkeeping system in several ways.

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- 1) Inform each employee of how he or she is to report an injury or illness to the employer.
  - 2) The employer must provide limited access to its injury and illness records for its employees and their representatives.
- b) Implementation
- 1) The employer must set up a way for employees to report work-related injuries and illnesses promptly and must tell each employee how to report work-related injuries and illnesses.
  - 2) The employer must give its employees and their representatives access to the OSHA injury and illness records. Employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the injury and illness records, with the limitations provided in this subsection (b).
  - 3) An authorized employee representative is an authorized collective bargaining agent of employees.
  - 4) A personal representative is:
    - A) Any person that the employee or former employee designates as such, in writing; or
    - B) The legal representative of a deceased or legally incapacitated employee or former employee.
  - 5) When an employee, former employee, personal representative, or authorized employee representative asks for copies of the current or stored OSHA 300 Logs for an establishment, the employee or former employee has worked in, the employer must give the requester a copy of the relevant OSHA 300 Logs by the end of the next business day.
  - 6) Privacy
    - A) The employer shall not remove the names of the employees or any other information from the OSHA 300 Log before giving copies to

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an employee former employee, or employee representative. However, to protect the privacy of injured and ill employees, the employer shall not record the employee's name on the OSHA 300 Log for privacy concern cases (see Section 350.340(b)).

- B) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to the employee or former employee, give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day. When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, give copies of those forms to the authorized employee representative within 7 calendar days. The employer is only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case". Remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form given to the authorized employee representative.
- 7) The employer shall not charge for copies of OSHA reports the first time they are provided. However, if one of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records.

**Section 350.400 Prohibition Against Discrimination**

- a) **Basic Requirement**  
Section 2.2 of the Safety Inspection and Education Act provides in general that no persons shall discharge or in any manner discriminate against any employee because the employee has:
  - 1) Filed any complaint under or related to the Acts;
  - 2) Instituted or caused to be instituted any proceeding under or related to the Acts;

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- 3) Testified or is about to testify in any proceeding under the Acts or related to the Acts; or
  - 4) Exercised on his or her own behalf or on behalf of another any right afforded by the Acts.
- c) Any employee who believes that he or she has been discriminated against in violation of Section 2.2 may, within 30 days after the violation occurs, lodge a written complaint with the Division alleging the violation.
  - d) The Division shall then cause appropriate investigation to be made. If, as a result of the investigation it is determined that the provisions of Section 2.2 have been violated, civil action may be instituted in any appropriate court to restrain violations of Section 2.2 and to obtain appropriate relief, including rehiring or reinstatement of the employee to his or her former position with back pay.
  - e) Section 2.2 of the Safety Inspection and Education Act further provides for notification of complainants by the Division of determinations made pursuant to their complaints.
  - f) Actions taken by an employer, or others, that adversely affect an employee may be predicated upon non-discriminatory grounds. The proscriptions of Section 2.2 apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Acts does not automatically render him or her immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations.
  - g) At the same time, to establish a violation of Section 2.2, the employee's engagement in a protected activity need not be the sole consideration behind discharge or other adverse action. If a protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place but for engagement in a protected activity, Section 2.2 has been violated. Ultimately, the issue as to whether a discharge was because of a protected activity will have to be determined on the basis of the facts in the particular case.
  - h) Complaints Under or Related to the Acts

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- 1) Discharge or discrimination against an employee because the employee has filed *any complaint under or related to the Acts* is prohibited by Section 2.2. An example of a complaint made under the Acts would be an employee request for inspection pursuant to Section 2.1 of the Safety Inspection and Education Act. However, this would not be the only type of complaint protected by Section 2.2.
  - 2) The salutary principles of the Acts would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. Such complaints to employers, if made in good faith, therefore would be related to the Acts, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.
- i) Proceedings Under or Related to the Acts
- 1) Discharge or discrimination against an employee because the employee has *instituted or caused to be instituted any proceeding under or related to the Acts* is also prohibited by Section 2.2. Examples of proceedings that could arise specifically under the Acts would be inspection of worksites under Section 2 of the Safety Inspection and Education Act, employee contest of abatement date under Section 2.4 of that Act, employee initiation of proceeding for promulgation of an occupational safety and health standard under Section 4.1 of the Health and Safety Act, and employee application for modification or revocation of a variance under Section 4.2 of the Health and Safety Act.
  - 2) An employee need not himself or herself directly institute the proceedings. It is sufficient if he or she sets into motion activities of others which result in proceedings under or related to the Acts.
- j) Testimony
- 1) Discharge or discrimination against an employee because the employee has *testified or is about to testify in proceedings* under or related to the Acts is also prohibited under Section 2.2. This protection would not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial and administrative proceedings, including

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inspections, investigations and administrative rulemaking or adjudicative functions.

- 2) If the employee is giving or is about to give testimony in any proceeding under or related to the Acts, he or she would be protected against discrimination resulting from that testimony.
- k) Exercise of Any Right Afforded by the Acts
- 1) Section 2.2 also protects employees from discrimination occurring because of the exercise of any right afforded by the Acts. Certain rights are explicitly provided in the Acts; for example, there is a right to participate as a party in enforcement proceedings. Certain other rights exist by necessary implication. For example, employees may request information from the Safety Inspection and Education Division; such requests would constitute the exercise of a right afforded by the Acts. Likewise, employees interviewed by agents of the Department in the course of inspections or investigations could not be subsequently discriminated against because of their cooperation.
  - 2) As a general matter, there is no right afforded by the Acts that entitles employees to walk off the job because of potential unsafe conditions at the workplace. Hazardous conditions that may be violative of the Acts will ordinarily be corrected by the employer, once brought to his or her attention. If corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have opportunity to request inspection of the workplace. Under these circumstances, an employer would not ordinarily be in violation of Section 2.2 by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.
  - 3) An employee may be confronted with a choice between performing assigned tasks or subjecting himself or herself to serious injury or death arising from a hazardous condition in the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself or herself to the dangerous condition, he or she would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would

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conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, when possible, must also have sought from his or her employer, and been unable to obtain, a correction of the dangerous condition.

- l) Filing of a Discrimination Complaint
  - 1) A complaint of Section 2.2 discrimination may be filed by the employee or by an authorized representative of the employee.
    - A) Nature of Filing. The complaint must be reduced to written form with a valid signature of the employee or authorized representative.
    - B) Place of Filing. A complaint should be filed in the local Department office responsible for enforcement activities in the geographical area where the employee resides or is employed.
    - C) Time for Filing. Section 2.2 provides that an employee who believes that he or she has been discriminated against *may, within 30 days after the violation occurs*, file a complaint with the Division.
    - D) There may be circumstances that would justify tolling of the 30 day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., when the employer has concealed the nature of, or misled the employee regarding the grounds for, discharge or other adverse action; or where the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances that do not justify tolling the 30-day period. In the absence of circumstances justifying tolling of the 30-day period, untimely complaints will not be processed.
- m) Notification of the Division's Determination. The complainant will be notified of the Division's determination in a timely manner.

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- n) **Withdrawal of Complaint.** Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the investigation. The Division's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw his or her complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.
- o) **Arbitration or Other Agency Proceedings.** The Division's jurisdiction to entertain Section 2.2 complaints, to investigate, and to determine whether discrimination has occurred is independent of the jurisdiction of other agencies or bodies. Due deference may be paid to the jurisdiction of other forums established to resolve disputes that may also be related to Section 2.2 complaints. Postponement of the Division's determination, and deferral to the results of the proceedings of another jurisdiction, may be warranted.
- 1) **Postponement of Determination.** Postponement of determination would be justified when the rights asserted in other proceedings are substantially the same as rights under Section 2.2, and those proceedings are not likely to violate the rights guaranteed under Section 2.2. The factual issues in such proceedings must be substantially the same as those raised by the Section 2.2 complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.
- 2) **Deferral to Outcome of Other Proceedings.** A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-by-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular and free of procedural infirmities, and that the outcome of the proceedings were not repugnant to the purpose and policy of the Acts. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing, that dismissal will not ordinarily be regarded as determinative of the Section 2.2 complaint.
- p) **Employee Refusal to Comply with Safety Rules.** Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Acts are not exercising any rights afforded by the Acts. Disciplinary measures taken by an employer solely in

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response to an employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Section 2.2. This situation should be distinguished from refusals to work as discussed in subsection (k).

**Section 350.410 Reporting Fatalities and Hospitalization Incidents to the Illinois Department of Labor**

- a) **Basic Requirement**  
Within 8 hours after the death of any employee from a work-related incident or the in-patient hospitalization of one or more employees as a result of a work-related incident, orally report the fatality/multiple hospitalization by telephone or in person to the IDOL Safety Inspection and Education Division that is nearest to the site of the incident.
- Chicago Office – (312) 793-7308  
Springfield Office – (217) 782-9386  
Marion Office – (618) 993-7090  
After Hours – (217) 725-5485  
email: DOL.Safety@illinois.gov
- b) **Implementation**
- 1) If the office is closed, report the incident by leaving a voice mail, faxing the area office, or sending an e-mail, as long as every attempt is made to report the details of the incident. A telephone number at which fatalities must be reported during non-office hours is included on the IDOL voice mail messages and the website.
  - 2) The reporter must give the following information for each fatality or multiple hospitalization incident:
    - A) The establishment name;
    - B) The location of the incident;
    - C) The time of the incident;
    - D) The number of fatalities or hospitalized employees;

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- E) The names of any injured employees;
  - F) The reporter's contact person and his or her phone number; and
  - G) A brief description of the incident.
- 3) Every fatality or multiple hospitalization incident resulting from a motor vehicle accident must be reported.
  - 4) A fatality or multiple hospitalization incident that occurs on a commercial or public transportation system does not need to be reported. This includes incidents involving a commercial airplane, train, subway or bus accident. However, these injuries must be recorded on the OSHA injury and illness records.
  - 5) Report a fatality caused by a heart attack at work. The Division Manager will decide whether to investigate the incident, depending on the circumstances of the heart attack.
  - 6) Only report fatalities or multiple hospitalizations that occur within 30 days after an incident.
  - 7) If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this Section, make the report within 8 hours after the incident is reported to the employer or any agent or employee of the employer.

**Section 350.420 Providing Records to Government Representatives**

- a) **Basic Requirement**  
When an authorized government representative asks for the records kept under this Subpart B, provide copies of the records within 4 business hours.
- b) **Implementation**  
The following government representatives have the right to get copies of injury and illness records:

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- 1) A representative of the IDOL Director conducting an inspection or investigation under the Acts.
- 2) A representative of the Secretary of Health and Human Services representing the National Institute for Occupational Safety and Health conducting an inspection under section 20(b) of the federal Occupational Safety and Health Administration Act (OSHAct) (29 USC 669(b)).

**Section 350.430 Requests from the Illinois Department of Public Health/Bureau of Labor Statistics for Data**

- a) **Basic Requirement**  
If the Illinois Department of Public Health submits to the employer a Survey of Occupational Injuries and Illnesses Form for the Bureau of Labor Statistics, promptly complete the form and return it following the instructions contained on the survey form.
- b) **Implementation**  
Each year, injury and illness survey forms are sent to randomly selected employers and the Bureau of Labor Statistics uses that information to create the U.S. occupational injury and illness statistics. In any year, some employers will receive a survey form and others will not. Employers do not have to send injury and illness data to the Illinois Department of Public Health unless they receive a survey form.

## SUBPART C: VARIANCES FROM STANDARDS

**Section 350.500 Petition for Variance from Standards**

- a) **General**  
*The Director can grant either temporary or permanent variances from any of the State standards upon application by a public employer. [820 ILCS 225/4.2(a)]*  
The petition shall be filed by the employer as soon as practicable when he or she finds that compliance has not been, or will not be, achieved. Any variance from State health and safety standards may only have future effect.
- b) The petition for a variance from a standard shall be granted if it meets the requirements of this Section and establishes:

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- 1) The reasons for the employer's inability to achieve compliance by the required date, such as the unavailability of necessary professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the effective date;
  - 2) A description of interim steps being taken to safeguard the employees against the hazard during the period of noncompliance;
  - 3) The details of an effective program for coming into compliance as quickly as practicable; and
  - 4) A statement certifying that the employees have been notified of the petition and that a copy of the petition has been posted in a conspicuous location in the workplace for a period of at least 10 working days. This statement must summarize the application, specify where a copy may be examined, and describe how the employees were informed and their rights to petition the Director for a hearing.
- c) Affected employees or their authorized representatives may participate in the hearing on the petition by filing a request to participate with the Department within 10 working days after the date of the posting of the petition or the service of the petition.
  - d) Within 15 working days after receipt of the petition, the Department shall schedule a hearing on the petition, appoint an impartial hearing officer to conduct the hearing, and serve notice of the time and location of the hearing on the employer and any employees and employee representatives who have filed a request to participate in the hearing. The hearing shall be held within 45 calendar days after receipt of the petition.
  - e) The Department shall fully consider the petition and any testimony presented by the employer, employees and employee representatives. The requested variance shall be granted when the Department finds that the employer has made and is making a good faith effort to achieve compliance (such as ordering necessary materials and designing, planning and scheduling alterations), that the health and safety of the employees is being safeguarded during the noncompliance period (such as by the use of barriers, prohibition of access to the hazardous area, or posting of warning notices), and that the noncompliant condition is due to

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circumstances beyond the control of the employer. If the Department finds that the conditions of this subsection have not been met, the variance shall be denied.

- f) If the employees or their authorized representatives do not file a request to participate or otherwise raise objections to the petition and the Department finds that the requested variance meets the conditions set forth in subsection (e), the Department shall issue the requested variance without holding a hearing.
- g) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance or one year, whichever is shorter, except that such a variance may be renewed not more than twice, so long as the requirements of this Section are met and if an application for renewal is filed at least 90 days prior to the expiration date of the variance. No interim renewal of a variance may remain in effect for longer than 180 days.
- h) Application. An application for a temporary order shall contain:
  - 1) The name and address of the applicant;
  - 2) The address of the affected establishments;
  - 3) A statement establishing that applicant:
    - i) is unable to comply with a standard by its effective date because of the unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;
    - ii) is taking all available steps to safeguard his/her employees against the hazards covered by the standard; and
    - iii) has an effective program for coming into compliance with a standard as quickly as possible;
  - 4) The standard or portion of a standard from which the employer seeks a variance;

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- 5) A representation by the employer, along with qualified support, of the reasons for not being able to comply with the standard;
  - 6) A statement of when, with specific dates, the employer expects to comply with the standard; and
  - 7) A certification that the employer has informed the employees and their authorized representatives of the application and their right to petition the Department for a hearing, and has provided them a copy of the posting.
- i) Permanent Variance
- 1) The Director can issue an order for permanent variance from a safety standard when:
    - A) notice has been given to affected employees and the employees have been afforded the opportunity to participate in the hearing process; and
    - B) a preponderance of the evidence demonstrates that the conditions, practices, means, methods, operations or processes used or proposed to be used will provide employment and places of employment as safe and healthful as those that would be produced by compliance with the standard.
  - 2) The order may be modified or revoked upon application by an affected party at any time after 6 months following its issuance.
- j) Modification or Revocation
- 1) An affected employer or an affected employee may apply in writing to the Director for a modification or revocation of a rule or order. The application shall contain:
    - A) The name and address of the applicant;
    - B) A description of the relief sought;
    - C) A statement setting forth with particularity the grounds for relief;

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- D) If the applicant is an employer, a certification that the applicant has informed his or her affected employees of the application by:
    - i) Giving a copy of the application to the authorized employee representative;
    - ii) Posting, at the place or places where the notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and
    - iii) Other appropriate means.
  - E) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and
  - F) Any request for a hearing, as provided in this Part.
- k) The Director, on his or her own motion, may proceed to modify or revoke a rule, in accordance with the Illinois Administrative Procedure Act, or to modify or revoke an order issued under Section 4.2 of the Illinois Health and Safety Act. In that event, the Director shall cause to be published in the Illinois Register a notice of his or her intention, affording interested persons an opportunity to submit written data, views or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and shall take such other action as may be appropriate to give actual notice to affected employees. Any request for a hearing shall include a short and plain statement of:
- 1) how the proposed modification or revocation would affect the requesting party; and
  - 2) what the requesting party would seek to show on the subjects or issues involved.
- l) Defective Applications

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- 1) If an application for variance does not conform to the applicable portions of this Section, the Director may deny the application.
  - 2) Prompt notice of denial of an application shall be given to the applicant.
  - 3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.
  - 4) A denial of an application pursuant to this subsection (l) shall be without prejudice to the filing of another application.
- m) Adequate Applications
- 1) If an application has not been denied pursuant to subsection (l), the Director shall cause to be published in the Illinois Register a notice of the filing of the application.
  - 2) A notice of the filing of an application shall include:
    - A) The terms or an accurate summary of the application;
    - B) A reference to the Section of the Acts under which the application has been filed;
    - C) An invitation to interested persons to submit, within a stated period of time, written data, views or arguments regarding the application; and
    - D) Information to affected employers and employees covered in the application of any right to request a hearing on the application.
- n) Request for Hearings on Applications
- 1) Within the time allowed by a notice of the filing of an application, any affected employer or employee may file with the Director a request for a hearing on the application.
  - 2) Contents of a Request for a Hearing  
A request for a hearing filed pursuant to this Section shall include:

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- A) A concise statement of facts showing how the employer or employee would be affected by the relief applied for;
  - B) A specification of any statement or representation in the application that is denied and a concise summary of the evidence that would be adduced in support of each denial; and
  - C) Any views or arguments on any issue of fact or law presented.
- 3) All hearings held pursuant to this Section will abide by IDOL's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

## SUBPART D: CONSULTATION PROGRAM

**Section 350.600 Purpose**

This Subpart references the Cooperative Agreement between Illinois and the federal Occupational Safety and Health Administration under 29 USC 670(d), under which OSHA will utilize state personnel to provide consultative services to employers. The provisions for the Illinois On-Site Safety and Health Consultation Program funded under Sections 21(d) and 23(g) of the federal Occupational Safety and Health Act (29 USC 672(g)) are detailed in 29 CFR 1908.

## SUBPART E: ADOPTION OF FEDERAL STANDARDS

**Section 350.700 Adoption of Federal Standards**

- a) **Incorporations**  
All materials incorporated by this Section are incorporated as of the date specified and do not include any later amendments or editions.
- b) **Incorporation of Federal Regulations**
  - 1) Pursuant to Section 4 of the Health and Safety Act, the Department hereby incorporates by reference the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration, effective January

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9, 2014. These standards are located at 29 CFR 1904, 1908, 1910, 1915 and 1926.

- 2) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991). The dates listed in subsection (i) of 29 CFR 1910.1030 are not applicable to Illinois public sector employers. The effective date (subsection (i)(1) of the adopted standard) for the Illinois public sector shall be January 19, 1993. The compliance date for subsection (i)(2) of the adopted standard shall be February 18, 1993, the date for subsection (i)(3) shall be March 20, 1993 and the date for subsection (i)(4) shall be April 19, 1993.

c) Incorporation of Interpretations of Federal Regulations

- 1) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998) are incorporated into this Part. Copies of the federal Occupational Safety and Health Administration material may also be obtained at <http://www.osha-slc.gov/SLTC/respiratoryprotection/index.html>.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998)

Questions & Answers on the Respiratory Protection Standard, OSHA Memorandum (Aug. 17, 1998)

Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998)

Small Entity Compliance Guide for the Revised Respiratory Protection Standard, OSHA Directorate of Health Standards Programs (Sept. 30, 1998)

Illinois Fire Chiefs Association – A Guideline on OSHA's 1998 Update of Its 1971 Respiratory Protection Standard (Mar. 9, 1999)

- 2) The following interpretation of 29 CFR 1910 and 1926, Standards Improvement (Miscellaneous Changes) for General Industry and

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Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic (1998); 29 CFR 1915 and 1926, Occupational Exposure to Asbestos (1998); 29 CFR 1910, Methylene Chloride (1998); 29 CFR 1910, Permit-Required Confined Spaces (1998); and 29 CFR 1910, 1915, 1917, 1918 and 1926, Powered Industrial Truck Operator Training (1999) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998)

Preamble: Occupational Exposure to Asbestos; 63 Fed. Reg. 35137 (June 29, 1998)

Preamble: Methylene Chloride; Final Rule, 63 Fed. Reg. 50711 (Sept. 22, 1998)

Preamble: Permit-Required Confined Spaces; Final Rule, 63 Fed. Reg. 66018 (Dec. 1, 1998)

Preamble: Powered Industrial Truck Operator Training; Final Rule, 63 Fed. Reg. 66238 (Dec. 1, 1998)

- 3) The following interpretation of 29 CFR 1910, Dipping and Coating Operations (1999) is incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Dipping and Coating Operations; Final Rule, 64 Fed. Reg. 13897 (Mar. 23, 1999)

- 4) The following interpretation of 29 CFR 1926, Safety Standards for Steel Erection (2001), and 29 CFR 1910, Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries (2001), are incorporated into this Part. Copies are available at the Department's

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Chicago office. Copies may also be obtained at <http://www.osha.gov/comp-links.html>.

Preamble: Safety Standards for Steel Erection; Final Rule, 66 Fed. Reg. 5196 (Jan. 18, 2001)

Preamble: Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries; Final Rule, 66 Fed. Reg. 5318 (Jan. 18, 2001)

- 5) The following interpretation of 29 CFR 1910.36, 1910.37, 1910.38 and 1910.39, Exit Routes, Emergency Action Plans and Fire Prevention Plans, Final Rule (Nov. 11, 2002); 29 CFR 1904, Occupational Injury and Illness Recording and Reporting, Final Rule (July 1, 2002 and Dec. 17, 2002 update); 29 CFR 1910.139, Termination of Rulemaking Respiratory Protection for M. Tuberculosis, Final Rule (Dec. 31, 2003); 29 CFR 1915.52, Fire Protection in Shipyard Employment, Final Rule (Sept. 15, 2004); and 29 CFR 1910 et al., Standards Improvement Project – Phase II (Jan. 5, 2005) are incorporated into this Part. Copies are available at any of the Department's offices. Copies may also be obtained at <http://www.osha.gov>.
- 6) The following interpretations of 29 CFR 1910, 1915 and 1926, Assigned Protection Factors, Final Rule (Aug. 24, 2006); 29 CFR 1926, Roll-Over Protective Structure, Final Rule (Dec. 29, 2005, corrected July 20, 2006); 29 CFR 1910.1026, Occupational Exposure to Hexavalent Chromium, Final Rule (Feb. 28, 2006, corrected June 23, 2006); 29 CFR 1926, Steel Erection: Slip Resistance of Skeletal Structural Steel, Final Rule (Jan. 18, 2006); 29 CFR 1910, 1915 and 1926, Electrical Installation Requirements, subpart S, Final Rule (Feb. 14, 2007, corrected Oct. 29, 2008); 29 CFR 1915, Updating National Consensus Standards in OSHA Standard for Fire Protection in Shipyard Employment, Final Rule (Jan. 3, 2007); 29 CFR 1910, Employer Payment for Personal Protective Equipment, Final Rule (Nov. 15, 2007, clarified Dec. 12, 2008); and 29 CFR 1910, Updating OSHA Standards Based on National Consensus Standards, Final Rule (Mar. 14, 2008, Dec. 14, 2007, Sept. 9, 2009) are incorporated into this Part. Copies are available at any of the Department's offices, on the Department website at [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol) or the OSHA website at <http://www.osha.gov>.

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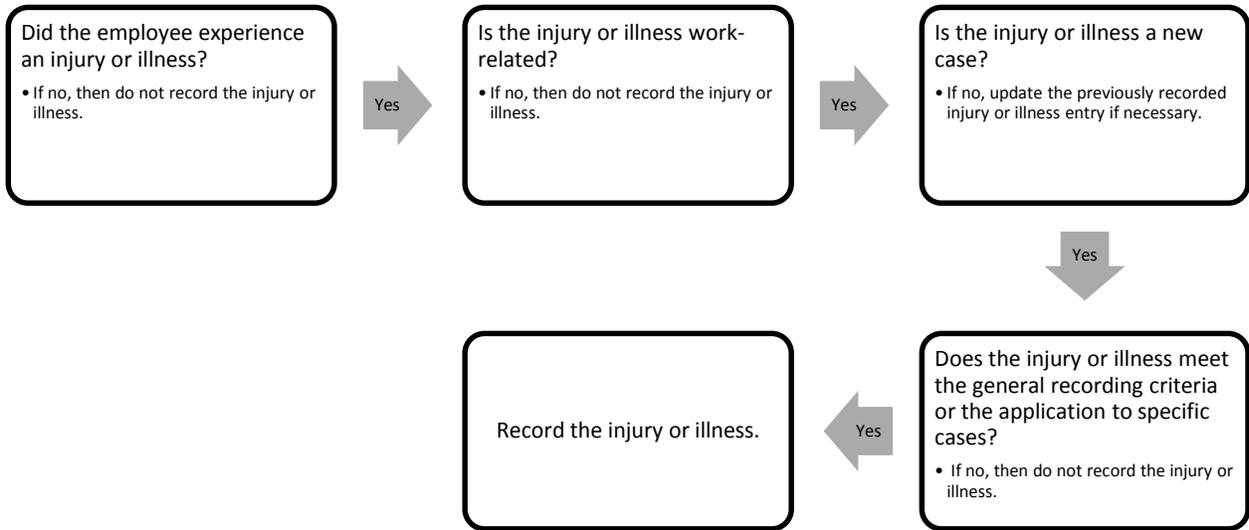
## NOTICE OF PROPOSED RULES

- 7) The following interpretations of 29 CFR 1910, 1915 and 1926 as appropriate, Standards Improvement Project, Phase III (June 8, 2011); Cranes and Derricks in Construction (Aug. 9, 2010); Technical Amendment concerning Safety Standards for Steel Erection (May 17, 2010); 29 CFR Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards (May 14, 2010); Revising Standards Referenced in the Acetylene Standard (Nov. 10, 2009);
- d) **Clarification of Effective Dates**  
The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are one, 2, 3 and 4 years, respectively, after August 1, 1994.
- e) **Conformity with Federal Regulations**  
The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Those amendments will be incorporated by reference or substitute provisions that provide equivalent protection will be adopted. Amendments will be adopted in accordance with the Illinois Administrative Procedure Act.

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**350.APPENDIX A Decision Tree**



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**350.APPENDIX B Sample Abatement Plan or Progress Report (Non-mandatory)**

Illinois Department of Labor  
Safety Inspection and Education Division  
900 South Spring Street  
Springfield IL 62704  
(217) 782-9386  
(217) 785-8776 fax

Establishment Name & Address:  
IL Dept. of ABC  
123 South Main Street  
City, State Zip Code

Check One:  
Abatement Plan:  Inspection Number: \_\_\_\_\_  
Progress Report:

Citation Number	Item Number	Action	Proposed Completion Date (Abatement Plans)	Completion Date (Progress Reports)

Date required for final abatement: \_\_\_\_\_

I attest that the information contained in this document is accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Name of primary point of contact for questions (optional): \_\_\_\_\_

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Telephone Number: \_\_\_\_\_

Abatement plans or progress reports for more than one citation item may be combined in a single abatement plan or progress report if the abatement actions, proposed completion date, and actual completion dates (for progress reports only) are the same for each of the citation items.



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**Anderson Lake** – Similarly to the Mississippi River Fish and Wildlife Area, Anderson Lake experienced extensive flooding resulting in a huge influx of Asian Carp into the site. In an effort to increase harvest of Asian carp, the Department recommends increasing the quota from 5 to 15 special use permits.

**Kaskaskia River** – Despite issuing the allotted number of special use permits (10), harvest remained low during the commercial fish removal effort on the Kaskaskia River last season. A total of 19,894 pounds of fish were reported, of which only 7,040 were Asian carp. Asian carp continue to impede sport fish management efforts on the Kaskaskia River. Therefore in an effort to increase the harvest of Asian carp, the Department recommends increasing from 10 to 20 special use permits.

**Saline River** – Due to low water levels there was little commercial fish removal conducted on the Saline River last season. Only one of the three available permits was issued, resulting in the harvest of 14,712 pounds of fish, of which 13,484 were Asian carp. Fisheries sampling conducted by the Department indicate that excessive populations of commercial fishes continue to persist in the Saline River. Management goals for rivers such as the Saline are catch rates of 20kg/hour of electrofishing or less for commercial fish species. The most recent electrofishing survey resulted in a catch rate of 38kg/hour. Therefore, in an effort to help meet sportfish management objectives, the Department recommends increasing from 3 to 6 special use permits.

**Sangamon River** – Due to low water levels there was no commercial fish removal conducted on the Sangamon River last season. Based on the low catches observed on the Saline and Kaskaskia Rivers, the allotted quota of 5 permits would not achieve the desired management objectives of 20kg/hour. The most recent survey resulted in a catch rate of 47kg/hour, almost three times the management objective. Therefore, the Department recommends increasing from 5 to 15 special use permits.

**Big Muddy River** – Due to low water levels, there was no commercial fish removal conducted on the Big Muddy River last season. The most recent survey conducted on the Big Muddy showed an alarming increase in commercial fish species, with a catch rate of 250kg/hour. This was due primarily to an explosion of Asian carp populations in this river. In an effort to restore some semblance of balance to this fish population, the Department recommends increasing from 3 to 10 special use permits.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Department based the proposed rulemaking upon unpublished

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commercial harvest reporting data collected for water bodies identified the proposed rule and the Department's statewide fisheries database.

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:  
  
Nick San Diego, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
  
217/558-1224
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was inadvertently left off the most recent regulatory agendas.

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

## DEPARTMENT OF NATURAL RESOURCES

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

## PART 830

## COMMERCIAL FISHING AND MUSSELING IN CERTAIN WATERS OF THE STATE

## Section

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

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

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

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effective August 30, 2007; amended at 34 Ill. Reg. 2938, effective February 19, 2010; emergency amendment at 34 Ill. Reg. 15884, effective October 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 4187, effective February 22, 2011; amended at 36 Ill. Reg. 11161, effective July 3, 2012; amended at 36 Ill. Reg. 12120, effective July 16, 2012; emergency amendment at 37 Ill. Reg. 19912, effective December 2, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 830.80 Commercial Fishing and Musseling in Additional Waters**

- a) Additional waters may be open to targeted commercial fishing or musseling by a Special Use Permit. Any licensed commercial fisherman or musseler who wishes to fish in any water not listed under Section 830.10 or 830.20 must request permission from the Division of Fisheries. The Division will determine whether the fish, crayfish or mussel resource can support such activity and whether the activity is in the best interests of the general public. If so, the Department shall issue a Special Use Permit for targeted removal specifying the type of gear, season, species of fish, crayfish or mussel that shall be removed, and any other regulations as shall be necessary to protect the resource.
- b) The standards for determining whether or not an additional fishery will be open to targeted commercial fishing or musseling shall include: a biological sampling of the commercial fish, crayfish or mussel population to determine the relative abundance of the species present; an assessment of the impact of commercial fishing or musseling gear on sport fish, crayfish or mussel populations; a determination of the potential impact of commercial fishing or musseling activities on other water-based recreation; a determination of whether the fish are safe for public consumption (U.S. Food and Drug Administration standards are followed (USFDA 21, CFR 109.30, 2004) (no incorporation in this Part includes later amendments or editions)); and a fair and equitable allocation of commercial fishing or musseling opportunities.
- c) For commercial musseling, in addition to the criteria listed in subsection (b), both of the specific criteria listed below must be met for areas to be open or remain open to commercial harvest of selected mussel species:
  - 1) sub-legal to legal mussel (same species) ratio equal to or exceeding 2:1; and

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- 2) catch rate (CPUE) of individual specimens of a given species, as measured by a timed diver sample equal to or exceeding 60 per hour.
- d) For commercial fishing, in addition to the criteria listed in subsection (b), the specific criteria that must be met for areas to be open or remain open to commercial harvest of selected fish includes: the results of a biological survey of the fish population present that indicates the total biomass of fish species listed in Section 830.60(a), with the exception of catfish, paddlefish and shovelnose sturgeon, is more than the combined biomass of the sport fishes listed in subsection (e).
- e) The following fishes shall be considered "sport fishes" for the purposes of determining whether a body of water meets the criteria established under subsection (d):
- 1) The following members of the sunfish family (*Centrarchidae*):
    - black crappie – *Pomoxis nigromaculatus*
    - bluegill – *Lepomis macrochirus*
    - largemouth bass – *Micropterus salmoides*
    - rock bass – *Ambloplites rupestris*
    - reardear sunfish – *Lepomis microlophus*
    - smallmouth bass – *Micropterus dolomieu*
    - spotted bass – *Micropterus punctulatus*
    - white crappie – *Pomoxis annularis*
  - 2) The following members of the catfish family (*Ictaluridae*):
    - blue catfish – *Ictalurus furcatus*
    - brown bullhead – *Ameiurus nebulosus*

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black bullhead – *Ameiurus melas*

channel catfish – *Ictalurus punctatus*

flathead catfish – *Pylodictis olivaris*

yellow bullhead – *Ameiurus natalis*

- 3) The following members of the pike family (*Esocidae*):

muskellunge – *Esox masquinongy*

northern pike – *Esox lucius*

- 4) The following members of the perch family (*Percidae*):

sauger – *Sander canadensis*

walleye – *Sander vitreus*

yellow perch – *Perca flavescens*

- 5) The following members of the temperate bass family (*Moronidae*):

Striped bass – *Morone saxatilis*

Striped bass X white bass hybrid – *M. Saxatilis X*  
*M. chrysops*

White bass – *Morone chrysops*

- f) Commercial fishing or musseling Special Use Permits will not be issued:
- 1) for non-commercial purposes; or
  - 2) if an individual has been found guilty of a violation of a State Fish and Aquatic Life Code law or this Part during the past 12 months.

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- g) Commercial fishing Special Use Permits may be issued for private bodies of water if all of the following conditions have been satisfied:
- 1) The body of water is completely encompassed by land that is owned by an individual, leased by a tenant residing upon it, or controlled by ownership or lease by a private club or association.
  - 2) The commercial fisherman has obtained permission in writing from the owner, tenant or private club who controls the property; and either:
    - A) None of the commercially-harvested fish are offered for barter or sale; or
    - B) If commercially-harvested fish are offered for barter or sale, it has been determined that the fish are safe for public consumption (U.S. Food and Drug Administration (FDA) standards are followed (21 CFR 109.30 (2004))).
- h) Application procedures for targeted commercial fish removal Special Use Permits:
- 1) Illinois resident and non-resident commercial fishermen can submit an application for a Special Use Permit from June 1 through 15 of each year for any of the waters designated in subsection (i) or (j). Legally licensed Illinois resident commercial fishermen and non-resident commercial fishermen from states who share reciprocal waters (with commercial fishing reciprocal agreements, including the states of Iowa, Indiana, Missouri and Kentucky) who were under a commercial fish removal contractor or held a Special Use Permit in the previous year and provided a complete monthly report to the Department of their catch each month are eligible to obtain a Special Use Permit in the first lottery drawing. In addition to the previously stated qualifications, to be eligible for this drawing, fishermen must provide the following information to the Department: name, current address, date of birth, choice of water body (see subsections (i) and (j)). If there are more applications than permits available, a drawing will be conducted on July 1 to allocate available permits.

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- 2) Non-resident or resident commercial fishermen who did not obtain a permit in the first drawing or who desire an additional Special Use Permit can submit an application on July 1 through 15 of each year for any of the waters designated in subsection (i) or (j) for any remaining permits. If there are more applications than permits available, a drawing will be conducted on July 31 to allocate available permits.
  - 3) Any permits remaining after the first two allocations will be issued on a first come-first served basis.
- i) The following water bodies will be open to commercial removal of selected fish species under a Special Use Permit to be allocated pursuant to subsection (h) and subject to subsection (d):
- 1) Rock River – divided into 6 sections with one Special Use Permit allocated per section
  - 2) Rend Lake – maximum of ~~2540~~ Special Use Permits
  - 3) Carlyle Lake – maximum of ~~2540~~ Special Use Permits
  - 4) Mississippi River State Fish and Wildlife Area – maximum of ~~155~~ Special Use Permits
  - 5) Anderson Lake State Fish and Wildlife Area – maximum of ~~155~~ Special Use Permits
  - 6) Otter Creek in Green County (from the Route 100 crossing downstream to the Illinois River) – maximum of 1 Special Use Permit
  - 7) Macoupin Creek in Jersey and Green Counties (from the Reddish Ford Bridge downstream to the Illinois River) – maximum of 1 Special Use Permit
  - 8) Quincy Bay – maximum of 1 Special Use Permit
- j) The following water bodies, all currently open to commercial fishing under Section 830.10, will be open to commercial removal of selected fish species with

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the use of trammel and gill nets under a Special Use Permit to be allocated pursuant to subsection (h) and subject to subsection (d):

- 1) Kaskaskia River – maximum of ~~2010~~ Special Use Permits
  - 2) Sangamon River – maximum of ~~155~~ Special Use Permits
  - 3) Big Muddy River – maximum of ~~103~~ Special Use Permits
  - 4) Saline River – maximum of ~~63~~ Special Use Permits
- k) For any U.S. Fish and Wildlife Service (USFWS) special use permit issued to commercial fisherman for commercial harvest of selected fish species within USFWS National Wildlife Refuge areas, a Special Use Permit pursuant to subsection (a) must be obtained from the Department. All Illinois laws and regulations apply.

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

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- 1) Heading of the Part: Certification and Operation of Environmental Laboratories
- 2) Code Citation: 77 Ill. Adm. Code 465
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
465.120	Amend
465.125	Amend
465.200	Amend
465.310	Amend
465.330	Amend
465.340	Amend
465.350	Amend
465.360	Amend
465.370	Amend
465.390	Amend
465.400	Amend
465.430	Amend
465.APPENDIX A	Repeal
- 4) Statutory Authority: Implementing section 1401(1)(D) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Environmental Protection Act [415 ILCS 5] and the Civil Administrative Code of Illinois [20 ILCS 5], and authorized by Sections 4(o) and (p) of the Environmental Protection Act [415 ILCS 5/4(o) and (p)] and Sections 2310-575, 2310-580, and 2310-30 of the Civil Administrative Code of Illinois [20 ILCS 2310]
- 5) A Complete Description of the Subjects and Issues Involved: To establish compliance with 40 CFR Parts 141 and 142, National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule as published in the Federal Register, Vol. 78, No. 30, February 13, 2013 by:
  - Updating reference 40 CFR 141, 142, National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule (Including E. coli), April 15, 2013)
  - Updating referenced versions of Standard Methods for the Examination of Water and Wastewater eliminating the 18<sup>th</sup> and 19<sup>th</sup> editions and adding the 21<sup>st</sup> and online editions.

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- Repealing Appendix A – Colisure is referenced in added versions of Standard Methods
- Replacing Colitag method with Modified Colitag method
- Eliminating Fluorocult LMX, Coliscan, and R2A

Adding certification for *Cryptosporidium* by:

- Adding reference to the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 Rule) (40 CFR 9, 141, 142)
- Adding reference to "Supplement 2 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water", November 2012, known as EPA 815-F-08-006

Updating Section 465.360 to contain all methods referenced in federal or state rules.

Adding reference to "Supplement 1 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water", June 2008, known as EPA 815-F-08-006.

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

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 rulemaking 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 will impose a State Mandate on units of local government.

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- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of 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, IL 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Laboratories certified for water microbiology
  - B) Reporting, bookkeeping or other procedures required for compliance: Laboratory quality control and reports of sample analysis
  - C) Types of professional skills necessary for compliance: Cryptosporidium supervisors and analysts must have bench experience with Cryptosporidium and FA microscopy and with using EPA method 1623 or 1623.1.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER d: LABORATORIES AND BLOOD BANKSPART 465  
CERTIFICATION AND OPERATION OF ENVIRONMENTAL LABORATORIES

## SUBPART A: GENERAL PROVISIONS

Section	
465.100	Authority (Repealed)
465.110	Scope and Applicability
465.120	Definitions
465.125	Incorporated and Referenced Materials
465.130	Certification Procedure
465.140	Conditions Governing the Use of Certificates
465.150	Provisional Certification
465.170	Changes in Ownership or Operations
465.180	Revocation of Certification
465.190	Subcontracting by Certified Laboratories
465.200	Proficiency Testing Samples (PTs)
465.210	Authority of Certification Officers
465.220	Hearing, Decision and Appeal
465.230	Liability
465.240	Reciprocity Agreements

SUBPART B: MICROBIOLOGICAL ANALYSES  
OF PUBLIC WATER SUPPLY SAMPLES

Section	
465.300	Scope and Applicability
465.310	Personnel Requirements
465.320	Laboratory Facilities
465.330	Laboratory Equipment
465.340	Laboratory Glassware, Plastic Ware and Metal Utensils
465.350	General Laboratory Practices
465.360	Methodology
465.370	Sample Collection, Handling and Preservation
465.380	Standards for Laboratory Pure Water

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- 465.390 General Quality Control Procedures  
465.400 Quality Controls for Media, Equipment and Supplies  
465.410 Data Handling  
465.420 Record Maintenance  
465.430 Action Response to Laboratory Results

465.APPENDIX A Colisure P/A and Colisure Multiple Tube P/A ([Repealed](#))

AUTHORITY: Implementing Section 1401(1)(D) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act [415 ILCS 5] and the Civil Administrative Code of Illinois [20 ILCS 5], and authorized by Sections 4(o) and (p) of the Illinois Environmental Protection Act [415 ILCS 5/4(o) and (p)] and Sections 2310-575, 2310-580, and 2310-30 of the Civil Administrative Code of Illinois [20 ILCS 2310].

SOURCE: Adopted at 22 Ill. Reg. 14294, effective July 15, 1998; amended at 35 Ill. Reg. 14494, effective August 12, 2011; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 465.120 Definitions**

For purposes of this Part, unless otherwise specifically defined or the context clearly requires a different meaning:

"Act" means Sections 4(o) and (p) of the Environmental Protection Act [415 ILCS 5/4(o) and (p)].

"American Association for Laboratory Accreditation" or "A2LA" means an association that offers accreditation of proficiency testing providers, located at 5301 Buckeystown Pike, Suite 350, Frederick MD 21704, 301-644-3248

"Analyst" means any person who performs analyses for certain or all parameters on samples submitted to the environmental laboratory and who meets the qualifications set forth in Section 465.310(b).

"ASTM International" or "ASTM" means the American Society for Testing and Materials, West Conshohocken PA, a not-for-profit, voluntary standards development system, located at 100 Barr Harbor Drive, P.O. Box C700, West

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Conshohocken PA.

"Certification" means a status of approval granted to an environmental laboratory that meets the criteria established by this Part or in accordance with a reciprocity agreement entered into pursuant to Section 465.240. Certification is not a guarantee of the validity of the data generated.

"Certification Officer" means any person who is designated by the Department to inspect and evaluate environmental laboratories for compliance in meeting the criteria set forth in this Part. Certification officers shall meet the educational and experience qualifications for laboratory supervisors as set forth in Section 465.310(a).

"Department" means the Illinois Department of Public Health.

"Deficiency" means a failure of an environmental laboratory to meet any requirement of this Part.

"Environmental Laboratory" means any facility that performs analyses on environmental samples ~~in order~~ to determine the quality of food, milk, public water supplies, surface water, ground water, recreational waters, wastewater, air, or land.

"General Education Development Tests" or "GED Tests" means a group of five subject tests that, when passed, certify that the test taker has American or Canadian high school-level skills.

"Laboratory Pure Water" means water meeting the standards set forth in Section 465.380.

"Laboratory Supervisor" means a person who supervises the performance of the analytical procedures within an environmental laboratory and who meets the qualifications set forth in Section 465.310(a).

"Major Remodeling" means any remodeling of the laboratory facility that requires the acquisition of a local building permit.

~~"MUG" means 4-methyl-umbelliferyl-beta-D-glucuronide.~~

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~~"NIST" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (formerly National Bureau of Standards).~~

"P-A Coliform Test" means "Presence-Absence Coliform Test".

"Proficiency Testing Samples" or "PTs" means samples provided to a laboratory for the purpose of demonstrating that the laboratory can successfully analyze the sample within acceptance limits specified in 40 CFR 141.2 . The ~~qualitative and/or quantitative~~ composition of the reference material is unknown to the laboratory at the time of the analysis.

"Provisional Certification" means a certification status granted to an environmental laboratory ~~in order~~ to allow time for the correction of a deficiency. Failure to correct a deficiency during the provisional certification period allows the Department to revoke certification as specified in Section 465.180. While on provisional certification, an environmental laboratory remains approved for the analyses covered by its certification.

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

"Quality Assurance" means an integrated system of management activities involving planning, quality control, quality assessment, reporting and quality improvement to ensure that a product or service meets defined standards of quality with a stated level of confidence.

"Quality Assurance Plan" means a comprehensive plan detailing the aspects of quality assurance needed to adequately fulfill the data needs of a program. This document is required before the laboratory is certified.

"Quality Control" means the overall system of technical activities whose purpose is to measure and control the quality of a product or service so that it meets the

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needs of the users; operational techniques and activities that are used to fulfill requirements for quality.

"Readily Accessible" means that the referenced item is located upon the premises.

~~"Standard Methods" means "Standard Methods for the Examination of Water and Wastewater," 21<sup>st</sup> Edition, 2005, American Public Health Association, 1015 Fifteenth Street, NW, Washington DC 20001, 202 628 8303.~~

"Standard Operating Procedure" means a written document that details the method of an operation, analysis or action, the techniques and procedures of which are thoroughly prescribed and that is officially approved as the method for performing certain routine or repetitive tasks.

~~"State" means the Illinois Environmental Protection Agency for Community Public Water Supply samples and Illinois Department of Public Health for Non-Community Public Water Supply samples.~~

"Too Numerous to Count" or "TNTC" means ~~"too numerous to count"~~ or greater than 200 colonies on the membrane filter in the absence of detectable coliforms when analyzing drinking water for total coliforms.

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

**Section 465.125 Incorporated and Referenced Materials**

- a) ~~Abbreviations and short name listing of references. The following names and abbreviated names, presented in alphabetical order, are used in this Part to refer to materials incorporated by reference:~~
- 1) ~~"Colitag<sup>®</sup> Test" means "Colitag<sup>®</sup> Product as a Test for Detection and Identification of Coliforms and E. coli Bacteria in Drinking Water and Source Water as Required in National Primary Drinking Water Regulations," 2004, available from CPI International, 5580 Skylane Boulevard, Santa Rosa CA 95403, 707 525 5788.~~
  - 2) ~~"Membrane Filter Technique using Chromocult Coliform Agar" means Chromocult Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and~~

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~~Escherichia coli in Finished Waters, November 2000. Version 1.0, available from EMD Chemicals Incorporated, 480 South Democrat Road, Gibbstown NJ 08027, 800 222 0342.~~

- 3) ~~"ONPG-Mug Test" (meaning "minimal medium ortho-nitrophenyl beta-d-galactopyranoside 4-methyl-umbelliferyl-beta-d-glucuronide test"), also called the "Autoanalysis-Colilert System," is Method 9223, available in "Standard Methods for the Examination of Water and Wastewater," 21<sup>st</sup> Edition, 2005, from American Public Health Association, 1015 Fifteenth Street, NW, Washington DC 20001, 202-628-8303.~~
- 4) ~~"New medium for the simultaneous detection of total coliform and Escherichia Coli in water" by Brenner, K.P., et al., 1993, Applied and Environmental Microbiology 59:3534-3544. EPA Method 1604, which can be found online at [www.epa.gov/microbes](http://www.epa.gov/microbes), is identical.~~
- 5) ~~"Readycult Coliforms 100 Presence/Absence Test" and "Fluorocult LMX" means "Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," Version 1.1, 2007, available from EMD Chemicals Incorporated, 480 South Democrat Road, Gibbstown NJ 08027, 800 222 0342.~~
- 6) ~~"SimPlate Method" means "IDEXX SimPlate<sup>TM</sup> HPC Test Method for Heterotrophs in Water," approved under USEPA 40 CFR 141.74, Vol. 97, No. 209, Oct. 29, 2002, and as included in Standard Methods for Water and Wastewater, On-Line Edition, Section 9215E, available from IDEXX Laboratories, Incorporated, One IDEXX Drive, Westbrook ME 04092, 800 321 0207 [www.idexx.com](http://www.idexx.com).~~
- 7) ~~"Standard Methods" means "Standard Methods for the Examination of Water and Wastewater," 21<sup>st</sup> Edition, 2005 (referred to as "Standard Methods"). American Public Health Association, 1015 Fifteenth Street, NW, Washington DC 20001, 202-628-8303.~~

ab) The following publications and federal regulations are incorporated by reference:

- 1) "Chromocult Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," November 2000, Version 1.0;

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~~available from:~~ EMD Chemicals Inc. (an affiliate of Merck KGaA, Darmstadt, Germany), 480 S. Democrat Road, Gibbstown NJ 08027-1297, ~~Telephone:~~ 800-222-0342. [www.emdchemicals.com](http://www.emdchemicals.com).

- 2) "Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," Version 1.1 2007, available from EMD Chemicals Inc., 480 S. Democrat Road, Gibbstown NJ 08027-1297, ~~Telephone:~~ 800-222-0342. [www.emdchemicals.com](http://www.emdchemicals.com).
- 3) "IDEXX SimPlate™ HPC Test Method for Heterotrophs in Water," November 2000. IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092, ~~Telephone:~~ 800-321-0207.
- 4) ["Membrane Filtration Method m-ColiBlue24® Broth" \(m-ColiBlue24®\), Revision 2, August 17, 1999; available from Hach Company, P.O. Box 389, Loveland CO 80539, 800-604-3493.](#)
- 4) ~~United States Environmental Protection Agency—Manual for the Certification of Laboratories Analyzing Drinking Water, 5<sup>th</sup> edition, January 2005, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460, 202-272-0167.~~
- 5) Method 1604: Total Coliforms and Escherichia coli in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium), September 2002, known as EPA 821-R-02-024; [available from the](#) U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC, 20460, 202-272-0167.
- 6) [Method 1623 Cryptosporidium and Giardia in Water by Filtration/IMS/FA, December 2005, known as EPA 815-R-05-002; available from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460, 202-272-0167.](#)
- 7) [Method 1623.1 Cryptosporidium and Giardia in Water by Filtration/IMS/FA, January 2012, known as EPA 816-R-12-001; available](#)

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from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460, 202-272-0167.

- 8) "Charm E\*Colite™ Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Drinking Water" (E\*Colite®), January 9, 1998; available from Charm Sciences, Inc., 659 Andover Street, Lawrence MA 01843-1032, 800-343-2170.
- 9) "Modified Colitag™ Product as a Test for Detection and Identification of Coliforms and E. coli Bacteria in Drinking Water and Source Water as Required in the National Primary Drinking Water Regulations" (Modified Colitag®); available from CPI International, 5580 Skylane Boulevard, Santa Rosa CA 95403, 707-525-5788.
- 106) Manual for the Certification of Laboratories Analyzing Drinking Water," USEPA 570/9-90/008A, 5<sup>th</sup> Edition (January 2005). A copy of this manual can be obtained by contacting the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460, 202-272-016720465.
- 11) Supplement 1 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water, June 2008, known as EPA 815-F-08-006; available from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460. Telephone: 202-272-0167.
- 12) Supplement 2 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water, November 2012, known as EPA 815-F-12-006; available from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460. Telephone: 202-272-0167.
- 137) United States Environmental Protection Agency National Primary Drinking Water Regulations (40 CFR 141), July 2006; available from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460, 202-272-0167.
- 148) Occupational Safety and Health Standards (29 CFR 1910), July 2007; available from the U.S. Department of Labor, Occupational Safety &

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Health Administration, 200 Constitution Avenue, NW, Washington DC 20210.

- 9) ~~40 CFR 141, 142, National Primary Drinking Water Regulations; Total Coliforms (Including Fecal Coliforms and E. coli) (June 29, 1989).~~
- 10) ~~40 CFR 9, 141, 142, National Primary Drinking Water Regulations; Interim Enhanced Surface Water Treatment (December 16, 1998).~~
- 15) 40 CFR 141, 142, National Primary Drinking Water Regulations; Revisions to the Total Coliform Rule (February 13, 2012).
- ~~16~~14) 40 CFR 9, 141, 142 National Primary Drinking Water Regulations; Ground Water Rule (November 8, 2006).
- 17) 40 CFR 9, 141, 142, National Primary Drinking Water Regulations; Long Term 2 Enhanced Surface Water Treatment Rule (January 5, 2006).
- ~~18~~12) Good Automated Laboratory Practices, known as EPA 2185, Office of Information Management, Research Triangle Park NC 27711, August 10, 1995.
- 19) Standard Methods for the Examination of Water and Wastewater, either the 20<sup>th</sup> Edition, 1998; 21<sup>st</sup> Edition, 2005; or 22<sup>nd</sup> Edition, 2012; and online version as cited per method in 40 CFR 141 and 142, February 13, 2013; available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington DC 20001.
- 20) ASTM E617-13, Standard Specification for Laboratory Weights and Precision Mass Standards; available from ASTM International (ASTM); 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken PA, 610-832-9500, www.astm.org.
- 21) NIST Handbook 150-2G, National Voluntary Laboratory Accreditation Program, Calibration Laboratories, Technical Guide for Mechanical Measurements, March 2004; available from National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg MD 20899-2140, 301-975-4016.

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- be) These incorporations by reference refer to the edition of the document on the date specified and do not include any subsequent amendments or editions.
- ce) The following laws and rules are referenced in this Part:
- 1) Safe Drinking Water Act (42 USC 300f(1)(D))
  - 2) Civil Administrative Code of Illinois [20 ILCS 5]
  - 3) Illinois Environmental Protection Act [415 ILCS 5]
  - 4) Illinois Plumbing Code, Illinois Department of Public Health (77 Ill. Adm. Code 890)
  - 5) Primary Drinking Water Standards, Pollution Control Board (35 Ill. Adm. Code 611)
  - 6) Electronic Commerce Security Act [5 ILCS 175]
  - 7) Local Records Act [50 ILCS 205]

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

**Section 465.200 Proficiency Testing Samples (PTs)**

- a) An environmental laboratory is required to participate in proficiency testing samples (PTs) analyses for each analytical parameter or method for which it seeks or wishes to maintain certification in accordance with the certification procedures of Section 465.130(c), the certification renewal procedures of Section 465.140(a), and the quality assurance requirements contained in Subpart B of this Part.
- b) Heterotrophic plate count and coliform Microbiological Water Supply (WS) PT samples shall be analyzed annually (every 12 months) ~~Cryptosporidium PT samples shall be analyzed every four to six months.~~ PT samples shall be analyzed in the same manner as routine samples. The laboratory shall document~~be able to provide documentation~~ that the analyst analyzing any PT sample is a laboratory employee who routinely analyzes drinking water compliance samples.

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- c) Laboratories shall acquire the PT sample from a provider accredited under A2LAa supplier acceptable to the Department.
- d) For methods used to test the presence or absence of an organism in a sample, each set shall contain 10~~ten~~ samples, all shipped at the same time in either a lyophilized, dehydrated, or aqueous state. The set shall include samples, in various combinations, that contain total coliforms, fecal coliforms, E. coli, non-coliforms, and at least one blank. Each set shall be used only with a single analytical method. For a PT result to be acceptable, the laboratory shall have no false negative results and no more than one false positive result for each set.~~To be acceptable, a laboratory shall correctly analyze a minimum of nine of ten samples, with no false negative result (i.e., a single false positive result may be acceptable).~~  
~~For quantitative methods, one PT sample may be analyzed.~~
- e) For quantitative methods, each set shall contain one sample. For a PT to be acceptable, the laboratory result shall be statistically acceptable as determined by the PT provider.
- f)e) Unless otherwise specified in Subpart B ~~of this Part~~, within 60 days after receipt of a PT sample, the environmental laboratory shall analyze the sample and report the test results to the PT provider~~Department~~. The PT provider shall submit the laboratory's results and acceptable ranges to the Department. No fee shall be charged to the Department for the analyses.

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

SUBPART B: MICROBIOLOGICAL ANALYSES  
OF PUBLIC WATER SUPPLY SAMPLES

**Section 465.310 Personnel Requirements**

- a) The microbiology laboratory supervisor shall ~~have be a person holding~~ a minimum of a bachelor's degree in microbiology, biology, chemistry, or related natural or physical science field, shall have completed a training course conducted or approved by the Department, and shall have received Department approval to serve as laboratory supervisor. In addition, the laboratory supervisor shall have had a minimum of 80 hours of on-the-job training in water microbiology at a certified laboratory. The supervisor shall demonstrate the ability to properly perform representative test procedures under his or her supervision while under

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observation by the certification officer. A laboratory supervisor shall be a full-time employee who is on-site at the certified laboratory. If the laboratory supervisor position becomes vacant, then a replacement supervisor shall be in place within 60 days.

- b) The parasitology principal analyst/supervisor shall have a minimum of a bachelor's degree in microbiology or a closely related field, shall have a minimum of one year of bench experience with Cryptosporidium and immunofluorescence assay (FA) microscopy, have a minimum of six months experience using Method 1623 or 1623.1, and have analyzed a minimum of 100 samples using Method 1623 or 1623.1. The principal analyst/supervisor shall participate in a monthly analyst verification, shall supervise and verify the processing and microscopy in the laboratory, and may perform the same duties as an analyst. The principal analyst/supervisor shall ensure that all laboratory personnel are able to perform the analyses to which they are assigned and that all data reported by the laboratory meet the required quality assurance and regulatory criteria.
- ~~cb)~~ A microbiology~~An analyst is a person who~~ performs microbiological analyses on water, shall have~~has~~ a minimum of a high school diploma ~~in academic or laboratory oriented vocational courses~~, and shall have~~has had~~ a minimum of ~~three months bench experience in a microbiological analytical laboratory~~. The analyst ~~shall have~~ a minimum of 30 days of on-the-job training in drinking water microbiology under an experienced analyst. In addition, an analyst shall be able to demonstrate ability to properly perform representative test procedures with which he or she is involved while under the observation of the certification officer. Analysts shall be under the direct supervision of the laboratory supervisor. Before analyzing compliance samples, the analyst shall demonstrate acceptable results on samples spiked with known culture controls.
- d) A parasitology analyst establishes Kohler illumination for the microscope, may perform the same duties as a technician, and is able to examine samples using the microscope. An analyst shall have a minimum of two years of college with courses in microbiology or a closely related field, a minimum of six months of bench experience with Cryptosporidium and FA microscopy, and a minimum of three months of experience using Method 1623 or 1623.1. The analyst shall participate in a monthly analyst verification.
- e) A parasitology technician filters samples, performs centrifugation, elution, concentration, and purification using immunomagnetic separation (IMS), and

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prepares purified samples on slides for microscopic examination, but does not perform microscopic protozoan identification. A technician shall have a minimum of three months of experience in filter extraction and processing of protozoa samples by Method 1623 or 1623.1 and have analyzed a minimum of 50 samples using Method 1623 or 1623.1 for the specific procedures that he or she will be using.

- fe) The Department may waive the need for the academic training required by this Section, on a case-by-case basis, for highly experienced analysts who have passed the GED tests.
- g) The Department may ~~also~~ waive the need for the college education and above-specified training required by this Section, on a case-by-case basis, for supervisors of microbiology laboratories that analyze only samples from drinking water systems with which the laboratory is associated. The supervisor shall have a minimum of 10 years experience in water microbiology and shall have demonstrated a working knowledge of Quality Assurance activities as justification for the waiver.
- h) The Department may waive college education in lieu of experience for a parasitology supervisor or analyst who has greater than 10 years experience of protozoan identification duties.
- i) If a waiver ~~for supervisor~~ is granted, the Department will prepare a written and signed justification for the waiver.

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

**Section 465.330 Laboratory Equipment**

Only those instruments that are needed to analyze for the parameters for which the laboratory is being certified are required, but those instruments shall meet the following minimum specifications. A laboratory performing all of the analyses described in Section 465.360 shall have, or have access to, within the same building, all of the equipment listed in this Section with the minimum specifications cited.

- a) A top loading or trip pan balance shall be clean, not corroded, ~~and provided with standardized Class S or S-1, or equivalent ASTM 1, 2, or 3, weights, certified by the manufacturer as meeting the requirements established by NIST. The~~

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~~certificate of accuracy shall accompany the weights.~~

- 1) A torsion or trip pan balance used for weighing materials of 2 grams or more shall detect 100 mg of weight accurately at a 150 gram load.
  - 2) An analytical balance used for weighing quantities of less than 2 grams shall be sensitive to 1 mg at a 10 gram load.
- b) A magnetic stirrer shall be capable of achieving variable speeds and shall be used with a Teflon-coated stirring bar. The magnetic stirrer may be equipped with a heating element.
  - c) A pH meter shall have an accuracy of at least  $\pm 0.1$  units and a scale readability of at least  $\pm 0.1$  units. The pH meter may be either line/bench or battery/portable operated.
  - d) A conductivity meter and cell combination, suitable for checking laboratory pure water quality, shall be readable in ohms or mhos, and have a range capable of determining the conductivity or resistivity of laboratory pure water as described in Section 465.380(a). The conductivity meter may be either line/bench or battery/portable operated.
  - e) An autoclave shall be horizontal-chambered and shall meet all of the following specifications:
    - 1) When observed during the operational cycle or when time-temperature charts are read, the autoclave shall be in good operating condition;
    - 2) An operating safety valve shall be included;
    - 3) Separate temperature and pressure gauges shall be located on the exhaust side;
    - 4) The autoclave shall reach and maintain a temperature of  $121^{\circ} \pm 1^{\circ} \text{C}$  during the sterilization cycle, and no more than 45 minutes shall be required for a complete cycle of carbohydrate media;
    - 5) Depressurization shall not produce gas bubbles in fermentation media; and

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- 6) Pressure cookers shall not be used.
- f) A hot-air sterilization oven shall operate at a minimum of 175° C, shall be equipped with a thermometer inserted through the top porthole or be equipped with a temperature-recording device, and shall be equipped with a thermostatic control that will not allow the temperature to deviate by more than  $\pm 5^{\circ}$  C from the temperature setting.
- g) An incubation unit shall maintain an internal temperature of  $35^{\circ} \pm 0.5^{\circ}$  C or  $36^{\circ} \pm 1^{\circ}$  C or  $44.5^{\circ} \pm 0.2^{\circ}$  C and shall be of the following type: air or water jacketed incubator, incubator room, water bath, or aluminum block incubator. Incubation units of the aluminum block type shall have culture dishes and tubes that are snug fitting in the block. Water baths shall be circulating with covers. Laboratories that use the enzyme substrate tests with air-type incubators shall note the product incubation details indicated in Section 465.360(h)(7).
- h) An ultraviolet (UV) sterilizer shall be free from radiation leaks and shall be UV efficiency tested quarterly as described in "Standard Methods for the Examination of Water and Wastewater." Proper eye protection shall be available for users of the ultraviolet sterilizer. The ultraviolet sterilizer shall not be used as a substitute for an autoclave. The unit shall be disconnected monthly and the lamps cleaned by wiping with a soft cloth moistened with ethanol.
- i) A refrigerator shall maintain a temperature of between 1° and 5° C and shall be equipped with a thermometer located on the top shelf. The thermometer shall be graduated in not greater than 1° C increments, and the thermometer bulb shall be immersed in liquid.
- j) An agar tempering water bath shall be of appropriate size for holding melted medium and shall be thermostatically controlled at  $45^{\circ} \pm 1^{\circ}$  C.
- k) The following standards shall apply to temperature-monitoring devices:
- 1) Glass or electronic thermometers shall be graduated in not greater than 0.5° C units for use in 35° or 36° C incubators.
  - 2) Glass or electronic thermometers shall be graduated in not greater than 0.2° C units for use in 44.5° C water baths or aluminum block type incubators.

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- 3) Glass or electronic thermometers shall be graduated in not greater than 1.0° C units for use in 55° to 65° C incubators.
- 4) Electronic thermometers with thermocouplings and continuous temperature-recording devices shall be sensitive to not greater than 0.5° C when used in 35° or 36° C incubators, shall be sensitive to not greater than 0.2° C when used for 44.5° C water baths or aluminum block type incubators, and shall be sensitive to not greater than 1° C when used on 55° to 65° C incubators.
- 5) An NIST certified thermometer, or one of equivalent accuracy graduated in 0.2° C or less, shall be available for calibration use and shall be accompanied by its certification papers and procedures for use. All thermometers and temperature-recording devices shall be calibrated annually at temperature of use against the certified thermometer to within  $\pm 1.0^\circ$  C. NIST thermometers shall be calibrated at least every five years at each temperature of use.
- 6) Each laboratory shall have a maximum registering thermometer in the range of 80° to 200° C graduated in increments no greater than 1° C.
- 7) Each laboratory shall use separate thermometers for determining the temperatures of water baths, ovens, autoclaves, samples, refrigerators, storage areas, etc.
- 8) The liquid column of glass thermometers shall have no separations.
- 9) Dial thermometers are not permitted.
- l) Optical counting equipment shall include a low-power magnification device of the dissecting or stereomicroscope type with a magnification power of 10 to 15 diameters, and an external daylight fluorescent light source for sheen discernment at an angle of 60° to 80° above the colonies.
- m) A mechanical hand tally shall be available for counting colonies on membrane filters or agar pour plates.
- n) Where metal inoculation loops are used, loops shall be of 22 to 24 gauge chrome,

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or platinum-iridium wire, with loop diameters of at least 3 mm. Hot-air sterilized wooden applicator sticks, pre-sterilized cotton swabs or pre-sterilized plastic loops may be used.

- o) Membrane filter equipment shall be non-leaking, uncorroded, and made of stainless steel, glass, or autoclavable plastic. Disposable single-use equipment made of plastic is also acceptable. Metal plating on membrane filter equipment shall not be worn so as to expose base metal. ~~Calibration shall be checked before first use with Class A graduated cylinders, and a record shall be maintained. Tolerance shall be  $\pm 2.5\%$ .~~
- p) Membrane filters shall be white, grid marked, 47 mm diameter, with 0.45 micron pore size, and made from cellulose ester materials. Another pore size may be used if the manufacturer gives performance data equal to or better than the 0.45 micron membrane filter. Membrane filters shall be autoclavable or presterilized.
- q) Absorbent pads shall be of uniform thickness to permit 1.8 to 2.2 mL media absorption and shall be autoclavable or presterilized. Filter paper shall be free from growth-inhibiting substances.
- r) Forceps used to handle membrane filters and absorbent pads shall have a round tip without corrugations.

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

**Section 465.340 Laboratory Glassware, Plastic Ware and Metal Utensils**

- a) Except for disposable plastic ware, items shall be resistant to effects of corrosion, high temperature, and vigorous cleaning operations. Metal utensils made of stainless steel are preferred. Plastic items shall be of inert, non-toxic material and shall retain accurate graduations or calibration marks after repeated autoclaving. Glassware that is used for purposes that may subject it to damage from heat or chemicals shall be of borosilicate glass. All glassware shall be free of chips, cracks, or excessive etching. All volumetric glassware shall be Class A, denoting that it meets federal specifications and is certified by the manufacturer as meeting the standards established by ~~the American Society for Testing and Materials (ASTM)~~.
- b) Graduated cylinders for measurement of sample volumes shall have a tolerance of

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2.5% or less. Precalibrated sample containers shall have clearly marked volumes of 2.5% tolerance. ~~The calibration of each precalibrated sample container shall be checked before first use by measuring the volume of 10 calibrated containers per lot.~~

- c) Media-preparation utensils shall be of borosilicate glass or stainless steel, and shall be clean and free from foreign residues or dried medium.
- d) ~~Micropipettors~~Micropipettors (also referred to as Mechanical Pipettors or Pipettors~~Pipettors or Pipettors~~) shall meet the specifications set forth in "Standard Methods for the Examination of Water and Wastewater." Pipets delivering volumes of 10 mL or less shall be accurate to within a 2.5% tolerance. Micropipettors~~Micropipettors~~ shall be fixed volume and calibrated. Micropipettors~~Micropipettors~~ shall be used with tips that are sterile. ~~Micropipettors shall be calibrated annually and replaced if the precision or accuracy is greater than 2.5% tolerance. Micropipettors shall be calibrated with 10 consecutive weighings annually (using a separate tip for each weighing), and the average of all 10 weighings shall be  $\pm 2.5\%$  of specified delivery volume. For volumes  $\geq 1.0$  mL, check volume by using a Class A graduated cylinder.~~ Containers for glass pipets shall be of either stainless steel or aluminum. Opened packages of sterile disposable pipets shall be securely resealed between uses. A pipet aid shall be used when using pipets; mouth pipetting is prohibited. The pipet shall be clean and dry. Pipet aids used to pipet outside of the certified water microbiology testing laboratory shall not be used.
- e) Culture dishes shall be sterile and shall be of the tight-lid or loose-lid plastic or loose-lid glass type. In addition, culture dishes shall be of 100 mm x 15 mm (for Plate Count), 50mm x 12 mm, 60 mm x 15 mm, or other appropriate size (for membrane filter methods), and shall be clear, flat bottomed, and free from bubbles and scratches. Containers for culture dishes shall be of aluminum or stainless steel, or culture dishes shall be wrapped in heavy aluminum foil or char-resistant paper. Open packages of sterile disposable culture dishes shall be securely resealed between uses. Loose-lid dishes shall be incubated in a tight-fitting container, e.g., a plastic vegetable crisper containing a moistened paper towel, to prevent dehydration of membrane filter and medium.
- f) Culture tubes shall be of borosilicate glass or other corrosion-resistant glass, and shall be of sufficient size to contain culture medium, as well as the sample portions employed, without being more than three-fourths full. Culture tube

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closures shall be loose-fitting stainless steel, or plastic caps, or aluminum caps, or plastic screw caps with non-toxic liners. Cotton plugs and foam plugs shall not be used.

- g) Dilution bottles shall be of borosilicate glass or other corrosion-resistant glass or autoclavable plastic and shall be free of chips and cracks at the lip. A graduation level shall be distinctly marked on the side of dilution bottles at 99 mL. Dilution bottle closures shall be plastic screw caps with leak-proof liners and shall not produce toxic substances during the sterilization process. ~~The accuracy of dilution blank volumes shall be verified by checking one bottle for every 25 prepared or purchased. The tolerance shall be ±2 mL for a 99 mL volume.~~
- h) Sample bottles shall be sterile, of plastic or hard glass, and wide mouthed, and shall have a capacity of at least 120 mL (4 oz.) to allow at least a 1-inch head space. Reusable sample bottle closures shall be glass stoppers or screw caps (metal or plastic), capable of withstanding repeated sterilization, with leak-proof liners, and shall not produce toxic substances during the sterilization process. Glass-stoppered bottle closures shall be covered with aluminum foil or char-resistant paper for sterilization. Metal caps with exposed bare metal on the inside shall not be used. Presterilized containers including bags, with or without a dechlorinating reagent, may be used.

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

**Section 465.350 General Laboratory Practices**

- a) The following requirements shall apply to sterilization procedures:
  - 1) Autoclaving of the following items shall be carried out at 121° ± 1° C for the durations specified below:

Item	Minimum duration of autoclaving at 121° ± 1° C
Membrane filters and pads	10 minutes
Carbohydrate-containing media (lauryl tryptose, brilliant green lactose bile broth, etc.)	12-15 minutes

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Contaminated materials and discarded tests	30 minutes
Membrane filter assemblies (wrapped), sample collection bottles (empty), and individual glassware items	15 minutes
Rinse water volumes of 500 mL to 1000 mL	45 minutes
Rinse water volumes in excess of 1000 mL	Time adjusted for volume; check for sterility
Dilution water blanks	15 minutes

- 2) Membrane filters and pads and all media shall be removed from the autoclave immediately after completion of the sterilization cycle.
  - 3) The maximum elapsed time for exposure of carbohydrate-containing media to any heat (from the time of closing the loaded autoclave to unloading) shall be 45 minutes.
  - 4) Membrane filter assemblies shall be autoclaved between each sample filtration series. A UV sterilizer or boiling water may be used on membrane filter assemblies for at least two minutes to prevent bacterial carryover between sample filtrations, but shall not be used as a substitute for autoclaving between sample filtration series.
  - 5) Dried glassware to be sterilized in a hot-air sterilizing oven shall be kept at  $175^{\circ} \pm 5^{\circ} \text{C}$  for at least 2 hours.
  - 6) Empty sample containers shall be moistened with several drops of distilled water before autoclaving to prevent an "airlock" sterilization failure.
- b) Laboratory pure water, which may be distilled or deionized, or other processed water shall meet the standards set forth in Section 465.380. Only water determined to be laboratory pure water shall be used for performing

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bacteriological analyses.

- c) Rinse and dilution water shall be prepared in the following manner:
- 1) A stock phosphate buffer solution of potassium dihydrogen phosphate ( $\text{KH}_2\text{PO}_4$ ) and a magnesium chloride solution shall be prepared as specified in "Standard Methods for the Examination of Water and Wastewater." The pH of stock phosphate buffer solution is  $7.2 \pm 0.5$ .
  - 2) The phosphate buffer solution and magnesium chloride solution shall be autoclaved or filter sterilized, labeled, dated, and stored at  $1^\circ$  to  $5^\circ\text{C}$ .
  - 3) The stored stock phosphate buffer solution and magnesium chloride solution shall be free of turbidity.
  - 4) Rinse and dilution water shall be prepared by adding 1.25 mL of stock phosphate buffer solution and 5.0 mL of magnesium chloride solution per liter of laboratory pure water.
  - 5) Alternatively, commercially prepared phosphate buffer and magnesium chloride solution may be used when preparing rinse and dilution water. The date received, expiration date, proof of sterility, and pH of phosphate buffer shall be recorded.
- d) The following minimum requirements shall be met for storing and preparing media:
- 1) Laboratories shall use commercial dehydrated media or commercially manufactured prepared media for routine bacteriological procedures.
  - 2) All media shall be prepared according to the media specifications of "Standard Methods for the Examination of Water and Wastewater."
  - 3) Dehydrated media containers shall be kept tightly closed and stored in a cool, dry location. Discolored or caked dehydrated media shall not be used.
  - 4) All water used shall be laboratory pure water.

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- 5) Dissolution of the media shall be completed before dispensing to culture tubes or bottles.
- 6) Multiple Tube Fermentation (MTF) media, when prepared in tubes with loose-fitting caps, shall be used within one week after preparation. If MTF media are refrigerated after sterilization, they shall be incubated overnight at 35° C to confirm usability. Tubes of MTF media showing growth or gas bubbles shall be discarded. Refrigerated M Endo agar ~~LES~~ shall be used within two weeks after refrigeration ~~or discarded~~.
- 7) MTF media in screw cap containers may be held up to three months, provided that the media are stored in the dark and evaporation does not exceed 1.0 mL per 10 mL total volume.
- ~~8) The laboratory using commercially manufactured prepared media shall record the date received, type of medium, lot number, sample performance when checked against cultures known to give positive and negative results, and pH verification. Media shall be discarded by the manufacturer's expiration date.~~
- ~~9) Each new lot of prepared commercial medium and each batch of laboratory prepared medium shall be checked before use with positive and negative culture controls. Additionally, each batch of prepared media (whether commercially prepared or laboratory prepared) shall be checked for sterility. Control organisms (total coliform, fecal coliform, and/or E. coli, as appropriate) shall be either known stock cultures (periodically checked for purity) or commercially available cultures impregnated with the organism. Results shall be recorded. The following table identifies a few positive and negative culture controls that laboratories might consider.~~

<del>Group</del>	<del>Positive Culture Control</del>	<del>Negative Culture Control</del>
<del>Total Coliforms</del>	<del>Escherichia coli Enterobacter aerogenes</del>	<del>Staphylococcus aureus Proteus vulgaris Pseudomonas aeruginosa</del>
<del>Fecal Coliforms</del>	<del>Escherichia coli Klebsiella pneumoniae (thermotolerant)</del>	<del>Enterobacter aerogenes</del>
<del>E. coli</del>	<del>Escherichia coli (MUG positive strain)</del>	<del>Enterobacter aerogenes Klebsiella pneumoniae</del>

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		<del>(thermotolerant)</del>
<del>Enterococci</del>	<del>Enterococcus faecalis Enterococcus faecium</del>	<del>Staphylococcus aureus E. coli Serratia marcesens</del>

10) ~~Examples of appropriate American Type Culture Collection strains include the following:~~

- ~~Enterococcus faecalis ATCC 11700~~
- ~~Enterococcus faecium ATCC 6057~~
- ~~Enterobacter aerogenes ATCC 13048~~
- ~~Escherichia coli ATCC 8739 or 25922~~
- ~~Klebsiella pneumoniae (thermotolerant) ATCC 13883~~
- ~~Proteus vulgaris ATCC 13315~~
- ~~Pseudomonas aeruginosa ATCC 27853~~
- ~~Serratia marcesens ATCC 14756~~
- ~~Staphylococcus aureus ATCC 6538~~

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

**Section 465.360 Methodology**

A laboratory shall be certified for all analytical methods listed below that it uses for compliance purposes. At a minimum, the laboratory shall be certified for one total coliform method and one fecal coliform or E. coli method. In addition, for laboratories that may enumerate heterotrophic bacteria (as measured by the Heterotrophic Plate Count) for compliance with the Surface Water Treatment Rule (SWTR), the laboratory shall be certified for either the Pour Plate Method or the SimPlate method for heterotrophic bacteria.

a) The following methodology, as specified in the listed references, shall be followed for individual parameters:

Method References

<u>Methodology Category</u>	<u>Method</u>	<u>Method Citations</u>				
		<u>RTCR<sup>6,7</sup></u> <u>(Detect)</u>	<u>SWTR<sup>6</sup></u> <u>(Count)</u>	<u>LT2</u> <u>ESWTR<sup>6</sup></u> <u>(Count)</u>	<u>New Main</u> <u>Construction<sup>2,9</sup></u> <u>(Detect)</u>	<u>GWR<sup>2,9</sup></u> <u>(Detect)</u>

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<u>Total Coliforms</u>						
<u>Lactose fermentation methods</u>	<u>Standard Total Coliform Fermentation Technique (LTB→BGLB Broth)</u>	<u>9221B.1,B.2</u> <u>1,2</u> <u>9221B.1.B.2</u> <u>-99<sup>4</sup></u>	<u>9221A,B,C<sup>1,2</sup></u> <u>9221A,B,C -99<sup>4</sup></u>		<u>9221A,B.1<sup>1,2</sup></u> <u>9221A,B.1-99<sup>4</sup></u>	
	<u>Presence-Absence (P-A) Coliform Test (P-A Broth → BGLB Broth)</u>	<u>9221D.1,</u> <u>D.2<sup>1,2</sup></u> <u>9221D.1,D.2</u> <u>-99<sup>4</sup></u>				
<u>Enzyme substrate methods</u>	<u>Colilert<sup>®</sup> or Colilert-18<sup>®</sup></u>	<u>9223B<sup>1,2</sup></u> <u>9223B-97<sup>4</sup></u>	<u>9223B<sup>3</sup></u> <u>9223B-97<sup>4</sup></u>			
	<u>Colisure<sup>®</sup></u>	<u>9223B<sup>1,2</sup></u> <u>9223B-97<sup>4</sup></u>				
	<u>ReadiCult<sup>®</sup></u>	<u>9</u>				
	<u>E*Colite<sup>®</sup></u>	<u>9</u>				
	<u>Modified Colitag<sup>TM</sup></u>	<u>9</u>				
<u>Membrane filtration methods</u>	<u>Standard Total Coliform Membrane Filter Procedure (M-Endo or LES-Endo → LTB, BGLB Broth)</u>	<u>9222B<sup>1,2</sup></u> <u>9222B-97<sup>4</sup></u>	<u>9222A,B<sup>1,2</sup></u> <u>9222A,B-97<sup>4</sup></u>			
	<u>Standard Total Coliform Membrane Filter Procedure (M-Endo)</u>				<u>9222B..1</u> <u>9222B.2.a,b,c,d,e<sup>1,2</sup></u>	
	<u>MI Medium</u>	<u>Method 1604</u>	<u>Method 1604</u>			

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	<u>m-ColiBlue24®</u>	2				
<u>Fecal Coliforms</u>						
<u>Fermentation broth methods</u>	<u>A-1 broth (from mFC → LTB→A-1 broth)</u>		<u>9221E<sup>3</sup></u> <u>9221E-99<sup>4</sup></u>			
	<u>EC broth (from mFC → LTB→EC broth )</u>		<u>9221E<sup>3</sup></u> <u>9221E-99<sup>4</sup></u>			
<u>Membrane filtration methods</u>	<u>mFC</u>		<u>9222D<sup>3</sup></u> <u>9222D-97<sup>4</sup></u>			
<u>Escherichia coli</u>						
<u>Enzyme substrate methods</u>	<u>Colilert® or Colilert-18®</u>	<u>9223B<sup>1,2</sup></u> <u>9223B-97<sup>4</sup></u>		<u>9223B<sup>1</sup></u>		<u>9223B<sup>1,2,3</sup></u>
	<u>Colisure®</u>	<u>9223B<sup>1,2</sup></u> <u>9223B-97<sup>4</sup></u>				<u>9223B<sup>1,2,3</sup></u>
	<u>E*Colite®</u>	2				2
	<u>Readycult®</u>	2				2
	<u>Modified Colitag®</u>	2				2
<u>Escherichia coli procedure following lactose fermentation methods</u>	<u>EC-MUG medium</u>	<u>9221F.1<sup>1,2</sup></u>				<u>9221F<sup>3</sup></u>
<u>Escherichia coli partition method</u>	<u>EC broth with MUG (EC- MUG)</u>	<u>9222G.1c(2)</u> <u>1.2</u>		<u>9222G.1c (2)<sup>1</sup></u>		
	<u>NA-MUG medium</u>	<u>9222G.1c(1)</u> <u>1.2</u>		<u>9222G.1c (1)<sup>1</sup></u>		<u>9222G. 1c(1)<sup>1</sup></u>

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<u>Membrane filtration methods</u>	<u>MI Medium</u>	<u>Method 1604</u>		<u>Method 1604</u>		<u>Method 1604</u>
	<u>m-ColiBlue24®</u>	2		2		2
	<u>Chromocult®</u>	2				
<u>Heterotrophic Bacteria</u>						
<u>Heterotrophic Plate Count</u>	<u>Pour plate method</u>		<u>9215B<sup>3</sup></u>			
<u>Multiple enzyme substrate method</u>	<u>SimPlate®</u>		2			
<u>Cryptosporidium</u>	<u>Filtration/IMS/FA</u>			<u>Method 1623<sup>8</sup></u> , <u>Method 1623.1<sup>8</sup></u>		

## Method References

<b>Approved Methods</b>	<b>Media</b>	<b>Method<sup>1</sup> Citation</b>	<b>TCR<sup>2</sup> (Detect)</b>	<b>SWTR<sup>2</sup> (Count)</b>	<b>New Main Construction<sup>2</sup> (Detect)</b>	<b>GWR<sup>2</sup> (Detect)</b>
<b><del>Total Coliforms</del></b>						
<u>Fermentation broth method</u>	<u>LTB→BGLB Broth</u>	<u>SM<sup>1</sup> 9221B,C</u>	<u>X</u>	<u>X</u>	<u>X</u>	
	<u>P-A Broth→BGLB-Broth</u>	<u>SM<sup>1</sup> 9221D</u>	<u>X</u>			
<u>Enzyme substrate method</u>	<u>Colilert<sup>®</sup>; Colilert-18<sup>®</sup></u>	<u>SM<sup>1</sup> 9223</u>	<u>X</u>	<u>X</u>		
	<u>Colisure<sup>®</sup></u>	<u>SM<sup>2</sup> 9223</u>	<u>X</u>			
	<u>Readycult<sup>®</sup> or Fluorocult LMX<sup>®</sup></u>		<u>X</u>			
	<u>E*Colite<sup>®</sup></u>			<u>X</u>		

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Approved Methods	Media	Method <sup>1</sup> Citation	TCR <sup>2</sup> (Detect)	SWTR <sup>2</sup> (Count)	New Main Construction <sup>2</sup> (Detect)	GWR <sup>2</sup> (Detect)
	Colitag <sup>®</sup>		X			
Membrane filter method	M-Endo or LES-Endo → LTB, BGLB Broth	SM <sup>1</sup> 9222B,C	X	X	X	
	MI Medium	EPA Method 1604	X	X		
	m-ColiBlue24 <sup>®</sup>		X			
	Chromocult <sup>®</sup>		X			
	Colisean <sup>®</sup>		X	X		
<b>Fecal Coliforms</b>						
Fermentation broth method	LTB or P/A broth → EC broth	(SM <sup>1</sup> 9221B,D) SM <sup>1</sup> 9221E	X	X		
	A-1 broth	SM <sup>1</sup> 9221E		X		
Membrane filter method	M-Endo medium → EC broth	(SM <sup>1</sup> 9222B) SM <sup>1</sup> 9221E	X	X		
	mFC	SM <sup>1</sup> 9222D		X		
<b>Escherichia coli</b>						
	Colilert <sup>®</sup> or Colilert-18 <sup>®</sup>	SM <sup>1</sup> 9223	X			X

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Approved Methods	Media	Method <sup>1</sup> Citation	TCR <sup>2</sup> (Detect)	SWTR <sup>2</sup> (Count)	New Main Construction <sup>2</sup> (Detect)	GWR <sup>2</sup> (Detect)
Enzyme substrate method	Colisure <sup>®</sup>	SM <sup>2</sup> -9223	X			X
	E*Colite <sup>®</sup>		X			X
	ReadyCult <sup>®</sup> or Fluorocult LMX <sup>®</sup>		X			X
	LTB, P/A broth, M-Endo → EC-MUG	(SM <sup>1</sup> 9221B,D; SM <sup>1</sup> 9222B) SM <sup>1</sup> 9221F	X			X
	Colitag <sup>®</sup>		X			X
Membrane filter method	MI Medium	EPA Method 1604	X			X
	m-ColiBlue24 <sup>®</sup>		X			X
	Chromocult <sup>®</sup>		X			X
	Coliscan <sup>®</sup>		X			
	M-Endo or LES-Endo → NA-MUG	(SM <sup>1</sup> 9222B) SM <sup>1</sup> 9222G	X			X
<b>Heterotrophic Bacteria</b>						
Pour-plate method	Plate count agar	SM <sup>1</sup> 9215B		X		

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Approved Methods	Media	Method <sup>1</sup> Citation	TCR <sup>2</sup> (Detect)	SWTR <sup>2</sup> (Count)	New Main Construction <sup>2</sup> (Detect)	GWR <sup>2</sup> (Detect)
Multiple enzyme substrate	SimPlate <sup>®</sup>			X		
Pour plate, spread plate, or membrane filter methods	R2A		X <sup>3</sup>			

<sup>1</sup> SM=Standard Methods for the Examination of Water and Wastewater, 18<sup>th</sup>, 19<sup>th</sup> or 20<sup>th</sup> edition.

<sup>2</sup> Standard Methods for the Examination of Water and Wastewater, 21<sup>st</sup> edition.

<sup>3</sup> Standard Methods for the Examination of Water and Wastewater, 22<sup>nd</sup> edition.

<sup>4</sup> Standard Methods for the Examination of Water and Wastewater, online version; the year in which each method was approved by the Standard Methods Committee is designated by the last two digits following the hyphen in the method number. The methods listed are the only online versions that may be used.

<sup>5</sup> MC="Manual for the Certification of Laboratories Analyzing Drinking Water," USEPA 570/9-90/008A, 5<sup>th</sup> Edition (January 2005). A copy of this manual can be obtained by contacting the U.S. Environmental Protection Agency, Washington DC 20465. This manual as published and dated is exclusive of subsequent amendments or editions.

<sup>6</sup> RTCR = Revised Total Coliform Rule (40 CFR 141.852)(40 CFR 141.21(f)), SWTR=Surface Water Treatment Rule (40 CFR 141.74(a)), New Main Construction (see 35 Ill. Adm. Code 652.203(b)). GWR = Ground Water Rule (40 CFR 141.402), LT2ESWTR = Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR 141.704 and 40 CFR 141.705).

<sup>3</sup> ~~For possible use if system operates under a variance to the TCR.~~

<sup>7</sup> The laboratory shall use the same technique for E. coli analysis that the laboratory is certified to use for drinking water under 40 CFR 141.74 (e.g., membrane filtration, multiple-well, multiple-tube).

<sup>8</sup> Supplement 2 to the 5<sup>th</sup> edition of the Manual for the Certification of Laboratories Analyzing Drinking Water, November 2012.

<sup>9</sup> See Section 465.125.

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- b) Laboratories shall perform parallel testing between a newly approved test and another EPA-approved procedure for enumerating total coliforms. The laboratory shall conduct at least 25 parallel tests between methods using waters normally tested. Results between methods shall vary by less than 10%.
- c) Water samples shall be shaken vigorously at least 25 times in a complete up and down or back and forth movement.
- d) Sample volume analyzed for total coliforms in drinking water shall be 100 mL.
- e) Aseptic practices shall be used for all microbiological procedures.
- f) All samples shall be handled as though they are positive and have the potential to contaminate other samples if handled improperly. All spills shall be promptly disinfected.
- ge) Fermentation broth methods. The water level of the water bath shall be above the upper level of the medium in the culture tubes.
- hf) Multiple tube fermentation technique (for detecting total coliforms in drinking water and enumerating total coliforms in source water):
  - 1) For drinking water samples: Various testing configurations can be used (Standard Methods 9221B), as long as a total sample volume of 100 mL is examined for each test.
  - 2) For source water samples: Laboratories shall use at least three series of five tubes each with appropriate sample dilutions of source water (e.g., 0.1 mL, 0.01 mL, 0.001 mL).
- ig) Media
  - 1) Lauryl tryptose broth (LTB) (also known as lauryl sulfate broth) shall be used in the presumptive test and 2% brilliant green lactose bile broth (BGLBB) in the confirmed test. Lactose broth (LB) may be used in lieu of LTB (40 CFR 141.21(O)(3)) if the laboratory conducts at least 25 parallel tests between this medium and LTB using the waters normally tested, and if this comparison demonstrates that the false positive rate and false

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negative rate for total coliforms, using LB, is less than 10%. This comparison shall be documented and the records retained. The final pH shall be  $6.8 \pm 0.2$  for LTB, and  $7.2 \pm 0.2$  for 2% BGLBB.

- 2) The test medium concentration shall be adjusted to compensate for the sample volume so that the resulting medium after sample addition is single strength. ~~If Optionally, if~~ a single 100-mL sample volume is used, the inverted vial shall be replaced with an acid indicator (bromocresol purple) to prevent problems associated with gas bubbles in large inverted tubes. The media shall be autoclaved at  $121^{\circ}$  C for 12 to 15 minutes.
- 3) Sterile ~~mediamedium~~ in tubes shall be examined to ensure that the inverted vials, if used, are free of air bubbles and are at least one-half to two-thirds covered after the water sample is added.
- 4) After the medium is inoculated, it shall be incubated at  $35^{\circ} \pm 0.5^{\circ}$  C for  $24 \pm 2$  hours. If no gas or acid is detected, it shall be incubated for another 24 hours (total incubation time  $48 \pm 3$  hours).
- 5) Each 24- and 48-hour tube that contains growth, acid, or gas shall be confirmed using 2% BGLBB. A completed test is not required.
- 6) For drinking water samples: Each total coliform positive sample shall be tested for the presence of either fecal coliforms or E. coli.

~~j~~h) Invalidation of total coliform-negative samples

- 1) For drinking water samples: All samples that produce a turbid culture (i.e., heavy growth) in the absence of gas/acid production, in LTB or LB, shall be invalidated. The laboratory shall collect, or request that the system collect, another sample from the same location as the original invalidated sample within 24 hours. ~~(Before invalidation, the laboratory may perform a confirmed test and/or a fecal coliform/E. coli test on the total coliform-negative culture to check for coliform suppression. If the confirmed test is coliform positive or fecal coliforms/E. coli are detected, the sample shall be reported as such. A fecal coliform/E. coli-positive result is considered a total coliform positive, fecal coliform/E. coli-positive sample, even if the presumptive or confirmed total coliform test is negative. If the follow-up test or tests are negative, the sample shall be invalidated because high~~

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levels of non-coliform bacteria in the presumptive tubes may have injured, killed, or suppressed the growth of any coliforms in the sample.)

- 2) For source water samples: All samples that produce a turbid culture (i.e., heavy growth) in the absence of gas/acid production, in LTB or LB, shall be invalidated. The laboratory shall collect, or request that the system collect, another sample from the same location as the original invalidated sample. (Before invalidation, the laboratory may perform a confirmed test on the total coliform-negative culture. If the confirmed test is total coliform positive, the most probable numberMPN shall be reported. If the test is total coliform negative, the sample shall be invalidated.)

k) Enzyme (chromogenic/fluorogenic) substrate tests

- 1) For detecting total coliforms and E. coli in drinking water samples, a laboratory may use the MMO-MUG test (Colilert), Colisure test, E\*Colite test, ReadyCult Coliforms 100 Presence/Absence Test (~~or Fluorocult LMX Broth test~~), or Modified Colitag<sup>TM</sup> test. These tests, known as enzyme substrate tests, may be available in various configurations. For enumerating total coliforms in source water, a laboratory may use the Colilert test. If a laboratory uses a fermentation method to detect total coliforms in drinking water, and the sample is total coliform positive, the laboratory may transfer the positive culture to the EC+MUG test to detect E. coli, but not to any other enzyme substrate test medium in this Section.
- 2) Media shall not be prepared from basic ingredients, but rather from a commercially available source.
- 3) Media shall be protected from light.
- 4) Some lots of enzyme substrate media have been known to fluoresce. Each lot of medium shall be checked before use with a 365-366 nm ultraviolet (UV) light with a 6-watt bulb. For checking Colilert, Colilert-18, Colisure, ReadyCult/~~Fluorocult LMX~~, and Modified Colitag<sup>TM</sup> media, a packet of medium shall be dissolved in sterile water in a non-fluorescing vessel. If the medium exhibits faint fluorescence, the laboratory shall use another lot that does not fluoresce.

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- 5) If the samples plus the medium exhibit an inappropriate color change before incubation, they shall be discarded and another lot of medium used. The laboratory shall notify the medium vendor and request another water sample from the water system. Before incubation, Colilert, Colilert-18, and Modified Colitag<sup>TM</sup> shall appear colorless to a slight tinge of color, while Colisure and E\*Colite are yellow and ReadyCult/~~Fluorocult~~ shall appear slightly yellow.
- 6) Glass and plastic sample bottles and test tubes shall be tested before use with a 365-366 nm UV light source with a 6-watt bulb to ensure that they do not fluoresce. If they fluoresce, another lot of containers that do not fluoresce shall be used.
- 7) Incubators, especially small low-wattage air-type incubators, may not bring a cold 100 mL water sample or samples to the specified incubation temperature for several hours. The problem may cause false negative results with the enzyme substrate tests and possibly other tests as well. Laboratories with air-type incubators shall observe the following instructions for chromogenic/fluorogenic substrate test:

Test	Pre-incubation sample instructions 1,2
Colilert (Presence/Absence)	Specified 24-hour incubation time includes time it takes to bring sample temperature up to $35^{\circ} \pm 0.5^{\circ} \text{C}$ <sup>1</sup>
Colilert Quanti-Tray	Specified 24-hour incubation time includes time it takes to bring sample temperature up to $35^{\circ} \pm 0.5^{\circ} \text{C}$
Colilert-18 (Presence/Absence)	Prewarm sample in $35^{\circ} \pm 0.5^{\circ} \text{C}$ water bath for 20 minutes or $44.5^{\circ} \text{C}$ for 7-10 minutes
Colilert-18 Quanti-Tray	Allow sample to equilibrate to room temperature ( $20\text{-}30^{\circ} \text{C}$ ) before beginning 18-hour incubation time
Colisure	Allow sample to equilibrate to room temperature ( $20\text{-}30^{\circ} \text{C}$ ) before beginning 24-hour incubation time
ReadyCult Coliforms/ <del>Fluorocult LMX</del>	Specified 24-hour incubation time includes time it takes to bring sample

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	temperature up to $35^{\circ} \pm 0.5^{\circ} \text{ C}$ or $36^{\circ} \pm 1^{\circ} \text{ C}$
Modified Colitag <sup>TM</sup>	Specified 24-hour incubation time includes time it takes to bring sample temperature up to $35^{\circ} \pm 0.5^{\circ} \text{ C}$

- <sup>1</sup> If the laboratory plans to put a large load into a small incubator, samples shall be brought to room temperature before incubation.
- <sup>2</sup> Information based on manufacturer's instructions.
- 8) If a water bath is used, the water level shall be above the upper level of the medium.
- 9) For E. coli testing, the laboratory shall place all total coliform-positive samples under an ultraviolet lamp (365-366 nm, 6-watt) in a darkened area. If E. coli is present, the medium will emit a blue fluorescence.
- 10) The enzyme substrate tests shall not be used to confirm a presumptive total coliform-positive result that was obtained in fermentation broth (e.g., LTB, LB) or on a membrane filter.
- 11) Any sample that produces an atypical color change (e.g., greenish black or black) in the absence of a yellow color shall be invalidated.
- 12) Any reference comparator provided by the manufacturer shall be discarded by the manufacturer's expiration date.
- 13) For the Colilert test, samples shall be incubated at  $35^{\circ} \pm 0.5^{\circ} \text{ C}$  for 24 hours. A yellow color in the medium equal to or greater than the reference comparator indicates that the sample is total coliform positive. If the sample is yellow, but lighter than the comparator, it shall be incubated for another four hours (do not incubate more than 28 hours total). If the color is still lighter than the reference comparator at 28 hours, the sample shall be reported as negative. A coliform-positive sample that fluoresces under an ultraviolet (UV) light indicates the presence of E. coli. Laboratories that use the Colilert-18 test shall incubate samples for 18 hours (up to 22 hours if the sample after 18 hours is yellow, but is lighter than the comparator).

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- 14) For enumerating total coliforms in source water with the Colilert test, a 5- or 10-tube configuration, Quanti-Tray, or Quanti-Tray 2000 may be used for each sample dilution tested. Dilution water (if used) may be sterile deionized or sterile distilled water, but not buffered water.
- 15) If the Quanti-Tray or Quanti-Tray 2000 test is used, the sealer shall be checked monthly by adding a dye (e.g., bromcresol purple) to the water. If dye is observed outside the wells, maintenance shall be performed or another sealer shall be used.
- 16) For the Colisure test, samples shall be incubated at  $35^{\circ} \pm 0.5^{\circ}$  C for 24 hours. If an examination of the results at 24 hours is not convenient, then results may be examined at any time up to 48 hours. If the medium changes from a yellow color to a red/magenta color, the sample is total coliform positive. A coliform positive sample that fluoresces under a UV light indicates the presence of E. coli.
- 17) For the E\*Colite test, samples shall be incubated at  $35^{\circ} \pm 0.5^{\circ}$  C for 28 hours. If total coliforms are present, the medium changes from a yellow color to a blue or blue-green color, or a blue color in the corners of the bag. If E. coli is present, the medium will fluoresce under a UV light. If no fluorescence is observed, the sample shall be re-incubated for an additional 20 hours (for a total incubation time of 48 hours) and again checked for fluorescence. If the medium becomes red-~~in color~~, it shall be assumed that a faulty seal has allowed the bactericide (in the third compartment of the bag) to leak into the compartment containing the medium. In this case, the sample shall be discarded and another sample shall be requested.
- 18) For the ReadyCult Coliforms 100 Presence/Absence test, the contents of a snap pack shall be added to a 100-mL water sample, followed by incubation at  $35^{\circ} \pm 0.5^{\circ}$  C or  $36^{\circ} \pm 1^{\circ}$  C for  $24 \pm 1$  hours. If coliforms are present, the medium changes color from a slightly yellow color to blue-green. In addition, if E. coli is present, the medium will emit a bright light-blue fluorescence when subjected to a long wave (365-366 nm) UV light. If confirmation of E. coli is desired, Kovac's indole reagent shall be added to the broth; the immediate formation of a red ring confirms the presence of E. coli.

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~~19)~~ ~~Fluorocult LMX broth is identical to ReadyCult, except that it is a dehydrated culture medium in granulated form packed primarily in a 500-g plastic bottle. For testing a 100-mL water sample, 34 g of Fluorocult LMX shall be suspended in 1 L purified water and boiled to dissolve completely. Transfer 100-mL aliquots to 250-mL bottles and autoclave for 15 minutes at 121° C. Cool to room temperature, add the 100-mL water sample, and incubate. Do not add E. coli/Coliform Supplement to the medium.~~

1920) For the Modified Colitag™ test, samples shall be incubated at  $35^{\circ} \pm 0.5^{\circ}$  C for  $24 \pm 2$  hours. During incubation, trimethylamine-N-oxide in the Modified Colitag™ medium causes the pH of the medium to increase from 6.2 to 6.8-7.2. A yellow color in the medium indicates the presence of total coliforms. A coliform-positive sample that fluoresces under a UV light indicates the presence of E. coli.

lj) Membrane filter (MF) methods

- 1) For source water samples (SWTR): To optimize counting, appropriate sample dilutions shall be used to yield 20 to 80 total coliform colonies or 20 to 60 fecal coliform colonies for at least one dilution or volume.
- 2) At least one membrane filter and filtration unit sterility check shall be conducted at the beginning and the end of each filtration series by filtering 20 to 30 mL of dilution water through the membrane filter and testing for growth. If the control indicates contamination, all data from affected samples shall be rejected and an immediate resampling shall be requested. A filtration series ends when 30 minutes or more elapse between sample filtrations.
- 3) Each filtration funnel shall be rinsed after each sample filtration with two or three 20 to 30 mL portions of sterile rinse water to ensure that the entire sample is rinsed off the funnel before the filter is removed. After the filter is removed, the funnel may be rinsed again with two or three 20 to 30 mL portions of sterile rinse water or exposed to UV light with a 254-nm wavelength for at least two minutes to prevent carryover between samples, especially for surface water samples.
- 4) Absorbent pads shall be saturated with a liquid medium (at least 2 mL of broth) and excess medium removed by decanting the plate.

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- 5) Membrane filters shall be handled with sterile forceps that are sterilized before each use by dipping in 95% ethyl or absolute methyl alcohol and flaming. The membrane filters shall be grasped outside the effective filtration area.
- mk) Media used for ~~total coliforms, fecal coliforms, and E. coli by MF method for~~ detecting total coliforms and E. coli in drinking water, enumerating total coliforms or fecal coliforms in source water, and detecting E. coli in ground water.
- 1) Using M-Endo medium agar or broth (also known as M-Endo broth MF and M-Coliform broth) or LES Endo agar (also known as M-Endo agar LES) for detecting total coliforms in drinking water or enumerating total coliforms in source water: Medium may be used in the single step or enrichment techniques. ~~Ethanol~~Ensure that ethanol used in the rehydration procedure ~~shall~~is not ~~be~~ denatured. Medium shall be prepared in a sterile flask and brought just to the boiling point with a boiling water bath or, if constantly attended, a hot plate with a stir bar. The medium shall not be boiled. Final pH shall be  $7.2 \pm 0.2$  for M-Endo Agar LES and  $7.2 \pm 0.1$  for M-Endo medium.
  - 2) Using m-ColiBlue24 medium for detecting total coliforms and E. coli in drinking water: Ampules of broth shall be inverted ~~two to three~~2 to 3 times to mix contents before breaking. Then, contents shall be poured evenly over absorbent pad. Unopened refrigerated ampules may be stored in the dark until the expiration date, but shall be discarded earlier if growth is observed. The final pH of the medium shall be  $7.0 \pm 0.2$ .
  - 3) Using MI medium (with or without agar) for detecting total coliforms and E. coli in drinking water or enumerating total coliforms in source water: Commercially made ~~Do not autoclave commercially made~~ pre-sterilized bottled MI agar or broth ~~shall not be autoclaved~~. Bottled~~Melt bottled~~ agar shall be melted in a boiling water bath ~~(or by other processes recommended by the manufacturer)~~. As soon as complete melting has occurred, the medium shall be cooled~~cool~~ slightly and immediately poured~~pour immediately~~ into sterile plates. Care shall be taken to prevent overheating the agar, as excessive heat destroys the effectiveness of the antibiotic cefsulodin. If dehydrated culture medium is used, it shall be

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prepared and autoclaved according to the manufacturer's instructions. ~~The~~~~Cool the~~ agar shall be cooled, ~~add~~ freshly prepared filter-sterilized cefsulodin shall be added, and the mixture shall be~~pour~~ immediately poured into sterile plates. The final pH of MI agar shall be  $6.95 \pm 0.2$ ; the final pH of MI broth shall be  $7.05 \pm 0.2$ . The preparation and use of MI agar and MI broth are referenced in Section 465.125(a)(4). EPA Method 1604, which can be found online at [www.epa.gov/microbes](http://www.epa.gov/microbes), is identical.

- 4) ~~Using~~ Chromocult<sup>®</sup> Coliform agar for detecting total coliforms and E. coli in drinking water shall not be autoclaved or overheated; ~~Do not autoclave or overheat~~. The final pH shall be  $6.8 \pm 0.2$ . If a heavy background of heterotrophic bacteria is expected (especially Pseudomonas and Aeromonas species), ~~add~~ cefsulodin solution shall be added to the cooled ( $45^{\circ}$  to  $50^{\circ}$  C) medium (dissolve 10 mg cefsulodin in 2 mL deionized or distilled water, and ~~add~~ solution added to 1 L of medium).
- 5) ~~Using Colisean<sup>®</sup> for detecting total coliforms and E. coli in drinking water or enumerating total coliforms in source water. Colisean is available as a dry powder agar mix or as a presterilized bottled agar. For reconstitution and antibiotic addition, follow the protocol of the manufacturer (Micrology Laboratories, LLC). Do not overheat the antibiotic cefsulodin. The final pH of Colisean agar shall be  $7.00 \pm 0.2$ .~~
- 56) ~~Using~~ m-FC broth (with or without agar) for enumerating fecal coliforms in source water shall not be autoclaved; ~~Do not autoclave~~. ~~The~~~~Bring~~ medium shall be brought just to the boiling point. The final pH shall be  $7.4 \pm 0.2$ .
- 67) When stored, prepared medium shall be refrigerated. Petri dishes containing medium shall be stored in a plastic bag or tightly closed container, and used within two weeks. Before use, refrigerated sterilized medium shall be brought to room temperature. Plates with laboratory-prepared broth medium shall be discarded after 96 hours, poured MF agar plates discarded after two weeks, and ampuled M-Endo broth and other prepared media discarded in accordance with the manufacturer's expiration date. Broth, plates, or ampules shall be discarded earlier if growth or (for M-Endo agar) surface sheen is observed. ~~The~~~~Record~~ date and time prepared shall be recorded.

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## 78) Incubation conditions and colony color of inoculated medium

Medium	Incubation	Total coliforms <sup>1</sup>	E. coli
M-Endo medium or M-Endo agar LES	35° ± 0.5° C for 22-24 hrs	Metallic (golden) sheen colonies (presumptive)	N/A
m-ColiBlue24	35° ± 0.5° C for 24 hrs	Red colonies	Blue to purple colonies
MI	35° ± 0.5° C for 24 ± 2 hrs	Fluorescent colonies under UV light	Blue colonies under normal light
Chromocult	36° ± 1° C for 24 ± 1 hrs	Salmon to red colonies	Dark-blue to violet colonies <sup>2</sup>
<del>Coliscan</del>	<del>32°-37° C for 24-28 hrs</del>	<del>Pink to magenta colonies</del>	<del>Purple blue colonies</del>
m-FC	44.5° ± 0.2° C for 24 ± 2 hrs	N/A	Blue colonies (fecal coliforms)

<sup>1</sup> Without the presence of E. coli. If an E. coli colony is present, as indicated by the last column, it shall be counted as a total coliform-positive colony.

<sup>2</sup> If confirmation of E. coli is desired, add one drop of Kovac's reagent shall be added to each dark blue to violet colony; the formation of a cherry-red color within seconds confirms the presence of E. coli.

n†) Invalidation of a total coliform-negative drinking water sample: All samples resulting in confluent or TNTC (too numerous to count) growth shall be invalidated unless total coliforms are detected. If no total coliforms are detected, the sample shall be recorded~~record~~ as "confluent growth" or "TNTC" and ~~request~~ an additional sample shall be requested from the same sampling site. Confluent growth is defined as a continuous bacterial growth covering the entire membrane filter without evidence of total coliform type colonies. TNTC is defined as greater than 200 colonies on the membrane filter in the absence of detectable coliforms. Laboratories shall not invalidate samples when the membrane filter contains at least one coliform type colony (i.e., sheen colony for M-Endo medium, red or

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blue colony for m-ColiBlue24 agar, fluorescent or blue colony for MI agar, salmon to red or dark blue to violet colonies for Chromocult Coliform agar, ~~pink-magenta or blue-purple colony for Coliscan~~. (Before invalidation, the laboratory ~~shall~~may perform a verification test on the total coliform negative culture, i.e., on confluent or TNTC growth, and ~~an a-fecal coliform~~/E. coli test. If the verification test is total coliform positive, the sample shall be reported as total coliform positive. If the test is total coliform negative, the sample shall be invalidated. An A-fecal coliform/E. coli positive result is considered a total coliform-positive, ~~fecal coliform~~/E. coli positive sample, even if the sample tests negative for total coliform~~initial and/or verification total coliform test is negative~~.)

- ~~om~~) Invalidation of source water samples (SWTR): Laboratories shall invalidate any sample that results in confluent growth or TNTC, even when total coliform or fecal coliform colonies are present, because coliform density shall be determined.
- ~~pn~~) For drinking water samples (to verify colonies on Endo-type medium): At least five typical sheen colonies and five nontypical colonies shall be verified using either single strength lactose broth (LB) or lauryl tryptose broth (LTB) and then single strength 2% brilliant green lactose bile broth (BGLBB). Alternatively, sheen colonies may be verified using a cytochrome oxidase and b-galactosidase procedure. Individual colonies can be transferred with a sterile needle or loop, or applicator stick. If no sheen colonies are observed, ~~verify~~up to five red questionable sheen colonies and ~~or up to five~~ red non-sheen colonies representing different morphological types shall be verified. Alternatively, ~~wipe~~ the entire surface of the membrane filter shall be wiped with a sterile cotton swab, and inoculate the verification media (LTB, then BGLBB) shall be inoculated.
- ~~qo~~) For drinking water samples: Total coliform-positive colonies shall be tested for E. coli ~~or fecal coliforms~~. The membrane filter tests approved by USEPA do not require additional media for such a test, except for those using Endo-type medium (M-Endo medium or M-Endo agar LES). ~~USEPA~~EPA has approved several options for testing a total coliform-positive colony on Endo-type medium for E. coli ~~or fecal coliforms~~. When ~~EC Medium (for fecal coliforms)~~ or EC Medium-+MUG (for E. coli) is used, the colonies shall be transferred by employing one of the options specified by the Total Coliform Rule at 40 CFR 141.21(f)(5) (see Appendix G of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water). For the swab technique, a single swab can be used to inoculate a presumptive total coliform-positive culture into ~~up to~~three different media, ~~(e.g., EC or EC-MUG Medium, LTB, and BGLBB, in that order)~~. If

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Nutrient Agar<sub>-</sub>+MUG is used, ~~therefer to~~ Nutrient Agar<sub>-</sub>+MUG section shall be followed.

- ~~rp)~~ For source water samples: Initial total coliform counts shall be adjusted based upon verified data, as in Standard Methods, Section 9222B(5).
- ~~q)~~ ~~For source water samples (SWTR): If two or more analysts are certified, each analyst shall count total coliforms or fecal coliform colonies on the same membrane monthly. Colony counts shall agree within 10%.~~
- ~~sf)~~ Nutrient Agar<sub>-</sub>+MUG Test (for detection of E. coli in drinking water or ground water)
- 1) Medium shall be autoclaved at 121° C for 15 minutes. MUG may be added to Nutrient Agar before autoclaving. Nutrient Agar<sub>-</sub>+MUG is also available commercially. The final MUG concentration shall be 100 µg/mL. The final pH shall be 6.8 ± 0.2.
  - 2) Positive and negative controls shall be tested as stated in Section 465.350(d)(9). ~~Control-Filter or spot-inoculate control~~ cultures shall be filtered or spot-inoculated onto a membrane filter on M-Endo agar LES or M-Endo broth or agar, and shall be incubated~~incubate~~ at 35° ± 0.5° C for 24 hours. ~~The~~Then transfer the filter shall then be transferred to Nutrient Agar<sub>-</sub>+MUG and incubated~~incubate~~ at 35° C for another four~~4~~ hours. The results shall be read and recorded.
  - 3) The membrane filter containing a coliform colony or colonies shall be transferred from the total coliform medium to the surface of Nutrient Agar<sub>-</sub>+MUG medium. Each sheen colony shall be marked with a permanent marker on the lid. Also, the lid and the base shall be marked with a line to realign the lid ~~if should~~ it is~~be~~ removed. ~~(A portion of the colony may be transferred with a needle to the total coliform verification test before transfer to Nutrient Agar<sub>-</sub>+MUG or after the 4-hour incubation time. Another method is to swab the entire membrane filter surface with a sterile cotton swab after the 4-hour incubation time on Nutrient Agar<sub>-</sub>+MUG medium, and transfer to a total coliform verification test.)~~
  - 4) Inoculated medium shall be incubated at 35° ± 0.5 C° for 4 hours.

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- 5) ~~The~~ ~~Cheek~~ the fluorescence shall be checked using an ultraviolet lamp (365-366 nm) with a 6-watt bulb in a darkened area. Any amount of fluorescence in a halo around a sheen colony shall be considered positive for E. coli.
- s) ~~MF method for detecting enterococci/fecal streptococci in ground water~~
- 1) ~~For mE agar (SM 9230C) for the detection of enterococci: Prepare basal mE agar. Then autoclave and cool in a 44°-46° C water bath. Dissolve 0.48 g nalidixic acid and 0.4 mL 10 N NaOH into 10 mL of reagent grade distilled water and mix. Filter sterilize the solution, and add 5.2 mL per liter of basal mE agar. For triphenyl tetrazolium chloride (TTC), add 0.25 g of TTC to 25 mL of reagent grade water, and warm to dissolve. Filter sterilize the solution, and add 15 mL per liter of basal mE agar. Final pH shall be 7.1 ± 0.2.~~
- 2) ~~For m-Enterococcus agar (SM 9230C) for the detection of fecal streptococci (not enterococci): Heat to dissolve ingredients, but do not autoclave. Dispense into sterile petri plates (9 X 50 mm) (about 4 mL) and allow to solidify. Final pH shall be 7.2 ± 0.2.~~
- 3) ~~For mEI agar (EPA Method 1600) for the detection of enterococci: Add 0.75 g indoxyl b-D glucoside to 1L of basal mE agar, and proceed according to subsection (s)(1), except that the preparation of TTC is as follows: Add 0.1 g of TTC to 10 mL of reagent grade distilled water, and warm to dissolve. Filter sterilize the solution, and add 2 mL per liter of medium. Final pH shall be 7.1 ± 0.2.~~
- 4) ~~After filtering a 100 mL sample, place membrane in a petri dish on one of the agar media listed in subsection (s)(1), (s)(2) or (s)(3). Serial dilutions should not normally be necessary for detecting enterococci in ground water.~~
- 5) ~~If m-Enterococcus agar is used, incubate inverted plate at 35° ± 0.5° C for 48 hours and, using magnification and a fluorescent lamp, count all light and dark red colonies as fecal streptococci.~~
- 6) ~~If mE agar is used, incubate inverted plate for 48 hours at 41° ± 0.5° C, and then transfer filter to EIA medium. Incubate at 41° ± 0.5° C for 20-30~~

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~~minutes and, using magnification and a fluorescent lamp, examine the colonies. Pink to red colonies on mE agar with a black or reddish brown precipitate on the underside of filter on EIA indicates the presence of enterococci.~~

- 7) ~~If mEI agar is used, incubate inverted plate for 24 hours at  $41^{\circ} \pm 0.5^{\circ} \text{C}$ . Using magnification and a small fluorescent lamp, examine both the top and bottom of the plate for colonies with a blue halo. A colony with a blue halo, regardless of colony color, indicates the presence of enterococci.~~

- t) Heterotrophic Plate Count (for enumerating heterotrophic bacteria in drinking water)

- 1) The Pour Plate Method (Standard Methods 9215B) or the SimPlate Method shall be used for determining compliance with 40 CFR 141.74(a)(1) and shall also be used for testing reagent grade water. ~~For systems that have been granted a variance from the Total Coliform Rule's maximum contaminant level (see variance criteria in 40 CFR 141.4), any method in Standard Methods, Section 9215, Heterotrophic Plate Count, may be used with R2A medium for enumerating heterotrophic bacteria in drinking water.~~

- 2) Media

Method	Medium	Final pH
Pour Plate	Plate count agar, also known as tryptone glucose yeast agar	$7.0 \pm 0.2$
<del>Pour Plate</del>	<del>R2A agar</del>	<del><math>7.2 \pm 0.2</math></del>
<del>Spread Plate</del>	<del>R2A agar</del>	<del><math>7.2 \pm 0.2</math></del>
<del>Membrane Filter</del>	<del>R2A agar</del>	<del><math>7.2 \pm 0.2</math></del>
SimPlate	Multiple enzyme substrate	$7.2 \pm 0.2$

- 3) (For Pour Plate Method) Melted agar shall be tempered at  $44^{\circ}$ - $46^{\circ} \text{C}$  in a water bath before pouring. Agar temperature control accompanies media from tempering through use. Melted agar shall be held no longer than three hours. Sterile agar medium shall not be melted more than once. The center of media in containers shall be no greater than 2.5 cm from some surface.

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- 4) ~~(For Spread Plate Method) 15 mL of R2A agar medium (or other medium) shall be poured into a petri dish (100 x 15 mm or 90 x 15 mm) and allowed to solidify.~~
- 45) Refrigerated medium may be stored in bottles or in screw-capped tubes for up to three months, or in petri dishes for up to two weeks. ~~Prepared petri dishes with R2A medium may be stored for up to one week.~~
- 56) For most potable water samples, countable plates can be obtained by plating 1.0 mL and/or 0.1 mL volumes of the undiluted sample (dilutions may not be necessary for SimPlate, which has a counting range up to 738/mL). At least duplicate plates per dilution shall be used.
- 67) (For Pour Plate Method) The sample shall be aseptically pipetted onto the bottom of a sterile petri dish. Then at least 10-12 mL of tempered melted (44°-46° C) agar shall be added to each petri dish. The sample and melted agar shall be mixed carefully to avoid spillage. After agar plates have solidified on a level surface, the plates shall be inverted and incubated at 35° ± 0.5° C for 48 ± 3 hours. Plates shall be stacked no more than four high and shall be arranged in the incubator to allow proper air circulation and to maintain uniform incubation temperature. ~~Excessive~~Avoid excessive humidity in the incubator shall be avoided to reduce the possibility of spreader formation on the agar medium. ~~Excessive~~Also avoid excessive drying of the agar medium shall also be avoided; agar medium in plates ~~shall~~should not lose more than 15% by weight during 48 hours of incubation. Agar weight loss shall be determined quarterly.
- 8) ~~(For Spread Plate Method) 0.1 or 0.5 mL of the sample (or dilution) shall be pipetted onto the surface of the pre-dried agar in the plate, and then spread over the entire surface of the agar using a sterile bent glass rod. The inoculum shall be absorbed completely by the agar before the plate is inverted and incubated. The plate shall be incubated at 20°-28° C for 5-7 days.~~
- 9) ~~(For Membrane Filter Technique) The volume to be filtered shall yield between 20-200 colonies. The filter is transferred to a petri dish containing 5 mL of solidified R2A medium, and incubated at 20°-28° C for 5-7 days. If plates with loose fitting lids are used, plates shall be placed in a plastic box with a close fitting lid containing moistened paper towels. Paper~~

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~~towels shall be rewetted as necessary to maintain moisture. Colonies shall be counted using a stereoscopic microscope at 10-15X magnification.~~

- ~~710~~) (For SimPlate Method) Unit Dose (for a single sample): A 10-mL volume of test sample ~~shall be~~ added to a test tube containing dehydrated SimPlate medium. Then the dissolved medium shall be poured onto the center of a plate containing 84 small wells (provided by the manufacturer, IDEXX Laboratories, Inc.). Alternatively, 9 mL of sterile diluent (D.I. water, distilled water, or buffered water (Standard Methods, 9050C, 1 a)) can be added to the tube, followed by a 1-mL sample. Then ~~follow~~ the procedure ~~as indicated above~~ for the 10-mL sample ~~shall be followed~~. The mixture shall be distributed evenly to the 84 wells on the plate, and the excess liquid ~~shall be~~ drained into an absorbent pad on the plate. The plate shall then be inverted (the fluid in each well is held in place by surface tension), and incubated for 45-72 hours at  $35^{\circ} \pm 0.5^{\circ}$  C. Bacterial density is determined by counting the number of wells that fluoresce under a 365-366 nm UV light, and converting this value to a Most Probable Number using the Unit Dose MPN table provided by the manufacturer. If a 10-mL sample is used, ~~read~~ the Unit Dose MPN/mL ~~shall be read~~ directly. If a 1-mL sample is used, then ~~correct~~ the MPN/mL value ~~shall be corrected~~ by multiplying it by 10.
- ~~811~~) (For SimPlate Method) Multiple Dose (for 10 samples of 1 mL each): A 100-mL sterile diluent shall be added to the dehydrated SimPlate medium to reconstitute, and shaken to dissolve. Then a 1.0-mL test sample shall be pipetted to the center of a plate containing 84 small wells, followed by 9 mL of the reconstituted medium. ~~The plate shall be gently swirled~~ ~~Gently swirl plate~~ to mix the sample and medium, and ~~distribute~~ the mixture ~~shall be distributed~~ evenly to the 84 wells on the plate. Then ~~continue with~~ the procedure indicated in subsection (t)(~~710~~) ~~shall be followed~~, except that the Multi-Dose table supplied by the manufacturer shall be used to determine the MPN/mL. If a dilution is made during sample preparation, then ~~multiply~~ the MPN/mL value ~~shall be multiplied~~ by the dilution factor.
- ~~912~~) (For Pour Plate ~~Methods and Spread Plate Techniques~~) Colonies shall be counted manually using a dark-field colony counter. In determining sample count, laboratories shall count only plates having 30 to 300 colonies, except for plates inoculated with 1.0 mL of undiluted sample. Counts less than 30 ~~for such plates~~ are acceptable. ~~(Fully automatic colony~~

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counters are not suitable because of the size and small number of colonies observed when potable water is analyzed for heterotrophic bacteria.)

- 1013) Each batch or flask of agar shall be checked for sterility by pouring a final control plate. Data shall be rejected if control is contaminated.

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

**Section 465.370 Sample Collection, Handling and Preservation**

When the laboratory has been delegated responsibility for sample collection, handling, and preservation, there shall be strict adherence to correct sampling procedures, complete identification of the sample, and prompt transfer of the sample to the laboratory as specified in "Standard Methods for the Examination of Water and Wastewater." In addition, the following standards for sample collection, handling, and preservation of potable water samples shall be met:

- a) ~~For~~~~in order for~~ the sample to be representative of the potable water system, the sampling program shall include examination of the finished water at selected sites that systematically cover the distribution network.
- b) Minimum sampling frequency shall be as specified in 35 Ill. Adm. Code 611, Subpart L (Microbiological Monitoring and Analytical Requirements).
- c) Water shall be sampled from cold water taps that are free of aerators, strainers, hose attachments, and water purification devices. Prior to sampling, a steady flow of water shall be maintained from the tap for two to three minutes to clear the service line.
- d) The sample bottle shall be filled allowing at least 1 inch of air space from the top to provide space for mixing. A minimum sample volume of 100 mL shall be collected. If a sample bottle is filled too full to allow for proper mixing, rather than pouring off and discarding~~do not pour off and discard~~ a portion of the sample. ~~Rather, pour~~ the entire sample shall be poured into a larger sterile container and mixed, mix properly, and ~~proceed with~~ the analysis shall proceed.
- e) The sample report form shall be completed in indelible ink immediately after collecting the sample and shall contain the following information: name of system (public water system site identification number, if available); sample

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identification (if any); date and time of collection; sample site location; sample collector's name and organization (if not the water system); persons transporting the samples from the system to the laboratory (if not the sampler); transportation condition (e.g.,  $<10^{\circ}$  C, protection from sunlight); sample type (e.g., routine, repeat); and total chlorine residual (if applicable).

- f) When sample containers are prepared within the laboratory, the dechlorinating agent, 0.1 mL of a 3% solution of sodium thiosulfate shall be added to a 120 mL bottle to neutralize up to 5 mg/L. Volume~~Adjust volume~~ added to larger bottles shall be adjusted to provide the same level of neutralization. Stock sodium thiosulfate solution shall be free of turbidity.
- g) When the sample is delivered to the laboratory:
- 1) The following information shall be added to the sample report form:
    - A) Date and time of sample arrival;
    - B) Name of carrier; and
    - C) Name of the person receiving the sample for the laboratory; and
  - 2) Each sample shall be assigned a laboratory number. If the sample is~~In the event of~~ a repeat or replacement sample, the number assigned to the original sample shall also be recorded.
- h) Records necessary to establish chain-of-custody of the samples shall be maintained.
- i) For the analysis of total coliform in drinking water, the time between sample collection and the placement of the sample in the incubator shall not exceed 30 hours. All samples received in the laboratory shall be analyzed on the day of receipt, unless the laboratory receives the sample late in the day (in which case, the sample shall be refrigerated overnight), as long as analysis begins within 30 hours after sample collection.
- j) The time from sample collection to placement of sample in the incubator (i.e., the holding time) for total coliforms and fecal coliforms in surface water sources and heterotrophic bacteria in drinking water shall not exceed eight hours for samples

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being analyzed in compliance with the Surface Water Treatment Rule (40 CFR 141.74(a)(1)). Per 40 CFR 141.704, for surface water E. coli samples being analyzed in compliance with the Long Term 2 (LT2) rule, the holding time for the sample shall not exceed 30 hours, unless an exception is granted by the [state regulatory agency that has jurisdiction over the public water supply](#)~~State~~. The [state regulatory agency](#)~~State~~ may approve, on a case-by-case basis, the holding of an LT2 E. coli sample for up to 48 hours if the State determines that analyzing the sample within 30 hours is not feasible.

- k) Samples of potable water for heterotrophic plate count analysis shall be refrigerated and delivered to the laboratory within six hours after collection, and analyzed within two hours after receipt in the laboratory.
- l) Source water samples shall be held at <10° C and [the](#) time of initiation of analyses shall not exceed eight hours from time of collection.

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

**Section 465.390 General Quality Control Procedures**

- a) A written description of the current laboratory quality control and quality assurance program shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place. [The quality assurance plan shall address all of the items listed in the Manual for the Certification of Laboratories Analyzing Drinking Water.](#) The quality assurance plan shall be reviewed annually and updated as necessary. A record of analytical quality control tests and quality control checks on media, materials, and equipment shall be prepared and retained for five years.
- b) ~~Standard operating procedures~~[A laboratory manual containing complete written instructions](#) for each parameter for which the laboratory is certified [and for all required quality control procedures](#) shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place.
- c) The following minimum requirements shall apply to analytical quality control tests for general laboratory practices and methodology:
  - 1) Each laboratory shall successfully analyze at least one set of proficiency testing (PT) samples once every 12 months, for each method for which it

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is certified. When PT sample results indicate technical error, the Department will provide appropriate technical assistance to determine the cause and make suggestions for correction of the problem.

- ~~2)~~ ~~Each analyst approved for the total coliform presence/absence procedure by the membrane filter technique shall verify quarterly total coliform analyses by swabbing three plates from a known positive sample and inoculating lauryl tryptose broth and brilliant green lactose bile broth from each plate. The lauryl tryptose broth and brilliant green lactose bile broth shall be incubated at  $35.0^{\circ} \pm 0.5^{\circ} \text{C}$  for 24 to 48 hours. Turbid growth with gas production indicates a positive result.~~
- ~~23)~~ Each analyst approved for the total coliform count procedure by the membrane filter technique for source water samples (SWTR) shall verify ~~monthly~~quarterly 10 colonies, including each type of atypical colony observed. Counts shall be adjusted based on percent verification.
- ~~4)~~ ~~Each analyst approved for EC verification shall inoculate quarterly three tubes of EC medium with the same swabs used to perform the quarterly total coliform verification. EC medium shall be incubated at  $44.5^{\circ} \pm 0.2^{\circ} \text{C}$  for 24 hours.~~
- ~~35)~~ Each analyst approved for the fecal coliform procedure by the membrane filter technique for source water samples (SWTR) shall verify a positive water sample monthly. ~~At quarterly fecal coliform analyses by picking at least 10 isolated colonies shall be chosen from membranes containing typical blue colonies and, if present, atypical colonies of different morphological types and shall be transferred~~transferring to lauryl tryptose broth. Positive tubes shall be transferred and to EC medium. The lauryl tryptose broth shall be incubated at  $35.0^{\circ} \pm 0.5^{\circ} \text{C}$  for 24 to 48 hours. The EC medium shall be incubated at  $44.5^{\circ} \pm 0.2^{\circ} \text{C}$  for 24 hours. Turbid growth with gas production indicates a positive result. Counts shall be adjusted based on percent verification.
- ~~46)~~ If there is more than one analyst in the laboratory, at least once each month each analyst shall count the same heterotrophic plate count plate, total coliform membrane, and fecal coliform membrane (per certified method used to test source water samples under the SWTR). Colony counts between analysts shall agree within 10 percent.

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- 57) The standards for laboratory pure water specified in Section 465.380 shall be met.
- d) The following quality control tests for heterotrophic plate count shall be ~~used~~utilized:
- 1) Sterility controls shall be poured for each bottle of sterile melted, tempered medium used. These controls shall be the last plate poured from each bottle used.
  - 2) Pipets shall be checked for sterility during each series of samples plated. All affected samples shall be marked "laboratory accident", and results shall not be reported when the sterility check indicates that the pipets used within the series were not sterile. ~~Sterility of pipets and petri dishes shall be determined.~~
  - 3) Microbial density of the air during plating procedures shall be determined for each series of samples plated. The air control plate shall be the first plate set up and shall be located so that it is within the area of the plating activity. The agar shall be exposed to the air for 15 minutes as determined by the laboratory timer. The inside of the plate lid shall not be exposed. When 15 or more colonies appear on an exposed plate after a 15-minute exposure period and 48 hours of incubation at 35° C, corrective action shall be taken.
  - 4) The sterility of dilution water, if used, shall be determined. All affected samples shall be marked "laboratory accident", and results shall not be reported when the sterility check indicates that the dilution water used within the series was not sterile.
  - 5) Records of all sterility test results shall be maintained.

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

**Section 465.400 Quality Controls for Media, Equipment and Supplies**

The following minimum requirements shall apply to quality control checks of laboratory media, equipment, and supplies:

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- a) The pH meter or meters shall be standardized before each use period with pH 7.0 and either pH 4.0 or pH 10.0 standard buffers, whichever range covers the desired pH of the media or reagent. A record of the standardization, including the percent slope, shall be maintained. Percent slope shall be 95 to 105%. If the pH meter does not have a feature to automatically calculate the slope, but can provide the pH in millivolts, the following formula shall be used:  $\text{Slope (as \%)} = \frac{\text{mV at pH 7} - \text{mV at pH 4 or pH 10}}{1000/77}$ . Each buffer aliquot shall be used only once. Commercial buffer solutions shall be dated and shall not be used. ~~Do not use~~ past the expiration date. Electrodes shall be maintained ~~Maintain electrodes~~ according to manufacturer's recommendations.
- b) Balances shall be calibrated monthly using NIST standardized Echelon I or II Class "S" or "S-1", or equivalent ASTM 1, 2, or 3 weights. A minimum of three weights that bracket the weighing requirements of the laboratory shall be used, and these weights shall be recertified every five years. A certificate shall accompany the weights. ~~A certificate shall state either that the weights are compliant with the requirements of ASTM E1617-13 class 1, 2 or 3 tolerances or that they are compliant with the NIST Handbook 150-2G. The certificate shall list corrective data.~~ ~~Listing correction data shall accompany the weights.~~ Electronic balances shall be calibrated annually by a qualified service representative who is not affiliated with the laboratory. A certificate of calibration from the service representative shall be available for inspection.
- c) Glass and electronic thermometers and temperature-recording devices including data loggers shall be calibrated annually at temperature of use against an NIST certified thermometer to within  $\pm 1.0^\circ \text{C}$ . Mercury NIST-certified thermometers shall be checked at the ice point annually and recalibrated at least every five years at each temperature of use. Digital NIST-certified thermometers shall be checked at the ice point annually and recalibrated at least every five years to demonstrate linearity. Digital thermometer probe and meter shall be calibrated as a unit. The calibration factor, date calibrated, temperature of calibration, and analyst's initials shall be tagged on each thermometer. In addition, the laboratory shall record the following information in a Quality Control (QC) record book:
- 1) Serial number or unique identifier of laboratory thermometer;
  - 2) Serial number of NIST-traceable thermometer;

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- 3) Temperature of laboratory thermometer;
  - 4) Temperature of NIST-traceable thermometer;
  - 5) Correction (or calibration) factor;
  - 6) Date of calibration; and
  - 7) Analyst's initials.
- d) Temperature in incubation equipment shall be recorded continuously by a temperature-recording device or recorded twice daily (at times separated by at least four hours) from in-place thermometers immersed in liquid and placed on the top and bottom shelves of the use area. Documentation shall include the date and time of reading, temperature (as determined using the correction factor of the thermometer in use), and analyst's initials. Temperature readings from walk-in incubators with a continuous temperature reading device shall be supplemented by readings from in-place thermometers placed on various shelves other than where the recorder probe is located.
- e) Date, contents, sterilization time and temperature, total time in autoclave, and analyst's initials shall be recorded each time the autoclave is used. Charts, if used, are to accompany written records.
- f) Hot air ovens shall be equipped with a thermometer registering up to at least 180° C, or with a temperature-recording device. The oven thermometer shall be graduated in 10° C increments or less, with the bulb placed in sand during use. Date, contents, sterilization time and temperature, total time in oven, and analyst's initials shall be recorded each time the hot air oven is used.
- g) Only membrane filters recommended for water analysis by the manufacturer shall be used~~utilized~~. Manufacturer data sheets containing information as to lot number, ink toxicity, recovery, retention, and absence of growth-promoting substances for membrane filters shall be entered into the laboratory's record system. Membrane filters with new lot numbers shall be compared with membrane filters previously found acceptable using student's t test as specified in Standard Methods. ~~Unacceptable membranes shall be returned to the vendor.~~ The lot numbers of membrane filters and date received shall be recorded. Membrane filters shall not be brittle or distorted, and the manufacturer's specification/certification sheet shall

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be available. Positive control shall be run on each new lot of membrane filters. Any gridline inhibition shall be recorded as unacceptable. Unacceptable membranes shall be returned to the vendor.

- h) Washing processes shall provide clean glassware with no stains or spotting. ~~Use Distilled~~~~distilled~~ or deionized water shall be used for final rinse. Laboratory glassware shall be washed with a detergent designed for laboratory use. A glassware inhibitory residue test (Standard Methods, Section 9020B, under Laboratory Supplies) shall be performed, and acceptable results obtained, before the initial use of a detergent and whenever a different formulation, lot number, container or washing procedure is used. Results shall be recorded.
- i) A representative piece of each type of glassware or plastic ware from each batch of clean, dried glassware or plastic ware shall be tested for residual alkaline or acid residue using bromothymol blue indicator. If the result of the indicator test is not green, corrective action shall be taken by re-rinsing, then air drying and retesting.
- j) At least one bottle per lot or batch of sterilized sample bottles shall be checked before first use for sterility by adding approximately 25 ml of sterile non-selective broth media to each bottle. The bottle shall be capped and rotated so that the broth comes in contact with all surfaces and shall be incubated at 35° + 0.5° C and checked after 24 and 48 hours for growth. ~~Sample~~~~Prepared sample~~ bottles ~~from each batch~~ shall not be used unless satisfactory results are obtained ~~from the tested bottle~~.
- k) At least one bottle per lot or batch of sterilized sample bottles prepared with sodium thiosulfate shall be checked for a sufficient amount of the dechlorinating reagent by collecting a potable sample at the laboratory tap, then checking for residual chlorine. Corrective action shall be taken if there is any residual chlorine, and bottles ~~from the batch~~ checked shall not be used until corrective action has been completed.
- l) At least one bottle per lot of precalibrated sample containers shall be checked before first use by measuring the volume with a Class A graduated cylinder. Tolerance shall be ± 2.5%.
- m) Current service contracts or in-house protocols shall be maintained on balances, autoclaves, hot-air sterilization ovens, water stills, deionizers, reverse osmosis

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apparatus, water baths, incubators, etc. Service records on ~~thesuch~~ equipment shall include the date, name of the servicing person, and a description of the service provided.

- ~~nm~~) Records shall be available for inspection on all batches of sterilized media showing the type of medium, lot numbers, date, sterilization time and temperatures, final pH, and the namesname of the persons responsible for all or any part of the recorded data. The final pH of the medium at 25° C shall be:

<u>Media</u>	<u>pH</u>
M-Endo broth	7.2 ± 0.2
M-Endo agar	7.2 ± 0.2
M-Endo LES agar	7.2 ± 0.2
brilliant green lactose bile broth	7.2 ± 0.2
P-A coliform test medium	6.8 ± 0.2
EC Medium	6.9 ± 0.2
plate count agar	7.0 ± 0.2
M-FC broth/agar	7.4 ± 0.2
lauryl tryptose broth single strength	6.8 ± 0.2
double strength	6.7 ± 0.2

- o) The laboratory using commercially manufactured prepared media shall record the date received, type of medium, lot number, sample performance when checked against cultures known to give positive and negative results, and pH verification per subsection (m). Media shall be used or discarded by the manufacturer's expiration date.
- p) Each new lot of prepared commercial medium and each batch of laboratory prepared medium shall be checked before use with positive and negative culture controls. Additionally, each batch of prepared media (whether commercially prepared or laboratory prepared) shall be checked for sterility. Control organisms (e.g., total coliform, fecal coliform, and E. coli) shall be either known stock cultures (periodically checked for purity) or commercially available cultures impregnated with the organism. Results shall be recorded. The following table identifies a few positive and negative culture controls that laboratories might consider.

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<u>Group</u>	<u>Positive Culture Control</u>	<u>Negative Culture Control</u>
<u>Total Coliforms</u>	<u>Escherichia coli</u> <u>Enterobacter aerogenes</u>	<u>Staphylococcus aureus</u> <u>Proteus vulgaris</u> <u>Pseudomonas aeruginosa</u>
<u>Fecal Coliforms</u>	<u>Escherichia coli</u> <u>Klebsiella pneumoniae</u> <u>(thermotolerant)</u>	<u>Enterobacter aerogenes</u>
<u>E. coli</u>	<u>Escherichia coli</u> <u>(MUG-positive strain)</u>	<u>Enterobacter aerogenes</u> <u>Klebsiella pneumoniae</u> <u>(thermotolerant)</u>
<u>Enterococci</u>	<u>Enterococcus faecalis</u> <u>Enterococcus faecium</u>	<u>Staphylococcus aureus</u> <u>Escherichia coli</u> <u>Serratia marcesens</u>

- q) Examples of appropriate American Type Culture Collection (ATCC) strains include the following:

Enterococcus faecalis ATCC 11700  
Enterococcus faecium ATCC 6057  
Enterobacter aerogenes ATCC 13048  
Escherichia coli ATCC 8739 or 25922  
Klebsiella pneumoniae (thermotolerant) ATCC 13883  
Proteus vulgaris ATCC 13315  
Pseudomonas aeruginosa ATCC 27853  
Serratia marcesenes ATCC 14756  
Staphylococcus aureus ATCC 6538

- r) Lactose broth may be used in lieu of LTB if the laboratory conducts at least 25 parallel tests between this medium and LTB using water normally tested and this comparison demonstrates that the false-positive rate and false-negative rate for total coliforms, using lactose broth, is less than 10%.
- s) A maximum registering thermometer shall be used during each autoclave and hot air oven cycle to verify sterilization temperatures. The oven maximum registering thermometer shall be placed in sand. The autoclave maximum registering temperature shall be placed in a container of water. Spore strips or ampules shall be used monthly to confirm sterilization of the autoclave. ~~Use spore strips or ampules on a monthly basis, including a positive control.~~ Spore strips shall be

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used monthly to confirm sterilization for the hot air oven. ~~Ampules shall not be used in the hot air oven~~~~Do not use ampules~~ because they may explode or melt. Strips or ampules that have not been placed in the autoclave or hot air oven shall be used as positive controls each time the sterilization is checked. A record of these results shall be maintained to include the date, material sterilized, and the initials of the analyst involved. ~~Automatic~~~~Check automatic~~ timing mechanisms on autoclaves shall be checked quarterly with a stopwatch. For a 15-minute sterilization period, the autoclave time shall be within 60 seconds of the ~~stopwatch~~~~lock~~ time.

- ~~t~~) When a media-dispensing apparatus is used, the media preparer shall check and maintain a record of the accuracy of the dispenser with a graduated cylinder at the start of each volume change and periodically throughout extended runs.
- u) Micropipettors shall be calibrated annually and replaced if the precision or accuracy is greater than 2.5% tolerance. Micropipettors shall be calibrated with 10 consecutive weighings annually (using a separate tip for each weighing), and the average of all 10 weighings shall be  $\pm 2.5\%$  of specified delivery volume. For volumes  $\geq 1.0$  mL, volume shall be checked by using a Class A graduated cylinder.
- ~~v~~) The refrigerator temperature shall be determined daily by an accurate thermometer immersed in liquid and placed on the top shelf. The refrigerator unit shall be visibly clean. Outdated materials in the refrigerator and freezer compartments shall be discarded.
- ~~w~~) Ultraviolet sterilization lamps shall be tested quarterly by exposing agar spread plates containing 200 to 250 microorganisms to the light for two minutes. If ~~the~~~~such~~ irradiation does not reduce the count of control plates by 99 percent, the lamps shall be replaced. Alternatively, ~~replace~~-lamps shall be replaced if they emit less than 70% of the initial output. Cleaning of ultraviolet sterilization lamps shall be ~~cleaned~~~~done~~ at least monthly by disconnecting the unit and cleaning the lamps with a soft cloth moistened with ethanol. ~~Protective~~~~Use protective~~ eye wear shall be used when checking the operation of a 254 nm lamp.
- ~~x~~) Water baths shall be cleaned at least monthly. The use of distilled or deionized water for water baths is recommended.
- ~~y~~) Media shall be used on a first in, first out basis. Records shall be kept of the kind,

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amount, date received, and date opened for bottles of media. The date opened and the date received shall be written on the bottles. Bottles of dehydrated media shall be used within six months after opening, except that media stored in a desiccator ~~shall may~~ be used by the manufacturer's expiration date. All media shall be discarded if visible deterioration is observed (e.g., clumping, color change). ~~up to one year after opening.~~ It is recommended that media be ordered in quantities to last no longer than one year, and that media be ordered in quarter pound multiples rather than one pound bottles ~~in order~~ to keep the supply sealed and protected as long as possible. Any media that have passed the manufacturer's expiration date shall be discarded.

- z†) ~~The Calibrate the~~ conductivity meter shall be calibrated at least monthly, following the manufacturer's recommendations, using a certified and traceable low level standard of 20 micromhos or less. The meter reading shall be within 2% of the value of the standard. If an in-line unit cannot be calibrated, it shall not be used to check reagent-grade water.
- aa\*) A spectrophotometer or colorimeter (if used) shall have wavelengths in the visible range. A calibration standard and method specific blank shall be analyzed every day that the instrument is used prior to sample analysis. The calibration standard shall give a reading in the desired absorbance range and shall be obtained from an outside source.
- bb\*) ~~Each Check each~~ batch of prepared or each lot of commercial dilution/rinse water shall be checked for sterility by adding 50 mL of water to 50 mL of double-strength, nonselective broth. The batch shall be incubated ~~Incubate~~ at  $35^{\circ} \pm 0.5^{\circ} \text{C}$ , and ~~checked~~ check for growth after 24 and 48 hours. ~~The Discard~~ batch shall be discarded if growth is detected.
- cc\*) ~~Each Check each~~ batch of prepared or each lot of commercial dilution water blanks shall be checked for pH; pH shall be  $7.2 \pm 0.2$ .
- ddy) The accuracy of dilution blank volumes shall be verified by checking one bottle for every 25 prepared or purchased ~~Check one of 25 dilution water blanks per batch of prepared lot of commercial dilution water blanks for volume~~ using a Class A graduated cylinder or a MacCaffrey flask. Volume shall be  $99 \text{ mL} \pm 2 \text{ mL}$ . Purchased dilution blanks shall be used by manufacturer's expiration date.

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- ee) Each lot of purchased single use membrane filtration equipment shall be checked before use with a Class A graduated cylinder, and a record shall be maintained. Tolerance shall be  $\pm 2.5\%$ . Sterility check shall be performed before and after analysis per Section 465.360(1)(2).
- ff) Membrane filter equipment calibration shall be checked before first use with Class A graduated cylinders, and a record shall be maintained. Tolerance shall be  $\pm 2.5\%$ .

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

**Section 465.430 Action Response to Laboratory Results**

- a) For laboratory results concerning samples from public water supplies and their sources, presumptive positive microbiological test results are to be reported to the state regulatory agency that has jurisdiction over the public water supply~~Illinois Environmental Protection Agency~~ and the ~~community~~ public water supply system as preliminary without waiting for membrane filter verification or multiple tube fermentation (MTF) completion. After membrane filter verification or MFT completion or both, the adjusted results shall be reported. The state regulatory agency~~The Illinois Environmental Protection Agency~~ and the public water supply shall be notified when results indicate that non-coliforms may have interfered with the total coliform analysis, as described in 40 CFR 141.21(c)(2).
- b) If any sample is ~~fecal coliform or~~ E. coli-positive, the system shall notify the state regulatory agency and the public water supply~~State~~ by the end of the day ~~when the public water supply system is notified of the test result, unless the public water supply system is notified of the result after the State office is closed, in which case the system shall notify the State before the end of the next business day (see 40 CFR 141.21(e)(1)).~~
- c) A total coliform-positive result is based on the confirmed phase if the Multiple Tube Fermentation Technique or Presence/Absence (P/A) Coliform Test is used, or the verified test for the Membrane Filter Technique if M-Endo medium or LES Endo agar is used. No requirement exists to confirm a total coliform-positive result using Colilert, Colisure, MI agar, E\*Colite, m-ColiBlue24, Chromocult, ReadyCult/Fluorocult, Coliscan, or Colitag test. If a sample is ~~Also, no requirement exists to confirm and/or verify as such, but if found to be fecal coliform or~~ E. coli-positive, the sample is ~~considered~~ to be reported as total

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coliform-positive even when the total coliform confirmation is negative and fecal coliform/E. coli positive.

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

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**Section 465.APPENDIX A Colisure P/A and Colisure Multiple Tube P/A (Repealed)**

## I. Storage

~~Store at 2.0°–4.0° C. Discard on or before expiration date on product package.~~

## II. Quality Control Testing

## 1A. Colisure P/A

~~Add 100 ml of sterile laboratory pure water to the medium in one 125 ml bottle. Shake to dissolve. Transfer a 20 ml aliquot to each of 4 25 ml sterile glass tubes.~~

## 2A. Colisure Multiple Tube P/A

~~Rehydrate 3 vials with 20 ml of sterile laboratory pure water. Shake to dissolve.~~

~~B. Test by inoculating with E. coli, a total coliform other than E. coli, and a non-coliform. If Pseudomonas is used as the non-coliform, use a nonfluorescent species. Use the uninoculated tube as an additional control.~~

~~C. Incubate at 35° ± 0.5° C for 28 hours and observe for the following results:~~

<u>Organism</u>	<u>Color</u>	<u>Fluorescence</u>
E. coli	Red or magenta	Positive
Coliform (non-E. coli)	Red or magenta	Negative
Non-coliform	Yellow	Negative
None	Yellow	Negative

## III. Test Procedure

~~A. Allow medium and samples to reach room temperature.~~

~~B. Add a 100 ml water sample to the bottle containing the dehydrated Colisure medium for a single bottle test. Then recap the bottle.~~

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~~OR~~

~~Add a 20-ml water sample to each of the 5 tubes containing the dehydrated Colisure medium for a multiple-tube test. Then recap each tube.~~

~~C. Shake and invert the bottle or tube(s) to thoroughly mix the contents. The solution will appear yellow with a fine precipitate.~~

~~D. Incubate the bottle or tube(s) at 35° ± 0.5° C for 28 hours.~~

~~IV. Interpretation~~

~~A. Check each tube or bottle visually for color.~~

<u>Color</u>	<u>Interpretation</u>
<del>Red or magenta</del>	<del>Coliform Positive</del>
<del>Pale red/orange</del>	<del>Re-incubate up to 48 hours</del>
<del>No change (yellow)</del>	<del>Coliform Negative</del>

~~B. Examine each positive result for fluorescence using a long wave (366 nm) ultraviolet light. If the solution glows a uniform, bright, light blue throughout the bottle or tube, fluorescence is present. This indicates the presence of E. coli.~~

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

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
750.5	Amend
750.551	Amend
750.1820	Amend
750.1830	Amend
750.1840	Amend
- 4) Statutory Authority: Authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620], Food Handling Regulation Enforcement Act [410 ILCS 625] and Sanitary Food Preparation Act [410 ILCS 650]
- 5) A Complete Description of the Subjects and Issues Involved: As currently written, this Part is in conflict with the Food Handling Regulation Enforcement Act, which was recently amended by PA 98-566 to reduce the required training hours for Food Service Sanitation Manager Certification (FSSMC) and to change the recertification and reciprocity approval process in the state of Illinois. This rulemaking will update incorporated and referenced materials; amend requirements for certification and recertification issuance; update course content and course approval requirements; and amend reciprocity provisions.

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

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 rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes

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- 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: Food service establishments (e.g., restaurants, long-term care facilities, schools, grocery stores)
- B) Reporting, bookkeeping or other procedures required for compliance: No change
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

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NOTICE OF PROPOSED AMENDMENTS

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

PART 750  
FOOD SERVICE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: FOOD SUPPLIES

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750.110	Special Requirements
750.120	General – Food Protection
750.130	General – Food Storage
750.140	Refrigerated Storage
750.150	Hot Storage
750.151	Ready-to-Eat Potentially Hazardous Food, Date Marking
750.152	Ready-to-Eat Potentially Hazardous Food, Disposition
750.153	Time as a Public Health Control
750.155	Damaged Food Containers
750.160	General – Food Preparation
750.170	Raw Fruits and Raw Vegetables
750.180	Cooking Potentially Hazardous Foods
750.185	Minimum Food Temperature and Holding Time Required Under Section 750.180(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
750.186	Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
750.187	Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
750.188	Plant Food Cooking for Hot Holding
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750.190	Dry Milk and Dry Milk Products
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750.250	Food Display and Service of Potentially Hazardous Food
750.260	Display Equipment
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750.280	Dispensing Utensils
750.290	Ice Dispensing
750.300	Condiment Dispensing
750.310	Milk and Cream Dispensing
750.320	Re-Service
750.325	Special Requirements for Highly Susceptible Populations
750.330	General – Food Transportation
750.340	Public Health Protection
750.350	Preventing Health Hazards, Provision for Conditions Not Addressed
750.360	Variances
750.370	Justification for and Documentation of Proposed Variance

## SUBPART C: PERSONNEL

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750.500	General – Employee Health
750.510	General – Personal Cleanliness
750.512	When to Wash Hands
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750.530	General – Employee Practices
750.540	Management Sanitation Training and Certification
750.550	Management Sanitation Certification Examination (Repealed)
750.551	<a href="#">Certification and Recertification Certificate</a> Issuance
750.560	Certificate Revocation or Suspension

## SUBPART D: EQUIPMENT AND UTENSILS

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750.720	Table-Mounted Equipment
750.730	Portable Equipment
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750.750	Aisles and Working Spaces

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750.800	Cleaning Frequency
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750.840	Drying
750.850	Equipment, Utensil, and Tableware Handling
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## SUBPART F: SANITARY FACILITIES AND CONTROLS

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750.1000	General – Water Supply
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750.1020	Bottled Water

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750.1030	Water Under Pressure
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750.1130	Containers – Garbage and Refuse
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750.1290	Poisonous or Toxic Materials Permitted
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750.1360	Living Areas
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750.1380	Linens and Clothes Storage

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750.1390 Cleaning Equipment Storage  
750.1400 Animals

## SUBPART H: MOBILE FOOD SERVICE

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750.1500 General – Mobile Food Units  
750.1510 Restricted Operation  
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750.1530 Water Systems  
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750.1570 Servicing Operations

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750.1600 General – Temporary Food Service Establishments  
750.1610 Restricted Operations  
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750.1835	Make Up Work
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750.1837	Course Waiver
750.1838	Course Denial
750.1840	Reciprocity
750.1850	Certification Examination
750.1855	Testing Criteria
750.1860	Examination Notification
750.1861	Class Enrollment Form
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750.1895	Change of Address

## SUBPART K: REDUCED OXYGEN PACKAGING

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750.2010	Acceptable Products
750.2020	Employee Training
750.2030	Refrigeration Requirements
750.2031	Labeling – Refrigeration Statements
750.2032	Labeling – "Use By" Dates
750.2040	Safety Barriers
750.2041	Fish and Fishery Products
750.2042	Safety Barrier Verification
750.2050	Hazard Analysis Critical Control Point (HACCP) Program
750.2060	Precautions Against Contamination
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## SUBPART L: MEAT/POULTRY PROCESSING AND LABELING

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750.3000	Exceptions

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750.3100	Meat and Poultry Labeling
750.3200	Smoked Meat, Poultry and Other Food Products
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750.APPENDIX E	Monitor's Agreement Form

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

**SOURCE:** Adopted December 23, 1975; amended at 2 Ill. Reg. 19, p. 180, effective May 13, 1978; old rules repealed, new rules adopted and codified at 7 Ill. Reg. 1336, effective January 25, 1983; amended at 7 Ill. Reg. 16415, effective November 23, 1983; amended at 11 Ill. Reg. 2345, effective February 1, 1987; amended at 11 Ill. Reg. 18735, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14380, effective September 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17918, effective December 1, 1988; amended at 13 Ill. Reg. 1819, effective January 30, 1989; amended at 13 Ill. Reg. 18888, effective December 1, 1989; amended at 14 Ill. Reg. 19975, effective January 1, 1991; amended at 14 Ill. Reg. 20535, effective January 1, 1991; amended at 16 Ill. Reg. 15995, effective October 1, 1992; amended at 17 Ill. Reg. 18588, effective October 15, 1993; amended at 20 Ill. Reg. 2171, effective January 20, 1996; amended at 20 Ill. Reg. 3210, effective February 5, 1996; amended at 22 Ill. Reg. 19009, effective October 1, 1998; amended at 32 Ill. Reg. 11980, effective July 10, 2008; amended at 37 Ill. Reg. 20365, effective December 6, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 750.5 Incorporated and Referenced Materials**

- a) The following materials are referenced in this Part:
  - 1) Alternative Health Care Delivery Act [210 ILCS 3]
  - 2) Nursing Home Care Act [210 ILCS 45]

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- 3) Good Samaritan Food Donor Act [745 ILCS 50]
- 4) Hospital Licensing Act [210 ILCS 85]
- 5) Federal Food, Drug, and Cosmetic Act (21 USC 301)
- 6) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- 7) Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]
- 8) Meat and Poultry Inspection Act [225 ILCS 650]
- 9) Sanitary Food Preparation Act [410 ILCS 650]
- 10) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
- 11) Salvage Warehouses and Stores for Foods, Alcoholic Liquors, Drugs, Medical Devices and Cosmetics Code (77 Ill. Adm. Code 725)
- 12) The Illinois Plumbing Code (77 Ill. Adm. Code 890)
- 13) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
- 14) Drinking Water Systems Code (77 Ill. Adm. Code 900)
- 15) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
- 16) ~~Illinois~~ Water Well Construction Code (77 Ill. Adm. Code 920)
- 17) [Practice and Procedure in Administrative Hearings \(77 Ill. Adm. Code 100\)](#)
- 18) [Food Service Sanitation Code \(77 Ill. Adm. Code 750\)](#)
- 19) [Meat and Poultry Act \(8 Ill. Adm. Code 125\)](#)

b) The following materials are incorporated in this Part:

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- 1) Official Methods of Analysis of the Association of Official Analytical Chemists, 18<sup>th</sup> Edition, Association of Official Analytical Chemists (2006), 111 North Nineteenth Street, Suite 210, Arlington, Virginia 22209.
- 2) Standard Methods for the Examination of Dairy Products, 17<sup>th</sup> Edition, American Public Health Association (2004), 8001 I Street, Washington, D.C. 20001-3710.
- 3) The following Federal Regulations, Office of the Federal Register, National Archives and Records Administration (2005), U.S. Government Printing Office, 732 N. Capitol Street NW, Washington, D.C. 20401.
  - A) 9 CFR 1: Animals and Animal Products; Animal Welfare, Definition of Terms;
  - B) 9 CFR 301: Animals and Animal Products; Mandatory Meat Inspection, Definitions;
  - C) 9 CFR 318: Animals and Animal Products; Mandatory Meat Inspection, Entry into official establishments; reinspection and preparation of products;
  - D) 9 CFR 381: Animals and Animal Products; Mandatory Poultry Products Inspection, Poultry products inspection regulations;
  - E) 21 CFR 110: Current Good Manufacturing Practice in Manufacturing, Packaging, or Holding Human Food;
  - F) 21 CFR 133: Cheeses and Related Cheese Products;
  - G) 21 CFR 131: Milk and Cream;
  - H) 21 CFR 114: Acidified Foods;
  - I) 9 CFR 317: Labeling, Marking Devices, and Containers;
  - J) 21 CFR 170.39 – Threshold of regulation for substances used in food-contact articles;

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- K) 21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aides, and Sanitizers (as regulated for use as a food additive with conditions of safe use);
  - L) 21 CFR 182 – Substances Generally Recognized as Safe;
  - M) 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe; and
  - N) 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe (for use in contact with food).
- 4) [Conference for Food Protection – "Standards for Accreditation of Food Protection Manager Certification Programs" \(April 2012\) \(available online at <http://www.foodprotect.org/media/managercert/CFP%20FPMC%20April%202012%20Standards.pdf>\). "Approved Drug Products with Therapeutic Equivalence Evaluations", prepared by the Center for Drug Evaluation and Research, U.S. Food and Drug Administration \(available on line at <http://www.fda.gov/edcr/ob/default.htm>\).](http://www.foodprotect.org/media/managercert/CFP%20FPMC%20April%202012%20Standards.pdf)
- 5) [Tentative Final Monograph: "Topical Antimicrobial Drug Products for Over the Counter Human Use: Health Care Antiseptic Drug Products", prepared by the Center for Drug Evaluation and Research, U.S. Food and Drug Administration \(available on line at \[http://www.fda.gov/edcr/http://www.fda.gov/edcr/otemonographs/category\\\_sort/antimicrobial.htm\]\(http://www.fda.gov/edcr/http://www.fda.gov/edcr/otemonographs/category\_sort/antimicrobial.htm\)\).](http://www.fda.gov/edcr/http://www.fda.gov/edcr/otemonographs/category_sort/antimicrobial.htm)
- c) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.

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

## SUBPART C: PERSONNEL

**Section 750.551 Certification and Recertification Certificate Issuance**

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- a) *For purposes of certification and recertification for food service sanitation manager certification, the Department shall accept only training approved by the Department and certification exams accredited under standards developed and adopted by the Conference for Food Protection or its successor. (Section 3 of the Food Handling Regulation Enforcement Act)*
- ba) Original certifications and recertification certificates issued under this Part shall:
- 1) Be issued only after the Department has received ~~both~~:
    - A) Evidence of completion of eight hours of Department-approved training;
    - ~~BA)~~ Evidence of successful completion of an approved Food Service Sanitation Manager Certification examination with a final score of 75% or higher; ~~and~~
    - ~~CB)~~ Payment of a \$35 nonrefundable fee; ~~-~~
  - 2) Be issued as of the date when the individual successfully completed the examination; ~~and~~
  - 3) Expire five years after ~~from~~ the date of the original issuance; ~~and~~
  - 4) Be issued only if recertification training was taken not more than 12 months prior to the certification expiration date.
- cb) Replacement or duplicate certificates issued under this Part shall:
- 1) Be issued after the Department has received payment of a \$10 fee; and
  - 2) Have the same expiration date as the original certificate.
- e) ~~Renewal certificates shall be issued by the Department at the written request of the certificate holder if the request, documentation of meeting recertification training and/or testing requirements and payment of a \$35 fee are received by the Department prior to or on the certificate's expiration date. Renewed certificates shall expire five years from the date of the original certificate's expiration date.~~

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- 1) ~~Certified food service sanitation managers shall have completed one of the following training and/or testing activities within the previous five years before expiration of their certificates:~~
- A) ~~A Department approved 15-hour certification training course;~~
  - B) ~~A Department approved examination, developed in compliance with Section 750.1850, with a passing score of 75% or higher;~~
  - C) ~~A minimum five-hour refresher course provided by an Illinois approved instructor, as defined in Section 750.1810, using a curriculum provided by the Department; or~~
  - D) ~~Other training, a minimum of five hours in length, that has received pre-approval by the Department.~~
- d) ~~If a certificate renewal application is received by the Department with a postmark no later than 30 days after the certificate's expiration date, it shall be renewed, provided that a written request for renewal is accompanied by documentation of having met recertification criteria as listed in subsection (c) of this Section and the \$35 fee. Any fees submitted after the expiration date of the certificate that are not accompanied by all necessary items listed in this subsection (d) are non-refundable.~~

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

## SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION

**Section 750.1820 Course Content**

- a) The minimum course content and ~~eight~~<sup>fifteen</sup> hours of training, inclusive of the examination, are as follows. The instructor ~~shall~~<sup>should</sup> consider expanding the number of contact hours when a review of the participants reveals learning disabilities, language barriers or other inhibiting factors to learning. ~~To~~<sup>In order to</sup> renew an instructor's certificate, a new syllabus must be submitted using the format outlined in subsection (b) ~~of this Section.~~
- b) Subject Area – Specific Elements of Knowledge

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- |  | Hours |
|--|-------|
| 1) Identify foodborne illness <u>and discuss food allergens (90 minutes)</u> .   | 2     |
| A) Define terms associated with foodborne illness: outbreak, food infection, food intoxication, communicable disease, pathogens, potentially hazardous foods, temperature danger zone.   |       |
| B) Recognize the major microorganisms and toxins that can contaminate food and the problems that can be associated with the contamination: bacteria, viruses, parasites, fungi. <u>Define and recognize illnesses that can be associated with chemical and physical contamination.</u> |       |
| C) Define and recognize potentially hazardous foods <u>(time/temperature control for food safety)</u> .  |       |
| D) <u>Define and recognize the major factors that contribute to foodborne illness.</u> <del>Define and recognize illnesses that can be associated with chemical and physical contamination.</del>  |       |
| E) <u>Identify common food allergens and recognize causes of cross-contact.</u> <del>Define and recognize the major contributing factors for foodborne illness.</del>  |       |
| F) <del>Recognize how microorganisms cause foodborne disease.</del>  |       |
| 2) Identify time/temperature relationship with foodborne illness <u>(60 minutes)</u> .   | 2     |
| A) Recognize the relationship between time/temperature and microorganisms (survival, growth, and toxin production) during the following stages: receiving, storing, thawing, cooking, holding/displaying, serving, cooling, storing (post production), reheating, transporting.        |       |
| B) Describe the use of thermometers in monitoring food temperatures: types of thermometers, techniques and   |       |

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frequency, calibration and frequency.

- 3) Describe the relationship between personal hygiene and food safety (45 minutes). 3
- A) Recognize the association of hand contact and foodborne illness: hand-washing technique and frequency; proper use of gloves, including replacement frequency and use with food allergens; and, minimal hand contact with food.
- B) Recognize the association of personal habits and behaviors and foodborne illness: smoking, eating and drinking, wearing clothing that may contaminate food, personal behaviors, including sneezing, coughing, etc.
- C) Recognize the association of health of a food handler to foodborne illness: free of symptoms of communicable disease, free of infections, food protected from contact with open wounds.
- ~~D) Recognize how policies, procedures and management contribute to improved food hygiene practices: self inspection program, pest control program, cleaning schedules and procedures, equipment and facility maintenance program.~~
- 4) Describe methods for preventing food contamination, from purchasing to serving (135 minutes). 3
- A) Define and identify potential hazards prior to delivery and during delivery: contamination, adulteration, damage, approved source, sound and safe condition.
- B) Define HACCP and identify Identify potential hazards and methods to minimize or eliminate hazards after delivery: personal hygiene, cross-contamination (food to food and equipment and utensils), contamination (chemical, additives, physical), service/display – customer contamination, storage, re-service ~~re-service~~.

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- 5) Identify and apply correct procedures for cleaning, sanitizing and facility management (60 minutes)~~and sanitizing—equipment and utensils.~~ 2
- A) Define terms associated with cleaning, and sanitizing.
- B) Apply appropriate methods of cleaning and sanitizing: manual ware washing, mechanical ware washing, clean in place (CIP)~~Apply principles of cleaning and sanitizing.~~
- C) Identify frequency of cleaning and sanitizing~~Identify materials: equipment, detergent, sanitizer.~~
- D) Identify facility, design and construction suitable for food establishments: refrigeration, heating and hot holding, floors, walls, ceilings, pest control, lighting, plumbing, ventilation, water supply, wastewater disposal, waste disposal.~~Apply appropriate methods of cleaning and sanitizing: manual warewashing, mechanical warewashing, clean in place (CIP).~~
- E) ~~Identify frequency of cleaning and sanitizing.~~
- 6) ~~Recognize problems and potential solutions associated with facility, equipment, and layout.~~
- A) ~~Identify facility, design, and construction suitable for food establishments: refrigeration, heating and hot holding, floors, walls, ceilings, pest control, lighting, plumbing, ventilation, water supply, wastewater disposal, waste disposal.~~
- B) ~~Identify equipment and utensil design and location.~~
- 67) Codes related to food service establishments (30 minutes).
- A) Public Health Codes ~~& Regulations~~: responsibilities affecting operation:;-

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- i) Illinois Food, Drug and Cosmetic Act (~~Ill. Rev. Stat. 1991, ch. 56½, par. 501 et seq.~~) [410 ILCS 620]
  - ii) Food Service Sanitation Code (~~77 Ill. Adm. Code 750~~)
  - iii) Meat and Poultry Inspection Act as those rules pertain (~~8 Ill. Adm. Code 125~~) as it pertains to food service establishments.
  - iv) Federal regulations regarding food safety and food allergens
- B) Appendix A (Retail Food Sanitary Inspection Report) ~~Regulatory Inspection Report~~ and its use as a control tool.
- 7) Examination (minimum 60 minutes or per approved national examination provider).
- A) An examination shall be proctored by an approved proctor for an approved national examination provider.
  - B) Additional time shall be provided for the examination as allowed in the procedures set forth by the approved national examination provider. Additional time is allowed for examination, but shall not be substituted for required training hours.
- e) Evaluation Examination  
~~An examination must be monitored by a Department approved monitor.~~

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

**Section 750.1830 Course Approval**

Course approval by the Department is contingent upon compliance with ~~on~~ the following requirements:

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- a) An approved Food Service Sanitation Manager Certification instructor ~~shall~~must teach the course.
- b) An approved institution ~~shall~~must sponsor the instructor. ~~Approved~~Such approved institutions are limited to local health departments, community colleges, universities, institutional training programs or nutrition consultation agencies. ~~The Department will approve exceptions~~Exceptions shall be approved only by the Department based on the instructor's demonstrated ability to provide a location, ~~textbook~~text books, hand-outs or other references; for example, agreements with bookstores to make references available for sale. ~~The Department will revoke or suspend any~~Any sponsorship ~~may be revoked or suspended by the Department~~ when the sponsor fails to comply with this Part. Prior to ~~a~~such suspension or revocation, the sponsor shall be given the opportunity for a hearing before the ~~Department~~regulatory authority pursuant to the Department's ~~Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)~~.
- c) An approved course syllabus ~~shall~~is to be used. Each course shall meet the standards for content and length of training. The syllabus shall delineate:
- 1) ~~Textbook~~text book and other teaching materials used;
  - 2) ~~Methods~~methods and locations used for instructions;
  - 3) ~~Course~~course content;
  - 4) ~~Topic~~topics and length of class meeting; and
  - 5) ~~Method~~method used to determine ~~students'~~students participation and presence during the course sessions, examples ~~such as~~; sign-up sheets, roster, etc.
- d) Instructors shall submit ~~one copy~~two copies of the syllabus to the ~~Department~~Central Office, Division of Food, Drugs and Dairies, and receive approval prior to teaching a State-approved course. Any syllabus content revision shall be sent to ~~the Department~~the Central Office for approval. ~~One syllabus shall be retained by the Central Office, the second will be sent to the applicable Regional Office.~~
- e) ~~The Department's Food Service Sanitation Manager Certification examination~~

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~~shall not be offered to individuals who participated in a non-approved course or who were taught by a non-approved or inactive instructor unless course waiver applies.~~

- f) ~~A course must have a minimum of five students. For the examination to be monitored by a Department approved monitor who is employed by the Department of Public Health, there must be a minimum of 10 students.~~

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

**Section 750.1840 Reciprocity**

- a) ~~*The Department shall award an Illinois certificate to anyone presenting a valid certificate issued by another state, so long as the holder of the certificate provides proof of having passed an examination accredited under standards developed and adopted by the Conference for Food Protection or its successor. Reciprocity is only for individuals who have moved to or begun working in Illinois in the six months prior to applying for reciprocity. (Section 3 of the Food Handling Regulation Enforcement Act) Individual's seeking reciprocity shall submit*~~  
~~The Department will recognize similar course work and/or certificates and develop reciprocity agreements or similar approval agreements with industry, state or local health departments, provided that:~~
- 1) ~~*A \$35.00 nonrefundable issuance fee (Section 3 of the Food Handling Regulation Enforcement Act) to be paid at the time of reciprocity request; the course work or certificate was completed within five (5) years of applying for an Illinois Food Service Sanitation Manager certificate, and*~~
  - 2) ~~*Proof of having moved to or begun working in Illinois in the last six months, such as an out-of-state identification card or driver's license, utility bill with out-of-state address and postmark, or a letter from a current employer, dated and on letterhead, confirming recent employment, the standards for certification are essentially equivalent to Section 750.1820 through Section 750.1836, and*~~
  - 3) ~~*the reciprocal course and/or certificate is approved by the Department in writing.*~~

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- b) *The reciprocal Illinois certificate shall expire on the same date as the presented certificate. Any individual presenting an out-of-state certificate may do so only once. (Section 3 of the Food Handling Regulation Enforcement Act)*
- c) *On or before the expiration date, the holder must have met the Illinois recertification requirements of this Part in order to be reissued an Illinois certificate. (Section 3 of the Food Handling Regulation Enforcement Act)*
- ~~db)~~ *The City of Chicago reciprocity agreement*~~Reciprocity agreements~~ shall be reviewed on an annual basis.

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

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3000.241	Amendment
3000.840	Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act, specifically Sections 5 (c) (2), (3), (6), (7), (8), and (11) of this Act [230 ILCS 10/5 (c) (2), (3), (6), (7), (8), and (11)]
- 5) Effective date of Rule: January 8, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of proposal published in the *Illinois Register*: 37 Ill. Reg. 14378; September 13, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The rulemaking contains the following Second Notice changes:  
  
In Section 3000.241 a) and e) 1), "Supplier's" is changed to "suppliers";  
  
In Section 3000.241 e) 2) and f) 1) and 2), "supplier" is changed to "suppliers"; and  
  
In Section 3000.840 c), "owner" is changed to "owners".
- 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

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- 15) Summary and Purpose of Rulemaking: The rulemaking makes the following changes to the riverboat gambling rules (86 Ill. Adm. Code 3000):

*Renewal of supplier's license*: The proposed rulemaking amends Section 3000.241 of the riverboat gambling rules ("Renewal of Supplier's License") to provide that materials by suppliers licensees and their key persons in connection with renewal of a license must be submitted to the Board at least 90 days, instead of 60 days, before the renewal date. The proposed new language does not change the required materials that must be submitted as a condition for renewal. As under the current rule, licensees seeking renewal must submit the following:

- A written statement requesting license renewal;
- A written statement verifying past compliance with the annual disclosure affidavit required under Section 3000.240;
- Measures taken by the licensee to assure compliance with the Riverboat Gambling Act and rules; and
- Responses to specific questions raised by the Board in connection with its re-licensure investigation and review.

Also as under the current rule, key persons must submit information updating, and attesting to the veracity of, all previously submitted materials, and setting forth any required additional or different information from that which has been previously submitted.

Submission of the above information 90 days before a license is scheduled to expire will facilitate the renewal process by ensuring that the Illinois Gaming Board staff can conduct a thorough re-licensing review in a timely fashion. The 90-day period also corresponds with that currently in effect for owners license renewals under Section 3000.236.

*Privacy of surveillance recordings*: The proposed rulemaking adds a new subsection (c) to Section 3000.840 of the riverboat gambling rules ("Storage and Retrieval") designed to ensure the confidentiality of videotape and digital surveillance recordings. The new subsection provides that the viewing of any videotape or digital recording by any party other than Illinois Gaming Board staff or designated surveillance employees of an owner

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licensee is prohibited unless specifically approved by the Administrator or his or her designee, or pursuant to a lawful subpoena.

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

Emily Mattison  
General Counsel  
Illinois Gaming Board  
160 North LaSalle Street  
Chicago, Illinois 60601-3103

312/814-7137  
fax: 312/814-7253

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000  
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section	
3000.100	Definitions
3000.101	Invalidity
3000.102	Public Inquiries
3000.103	Organization of the Illinois Gaming Board
3000.104	Rulemaking Procedures
3000.105	Board Meetings
3000.110	Disciplinary Actions
3000.115	Records Retention
3000.120	Place to Submit Materials
3000.130	No Opinion or Approval of the Board
3000.140	Duty to Disclose Changes in Information
3000.141	Applicant/Licensee Disclosure of Agents
3000.150	Owner's and Supplier's Duty to Investigate
3000.155	Investigatory Proceedings
3000.160	Duty to Report Misconduct
3000.161	Communication with Other Agencies
3000.165	Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170	Fair Market Value of Contracts
3000.180	Weapons on Riverboat

SUBPART B: LICENSES

Section	
3000.200	Classification of Licenses
3000.210	Fees and Bonds
3000.220	Applications
3000.221	Other Required Forms
3000.222	Identification and Requirements of Key Persons
3000.223	Disclosure of Ownership and Control
3000.224	Economic Disassociation

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3000.225	Business Entity and Personal Disclosure Filings
3000.230	Owner's Licenses
3000.231	Distributions
3000.232	Undue Economic Concentration
3000.234	Acquisition of Ownership Interest By Institutional Investors
3000.235	Transferability of Ownership Interest
3000.236	Owner's License Renewal
3000.237	Renewed Owner's Licenses, Term and Restrictions
3000.238	Appointment of Receiver for an Owner's License
3000.240	Supplier's Licenses
3000.241	Renewal of Supplier's License
3000.242	Amendment to Supplier's Product List
3000.243	Bankruptcy or Change in Ownership of Supplier
3000.244	Surrender of Supplier's License
3000.245	Occupational Licenses
3000.250	Transferability of Licenses
3000.260	Waiver of Requirements
3000.270	Certification and Registration of Electronic Gaming Devices
3000.271	Analysis of Questioned Electronic Gaming Devices
3000.272	Certification of Voucher Systems
3000.280	Registration of All Gaming Devices
3000.281	Transfer of Registration (Repealed)
3000.282	Seizure of Gaming Devices (Repealed)
3000.283	Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284	Disposal of Gaming Devices
3000.285	Certification and Registration of Voucher Validation Terminals

## SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section	
3000.300	General Requirements – Internal Control System
3000.310	Approval of Internal Control System
3000.320	Minimum Standards for Internal Control Systems
3000.330	Review of Procedures (Repealed)
3000.340	Operating Procedures (Repealed)
3000.350	Modifications (Repealed)

## SUBPART D: HEARINGS ON NOTICE OF DENIAL,

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RESTRICTION OF LICENSE, PLACEMENT ON BOARD EXCLUSION LIST OR  
REMOVAL FROM BOARD EXCLUSION LIST OR SELF-EXCLUSION LIST

Section	
3000.400	Coverage of Subpart
3000.405	Requests for Hearings
3000.410	Appearances
3000.415	Discovery
3000.420	Motions for Summary Judgment
3000.424	Subpoena of Witnesses
3000.425	Proceedings
3000.430	Evidence
3000.431	Prohibition on Ex Parte Communication
3000.435	Sanctions and Penalties
3000.440	Transmittal of Record and Recommendation to the Board
3000.445	Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing

## SUBPART E: CRUISING

Section	
3000.500	Riverboat Cruises
3000.510	Cancelled or Disrupted Cruises

## SUBPART F: CONDUCT OF GAMING

Section	
3000.600	Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602	Disposition of Unauthorized Winnings
3000.605	Authorized Games
3000.606	Gaming Positions
3000.610	Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614	Tournaments, Enhanced Payouts and Give-aways
3000.615	Payout Percentage for Electronic Gaming Devices
3000.616	Cashing-In
3000.620	Submission of Chips for Review and Approval
3000.625	Chip Specifications
3000.630	Primary, Secondary and Reserve Sets of Gaming Chips
3000.631	Tournament Chips
3000.635	Issuance and Use of Tokens for Gaming

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3000.636	Distribution of Coupons for Complimentary Chips, Tokens, Vouchers, Cash and Electronic Credits
3000.640	Exchange of Chips, Tokens, and Vouchers
3000.645	Receipt of Gaming Chips or Tokens from Manufacturer or Distributor
3000.650	Inventory of Chips
3000.655	Destruction of Chips, Tokens, and Vouchers
3000.660	Minimum Standards for Electronic Gaming Devices
3000.661	Minimum Standards for Voucher Systems
3000.665	Integrity of Electronic Gaming Devices
3000.666	Bill Validator Requirements
3000.667	Integrity of Voucher Systems
3000.670	Computer Monitoring Requirements of Electronic Gaming Devices
3000.671	Computer Monitoring Requirements of Voucher Systems

## SUBPART G: EXCLUSION OF PERSONS

Section	
3000.700	Organization of Subpart
3000.701	Duty to Exclude
3000.705	Voluntary Self-Exclusion Policy (Repealed)
3000.710	Distribution and Availability of Board Exclusion List
3000.720	Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
3000.725	Duty of Licensees
3000.730	Procedure for Entry of Names
3000.740	Petition for Removal from the Board Exclusion List
3000.745	Voluntary Self-Exclusion Policy
3000.750	Establishment of a Self-Exclusion List
3000.751	Locations to Execute Self-Exclusion Forms
3000.755	Information Required for Placement on the Self-Exclusion List
3000.756	Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
3000.760	Distribution and Availability of Confidential Self-Exclusion List
3000.770	Duties of Licensees
3000.780	Request for Removal from the IGB Self-Exclusion List
3000.782	Required Information, Recommendations, Forms and Interviews
3000.785	Appeal of a Notice of Denial of Removal
3000.786	Duties of Owner Licensees to Persons Removed from the Self-Exclusion List
3000.787	Placement on the Self-Exclusion List Following Removal
3000.790	Duties of the Board

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## SUBPART H: SURVEILLANCE AND SECURITY

## Section

3000.800	Required Surveillance Equipment
3000.810	Riverboat and Board Surveillance Room Requirements
3000.820	Segregated Telephone Communication
3000.830	Surveillance Logs
3000.840	Storage and Retrieval
3000.850	Dock Site Board Facility
3000.860	Maintenance and Testing

## SUBPART I: LIQUOR LICENSES

## Section

3000.900	Liquor Control Commission
3000.910	Liquor Licenses
3000.920	Disciplinary Action
3000.930	Hours of Sale

## SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

## Section

3000.1000	Ownership Records
3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual and Special Audits and Other Reporting Requirements
3000.1040	Accounting Controls Within the Cashier's Cage
3000.1050	Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
3000.1060	Handling of Cash at Gaming Tables
3000.1070	Tips or Gratuities
3000.1071	Admission Tax and Wagering Tax
3000.1072	Cash Reserve Requirements

## SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

## Section

3000.1100	Coverage of Subpart
3000.1105	Duty to Maintain Suitability

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3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
3000.1120	Appearances
3000.1125	Answer
3000.1126	Appointment of Hearing Officer
3000.1130	Discovery
3000.1135	Motions for Summary Disposition
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3000.1140	Proceedings
3000.1145	Evidence
3000.1146	Prohibition of Ex Parte Communication
3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

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

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967, effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended

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at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 34 Ill. Reg. 3285, effective February 26, 2010; amended at 34 Ill. Reg. 3748, effective March 11, 2010; amended at 34 Ill. Reg. 4768, effective March 16, 2010; amended at 34 Ill. Reg. 5200, effective March 24, 2010; amended at 34 Ill. Reg. 15386, effective September 23, 2010; amended at 36 Ill. Reg. 13199, effective July 31, 2012; amended at 37 Ill. Reg. 12050, effective July 9, 2013; amended at 37 Ill. Reg. 18255, effective November 1, 2013; amended at 38 Ill. Reg. 2808, effective January 8, 2014.

## SUBPART B: LICENSES

**Section 3000.241 Renewal of Supplier's License**

- a) **Renewal Requirements**  
Except as provided in subsection (d), upon the expiration of an initial ~~suppliers~~Supplier's license issued pursuant to Section 3000.240, the license may be renewed subject to the provisions of the Act and this Section 3000.241 for a licensure period of four years. The renewal requirements shall include, but not be limited to, the following:
- 1) Every fourth year following the initial licensing, the licensee shall provide documentation of the following in lieu of a renewal application:
    - A) A written statement requesting renewal of the Supplier's license;
    - B) A written statement verifying past compliance with the annual disclosure affidavit required under Section 3000.240(h)(2)(A);
    - C) Measures taken by the licensee to assure compliance with the Act and this Part; and
    - D) Responses to specific questions or concerns raised by the Board in its relicensure investigation and review process.
  - 2) In addition to the information submitted by the licensee pursuant to subsection (a)(1), Key Persons of the licensee who have previously filed Business Entity or Personal Disclosure Forms shall submit disclosure

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information pursuant to Section 3000.222(e)(2), updating, and attesting to the veracity of, all previously submitted materials and setting forth any required additional or different information from that which has been previously submitted.

- 3) Materials submitted pursuant to this Section shall be provided at least ~~90~~<sup>sixty</sup> days prior to the renewal date, and must be accompanied by the required annual licensing fee.
- 4) Nothing in this Section shall be interpreted to alter the duty to comply with the annual disclosure and fee requirements as set forth in Section 3000.240 or to disclose changes in information as set forth in Section 3000.140.

b) Board Decision

The Board shall base its renewal of a Supplier's license upon:

- 1) The timeliness and responsiveness of the information submitted by the licensee as required pursuant to this Section 3000.241;
- 2) The background, reputation, character and integrity of the Key Persons;
- 3) The licensee's continuing ability to maintain the quality of its products or services;
- 4) The overall adherence of the licensee to all requirements of the Act and this Part; and
- 5) Any other information the Board deems appropriate and necessary to maintain public confidence in the credibility and integrity of gambling operations, as required by Section 2(b) of the Act.

c) Term of Renewed Licenses

Unless otherwise restricted pursuant to subsection (d) ~~of this Section~~, renewed licenses shall be issued for a term of four years.

d) Licenses Restricted on Renewal

- 1) Upon issuing a renewal license, the Board may restrict the term of or

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impose conditions upon a license.

- 2) A restricted license may be issued on renewal in the event the Board has concerns regarding:
    - A) The nature or quality of a product provided by the licensee in Illinois;
    - B) The business experience or background of the licensee's Key Persons;
    - C) The business practices in Illinois and other jurisdictions of the licensee, its Key Persons or any person who directly or indirectly controls the licensee;
    - D) The licensee's reputation;
    - E) The licensee's failure to comply with the Act and this Part.
  - 3) The term of a license restricted on renewal shall be for one year from the date of issuance.
  - 4) If, at the conclusion of the one year period for licenses restricted on renewal, the Board deems that the licensee has addressed and rectified the Board's concerns, the Board may issue a four year renewal license.
  - 5) Failure of the licensee to properly address and rectify the Board's concerns within a one year period may result in the issuance of another license restricted on renewal, the non-renewal of the license or disciplinary action authorized under Section 5 of the Act.
- e) Action of the Board
- 1) The Board shall act at a public meeting on the renewal of a ~~suppliers~~Supplier's license.
  - 2) If the Board decides to deny license renewal, it shall direct the Administrator to issue a Notice of Denial to the ~~suppliers~~supplier licensee by certified mail or personal delivery.

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- 3) If the Board decides to issue a restricted license on renewal, it shall direct the Administrator to issue a Notice of Restricted License by certified mail or personal delivery. Such Notice shall specify the reasons for a restricted license.
- f) Request for Hearing
- 1) A ~~supplier~~ licensee served with a Notice of Denial may request a hearing in accordance with Section 3000.405.
  - 2) A ~~supplier~~ licensee served with a Notice of Restricted License on Renewal may request a hearing in accordance with Section 3000.405.
  - 3) If a hearing is not requested, the Notice of Denial or Notice of Restricted License on Renewal becomes the final order of the Board.

(Source: Amended at 38 Ill. Reg. 2808, effective January 8, 2014)

## SUBPART H: SURVEILLANCE AND SECURITY

**Section 3000.840 Storage and Retrieval**

- a) All videotape and digital recordings shall be retained as provided in the Records Retention Schedule (see Section 3000.115) promulgated by the Administrator under authority of the Riverboat Gambling Act [230 ILCS 10/5] and shall be listed on a log by surveillance personnel with the date, times, and identification of the person monitoring or changing the tape in the recorder. Original videotape and digital recordings will be released to the Board upon demand.
- b) Any videotape or digital recording that records illegal or suspected illegal activity shall, upon completion of the recording, be removed from the recorder and etched or otherwise indelibly marked with date, time and identity of surveillance personnel. Digital recordings that record illegal or suspected illegal activity shall be transferred to a read-only, non-erasable format approved by the Administrator. The videotape or digital recording shall be placed in a separate, secure area and notification given to the Board agent.

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- c) The viewing of any videotape or digital recording other than by Illinois Gaming Board staff or designated surveillance employees of an owners licensee is prohibited unless specifically approved by the Administrator or his or her designee, or pursuant to a lawful subpoena.

(Source: Amended at 38 Ill. Reg. 2808, effective January 8, 2014)

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- 1) Heading of the Part: Narrative and Planning Policies
- 2) Code Citation: 77 Ill. Adm. Code 1100
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1100.75	Amend
1100.220	Amend
1100.440	Amend
1100.520	Amend
1100.530	Amend
1100.540	Amend
1100.550	Amend
1100.560	Amend
1100.630	Amend
1100.640	Amend
- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]
- 5) Effective Date of Rule: February 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 Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the Illinois Register: 37 Ill. Reg. 3934, April 5, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:
  - a) In Section 1100.220, change:

“Ambulatory Surgical Treatment Center” or ASTC” means any institution, place or building devoted primarily to the maintenance and operation of facilities for the

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performance of surgical procedures or any facility in which a medical or surgical procedure is utilized to terminate a pregnancy, irrespective of whether the facility is devoted primarily to this purpose. Such facility shall not provide beds or other accommodations for the overnight stay of patients; however, facilities devoted exclusively to the treatment of children may provide accommodations and beds for their patients for up to 23 hours following admission. Individual patients shall be discharged in an ambulatory condition without danger to the continued wellbeing of the patients or shall be transferred to a hospital. The term "ambulatory surgical treatment center" does not include any of the following:

Any institution, building, place or agency required to be licensed by the "Hospital Licensing Act", approved July 1, 1953, as amended;

Any person or institution required to be licensed by the Nursing Home Care Act or the IDMR/DD Community Care Act;

Hospitals or ambulatory surgical treatment centers maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals and ambulatory surgical treatment centers under its management and control;

Hospitals or ambulatory surgical treatment centers maintained by the Federal Government or agencies thereof;

Any place, agency, clinic, or practice, public or private, whether organized for profit or not, devoted exclusively to the performance of dental or oral surgical procedures."

to:

"Ambulatory Surgical Treatment Center" or "ASTC" means any institution, place or building required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5]".

The following changes were made in response to comments and suggestions of JCAR:

- a) In Section 1130.990(c), "15 business days" was changed to "14 business days"; and

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- b) In Section 1130.990 (b), "shall also" was changed to "are encouraged to".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The subject amendments to Part 1130 are proposed to: reflect recent changes to the Health Facilities Planning Act (20 ILCS 3960); amend language for clarification and in some cases, expansion of operational requirements of the Certificate of Need (CON) process; and repeal Sections that have been deemed outdated or unnecessary.
- 16) Information and questions regarding this adopted rule shall be directed to:

Claire Burman  
Rules Coordinator  
Health Facilities and Services Review Board  
122 S. Michigan Avenue, Suite 700  
Chicago, IL 60603

312/814-8814  
e-mail: Claire.Burman@illinois.gov

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

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## TITLE 77: PUBLIC HEALTH

## CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

## SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1100

## NARRATIVE AND PLANNING POLICIES

## SUBPART A: GENERAL NARRATIVE

## Section

1100.10	Introduction
1100.20	Authority
1100.30	Purpose
1100.40	Health Maintenance Organizations (Repealed)
1100.50	Subchapter Organization
1100.60	Mandatory Reporting of Data
1100.70	Data Appendices
1100.75	Annual Bed Report
1100.80	Institutional Master Plan Hospitals (Repealed)
1100.90	Public Hearings

## SUBPART B: DEFINITIONS

## Section

1100.210	Introduction
1100.220	Definitions

## SUBPART C: PLANNING POLICIES

## Section

1100.310	Need Assessment
1100.320	Staffing
1100.330	Professional Education
1100.340	Public Testimony
1100.350	Multi-Institutional Systems
1100.360	Modern Facilities
1100.370	Occupancy/Utilization Standards
1100.380	Systems Planning
1100.390	Quality

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1100.400	Location
1100.410	Needed Facilities
1100.420	Discontinuation
1100.430	Coordination with Other State Agencies
1100.440	Requirements for Authorized Hospital Beds

## SUBPART D: NEED ASSESSMENT

## Section

1100.510	Introduction, Formula Components, Planning Area Development Policies, and Normal Travel Time Determinations
1100.520	Medical-Surgical/Pediatric Categories of Service
1100.530	Obstetric Care Category of Service
1100.540	Intensive Care Category of Service
1100.550	Comprehensive Physical Rehabilitation Category of Service
1100.560	Acute Mental Illness Treatment Category of Service
1100.570	Substance Abuse/Addiction Treatment Category of Service (Repealed)
1100.580	Neonatal Intensive Care Category of Service
1100.590	Burn Treatment Category of Service (Repealed)
1100.600	Therapeutic Radiology Equipment (Repealed)
1100.610	Open Heart Surgery Category of Service
1100.620	Cardiac Catheterization Services
1100.630	In-Center Hemodialysis Category of Service
1100.640	Non-Hospital Based Ambulatory <a href="#">Surgical Treatment Center Services – Category of Service</a> <del>Surgery</del>
1100.650	Computer Systems (Repealed)
1100.660	General Long-Term Nursing Care Category of Service (Repealed)
1100.661	General Long-Term Care-Sheltered Care Category of Service (Repealed)
1100.670	Specialized Long-Term Care Categories of Service (Repealed)
1100.680	Intraoperative Magnetic Resonance Imaging Category of Service (Repealed)
1100.690	High Linear Energy Transfer (L.E.T.) (Repealed)
1100.700	Positron Emission Tomographic Scanning (P.E.T.) (Repealed)
1100.710	Extracorporeal Shock Wave Lithotripsy (Repealed)
1100.720	Selected Organ Transplantation
1100.730	Kidney Transplantation
1100.740	Subacute Care Hospital Model
1100.750	Postsurgical Recovery Care Center Alternative Health Care Model
1100.760	Children's Respite Care Center Alternative Health Care Model
1100.770	Community-Based Residential Rehabilitation Center Alternative Health Care

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## Model

1100.800 Freestanding Emergency Center Medical Services Category of Service

1100.810 Long-Term Acute Care Hospital Category of Service

1100.APPENDIX A Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a (Repealed)

AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960/12].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 15, 1999; amended at 24 Ill. Reg. 6070, effective April 7, 2000; amended at 25 Ill. Reg. 10796, effective August 24, 2001; amended at 27 Ill. Reg. 2904, effective February 21, 2003; amended at 31 Ill. Reg. 15255, effective November 1, 2007; amended at 32 Ill. Reg. 4743, effective March 18, 2008; amended at 32 Ill. Reg. 12321, effective July 18, 2008; expedited correction at 33 Ill. Reg. 4040, effective July 18, 2008; amended at 34 Ill. Reg. 6067, effective April 13, 2010; amended at 35 Ill. Reg. 16978, effective October 7, 2011; amended at 36 Ill. Reg. 2542, effective January 31, 2012; amended at 38 Ill. Reg. 2822, effective February 1, 2014.

## SUBPART A: GENERAL NARRATIVE

**Section 1100.75 Annual Bed Report**

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- a) For purposes of this Section, "initial" annual bed reports shall be those that are prepared for the first time after August 31, 2007. Each hospital shall be required to submit its initial report to IDPH within six months after August 31, 2007.
- b) Each hospital shall report on its number of beds on an annual basis, in a format that includes:
- 1) Summary of bed count by operational status (i.e., physically available, reserve, and transitional) and category of service;
  - 2) Identification of the physical location of patient care units (PCUs) and beds; and
  - 3) If the report contains transitional beds, a description of the project and timetable for completion.
- c) The annual bed report is to be certified as accurate by the hospital's Chief Executive Officer or his/her equivalent to the best of his/her knowledge. ~~Once every three years, compliance of the PCUs and bed rooms with applicable facility requirements for new and existing facilities (77 Ill. Adm. Code 250: Subpart O, Subpart T and Subpart U) shall be verified by a licensed architect or engineer who is knowledgeable of the cited requirements and life safety codes.~~ If an approved plan of correction is in place, the applicant shall submit a copy of that plan. In addition, the facility shall provide the Illinois Department of Public Health access to all files and information used in any reports submitted to HFSRB to verify the authenticity of previously submitted annual bed reports. ~~The triennial certification may be timed by the hospital to coincide with its preparation of the "Statement of Conditions" required by the Joint Commission on Accreditation of Healthcare Organizations.~~
- d) IDPH will review hospital bed reports and summarize reported changes from the existing Inventory of Hospital Beds. Changes to the Inventory of Hospital Beds will be submitted to HFSRB~~HFPB~~ for its approval to be recorded.
- e) Any changes in a health care facility's bed capacity, with or without permit, shall be in accordance with 77 Ill. Adm. Code 1130.
- f) IDPH and HFSRB~~HFPB~~ have the authority to conduct inspections and request additional documentation to verify the details of the submitted annual bed reports.

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(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

## SUBPART B: DEFINITIONS

**Section 1100.220 Definitions**

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Acute Dialysis" means dialysis given on an intensive care, inpatient basis to patients suffering from (presumably reversible) acute renal failure, or to patients with chronic renal failure with serious complications.

"Acute Mental Illness" means a crisis state or an acute phase of one or more specific psychiatric disorders in which a person displays one or more specific psychiatric symptoms of such severity as to prohibit effective functioning in any community setting. Persons who are acutely mentally ill may be admitted to an acute mental illness facility or unit under the provisions of the Mental Health and Developmental Disabilities Code [405 ILCS 5], which determines the specific requirements for admission by age and type of admission.

"Acute Mental Illness Facility" or "Acute Mental Illness Unit" means a facility or a distinct unit in a facility that provides a program of acute mental illness treatment service (as defined in this Section); that is designed, equipped, organized and operated to deliver inpatient and supportive acute mental illness treatment services; and that is licensed by the Department of Public Health under the Hospital Licensing Act [210 ILCS 85] or is a facility operated or maintained by the State or a State agency.

"Acute Mental Illness Treatment Service" means a category of service that provides a program of care for those persons suffering from acute mental illness. These services are provided in a highly structured setting in a distinct psychiatric unit of a general hospital, in a private psychiatric hospital, or in a State-operated facility to individuals who are severely mentally ill and in a state of acute crisis, in an effort to stabilize the individual and either effect his or her quick placement in a less restrictive setting or reach a determination that extended treatment is needed. Acute mental illness is typified by an average length of stay of 45 days or less for adults and 60 days or less for children and adolescents.

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"Admissions" means the number of patients accepted for inpatient service during a 12-month period; the newborn are not included.

"Adult Catheterization" means the cardiac catheterization of patients 15 years of age and older.

"Adverse Action" means a disciplinary action taken by Illinois Department of Public Health, Centers for Medicare and Medicaid Services, or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type A violations. A *"Type A" violation means a violation of the Nursing Home Care Act or 77 Ill. Adm. Code 300, 330, 340, 350 or 390 that creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom.* [210 ILCS 45/1-129]

"Ambulatory Care" means all types of health care services that are provided on an outpatient basis, in contrast to services provided in the home or to persons who are inpatients. While many inpatients may be ambulatory, the term ambulatory care usually implies that the patient must travel to a location to receive services that do not require an overnight stay. (Source: Glossary of Terms Commonly Used in Health Care (Illinois Hospital Association, 1151 East Warrenville Road, PO Box 3015, Naperville IL 60566, 630/276-5400; 2004, no later amendments or editions included)).

"Ambulatory Surgical Treatment Center" or "ASTC" means any institution, place or building required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

"Authorized Hospital Bed Capacity" means the number of beds recognized for planning purposes at a hospital facility, as determined by HFSRB. The operational status of authorized hospital beds is identified as physically available, reserve, or transitional, as follows:

"Physically Available Beds" means beds that are physically set up, meet hospital licensure requirements, and are available for use. These are beds maintained in the hospital for the use of inpatients and that furnish accommodations with supporting services (such as food, laundry, and

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housekeeping). These beds may or may not be staffed, but are physically available.

"Reserve Beds" means beds that are not set up for inpatients, but could be made physically available for inpatient use within 72 hours.

"Transitional Beds" means beds for which a Certificate of Need (CON) has been issued, but that are not yet physically available, and beds that are temporarily unavailable due to modernization projects that do not require a CON.

"Authorized Long-Term Care Bed Capacity" means the number of beds by category of service, recognized and licensed by IDPH for long-term care.

"Average Daily Census" or "ADC" means over a 12-month period the average number of inpatients receiving service on any given day.

"Average Length of Stay" or "ALOS" means over a 12-month period the average duration of inpatient stay expressed in days as determined by dividing total inpatient days by total admissions.

"Base Year" means the calendar year, as determined by IDPH, that serves as the starting point or benchmark for the historical utilization and population projections.

"Birth Center" or "Center" means an alternative health care delivery model that is *exclusively dedicated to serving the childbirth-related needs of women and their newborns and has no more than 10 beds. A birth center is a designated site that is away from the mother's usual place of residence and in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy.* [210 ILCS 3/35]

"Board Certified or Board Eligible Physician" means a physician who has satisfactorily completed an examination (or is "eligible" to take such examination) in a medical specialty and has taken all of the specific training requirements for certification by a specialty board. For purposes of this definition, "medical specialty" shall mean a specific area of medical practice by health care professionals.

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"Cardiac Catheterization Category of Service" means, for the purposes of this Part, the performance of catheterization procedures that, due to safety and quality considerations, are preferably performed within a cardiac catheterization laboratory or special procedure room. Procedures that do not require the use of such specialized settings, such as pericardiocentesis, myocardial biopsy, cardiac pacemaker insertion or replacement, right heart catheterization with a flow-directed catheter (e.g., Swan-Ganz catheter), intra-aortic balloon pump assistance with intra-aortic balloon catheter placement, certain types of electrophysiology, arterial pressure or blood gas monitoring, fluoroscopy, and cardiac ultrasound, are not recognized as procedures that, under this Subchapter, would in and of themselves qualify a facility as having a cardiac catheterization category of service.

"Cardiac Surgeon" means a physician board eligible or board certified by the American Board of Thoracic Surgery.

"Cardiac Surgery Room" means a physically identifiable room adequately staffed and equipped for the performance of open and closed heart surgery and extracorporeal bypass.

"Cardiological Team" means the designated specialists and support personnel who consistently work together in the performance of open heart surgery.

"Cardiovascular Surgical Procedures" means any surgical procedure dealing with the heart, coronary arteries and surgery of the great vessels.

"Cardiovascular Surgical Services" means the programs, equipment and staff dealing with the surgery of the heart, coronary arteries and great vessels.

"Category of Service" means a grouping by generic class of various types or levels of support functions, equipment, care or treatment provided to patient/residents. Examples include but are not limited to medical-surgical, pediatrics, cardiac catheterization, etc. A category of service may include subcategories or levels of care that identify a particular degree or type of care within the category of service.

"Chronic Renal Dialysis" means a category of service in which dialysis is performed on a regular long-term basis in patients with chronic irreversible renal failure. The maintenance and preparation of patients for kidney transplantation

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(including the immediate post-operative period and in case of organ rejection) or other acute conditions within a hospital does not constitute a chronic renal dialysis category of service.

"Clinical Encounter Time" means an instance of direct provider/practitioner to patient interaction, between a patient and a practitioner vested with primary responsibility for diagnosing, evaluating or treating the patient's condition, or both. The clinical encounter definition excludes practitioner actions in the absence of a patient, such as practitioner to practitioner interaction and practitioner to records interaction.

"Closed Heart Surgery" means any cardiovascular surgical procedures that do not include the use of a heart/lung pump.

"Combined Maternity and Gynecological Unit" means an entire facility or a distinct part of a facility that provides both a program of maternity care (as defined in this Section) and a program of obstetric gynecological care (as defined in this Section), and that is designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act [210 ILCS 85].

"Community-Based Residential Rehabilitation" means *services that include, but are not limited to, case management, training and assistance with activities of daily living, nursing consultation, traditional therapies (physical, occupational, speech), functional interventions in the residence and community (job placement, shopping, banking, recreation), counseling, self-management strategies, productive activities, and multiple opportunities for skill acquisition and practice throughout the day.* [210 ILCS 3/35]

"Community-Based Residential Rehabilitation Center" means *a designated site that provides rehabilitation or support, or both, for persons who have experienced severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The average length of stay in a community-based residential rehabilitation center shall not exceed 4 months.* [210 ILCS 3/35]

"Comprehensive Physical Rehabilitation" means a category of service provided in a comprehensive physical rehabilitation facility providing the coordinated interdisciplinary team approach to physical disability under a physician licensed to practice medicine in all its branches who directs a plan of management of one

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or more of the classes of chronic or acute disabling disease or injury. Comprehensive physical rehabilitation services can be provided only by a comprehensive physical rehabilitation facility.

"Comprehensive Physical Rehabilitation Facility" means a distinct bed unit of a hospital or a special referral hospital that provides a program of comprehensive physical rehabilitation; that is designed, equipped, organized and operated to deliver inpatient rehabilitation services; and that is licensed by the Department of Public Health under the Hospital Licensing Act or is a facility operated or maintained by the State or a State agency. Types of comprehensive physical rehabilitation facilities include:

Freestanding comprehensive physical rehabilitation facility means a specialty hospital dedicated to the provision of comprehensive rehabilitation; and

Hospital-based comprehensive physical rehabilitation facility means a distinct unit, located in a hospital, dedicated to the provision of comprehensive physical rehabilitation.

"Dedicated Cardiac Catheterization Laboratory" means a distinct laboratory that is staffed, equipped and operated solely for the provision of cardiac catheterization.

"Designated Pediatric Beds" means beds within the facility that are primarily used for pediatric patients and are not a component part of a distinct pediatric unit as defined in this Section.

"Dialysis" *means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane.* [210 ILCS 62/5] The two types of dialysis that are recognized in classical practice are hemodialysis and peritoneal dialysis.

"Dialysis Technician" *means an individual who is not a registered nurse or physician and who provides dialysis care under the supervision of a registered nurse or physician.* [210 ILCS 62/5]

"Discontinuation" means to cease operation of an entire health care facility or to cease operation of a category of service and is further defined in 77 Ill. Adm. Code 1130.

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"Distinct Unit" means a physically distinct area comprising all beds served by a nursing station in which a particular category of service is provided and utilizing a nursing staff assigned exclusively to the distinct area.

"DRG" means diagnostic related groups utilized in the Medicare and Medicaid programs for health care reimbursement.

"Emergency Medical Services System" or "EMS System" means *an organization of hospitals, vehicle service providers and personnel approved by IDPH in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS, and/or ALS level pursuant to a System program plan submitted to and approved by IDPH, and pursuant to the EMS Region Plan adopted for the EMS Region in which the System is located.* [210 ILCS 50/3.20]

"Emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have traumatic conditions or illnesses with an acuity level that is classified as level one or level two based upon the Emergency Severity Index (ESI) as defined in the "Emergency Severity Index Version 4: Implementation Handbook" published by the Agency for Healthcare Research and Quality, Rockville MD (Gilboy N, Tanabe P, Travers DA, Rosenau AM, Eitel DR; AHRQ Publication No. 05-0046-2; May 2005, no later amendments or editions included).

"End Stage Renal Disease" or "ESRD" *means that stage of renal impairment that appears irreversible and permanent and that requires a regular course of dialysis or kidney transplantation to maintain life.* [210 ILCS 62/5]

"End Stage Renal Disease Facility" means a freestanding facility or a unit within an existing health care facility that furnishes in-center hemodialysis treatment and other routine dialysis services to end stage renal disease patients. These types of services may include self-dialysis, training in self-dialysis, dialysis performed by trained professional staff, and chronic maintenance dialysis, including peritoneal dialysis.

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"Extracorporeal Circulation" or "Bypass" means, for the purpose of open heart surgery category of service, the circulation of blood outside the body, as through a heart/lung apparatus for carbon dioxide-oxygen exchange.

"Federally Qualified Health Center" means a health center funded under section 330 of the Public Health Service Act (42 USC 254b).

"Fertility Rate" means determinations by IDPH of population fertility that is based upon resident birth data for an area. The fertility rate data sources include:

- birth data from the Division of Vital Records by age of mother and by county; and
- population figures from IDPH estimates for females age 15-44 by county.

"Freestanding Emergency Center" or "FEC" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/32.5] that provides emergency medical and related services.

"Freestanding Emergency Center Medical Services" or "FECMS" means a category of service pertaining to the provision of emergency medical and related services provided in a freestanding emergency center.

"General Long-Term Care" means a classification of categories of service that provide inpatient levels of care primarily for convalescent or chronic disease adult patients/residents who do not require specialized long-term care services. The General Long-Term Care Classification includes the nursing category of service, which provides inpatient treatment for convalescent or chronic disease patients/residents and includes the skilled nursing level of care and/or the intermediate nursing level of care (both as defined in IDPH's Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)).

"HFSRB" or "State Board" means the Health Facilities and Service Review Board established by the Act.

"Health Professional Shortage Areas" means urban or rural areas, population groups, or medical or other public facilities that may have shortages of primary medical care, dental or mental health providers, as determined by HHS' Shortage

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Designation Branch in the Health Resources and Services Administration (HRSA) Bureau of Health Professions National Center for Health Workforce; and as determined by the Illinois Designation of Shortage Areas (77 Ill. Adm. Code 590.410).

"Health Service Area" or "HSA" means the following geographic areas:

HSA I – Illinois Counties of Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago

HSA II – Illinois Counties of Bureau, Fulton, Henderson, Knox, LaSalle, Marshall, McDonough, Peoria, Putnam, Stark, Tazewell, Warren, and Woodford

HSA III – Illinois Counties of Adams, Brown, Calhoun, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott

HSA IV – Illinois Counties of Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, Macon, McLean, Moultrie, Piatt, Shelby, and Vermilion

HSA V – Illinois Counties of Alexander, Bond, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, and Williamson

HSA VI – City of Chicago

HSA VII – DuPage County and Suburban Cook County

HSA VIII – Illinois Counties of Kane, Lake, and McHenry

HSA IX – Illinois Counties of Grundy, Kankakee, Kendall, and Will

HSA X – Illinois Counties of Henry, Mercer, and Rock Island

HSA XI – Illinois Counties of Clinton, Madison, Monroe, and St. Clair

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"Hematocrit" means a measure of the packed cell volume of red blood cells expressed as a percentage of total blood volume.

"Hemodialysis" means a type of dialysis that involves the use of artificial kidney through which blood is circulated on one side of a semi-permeable membrane while the other side is bathed by a salt dialysis solution. The accumulated toxic products diffuse out of the blood into the dialysate bath solution. The concentration and total amount of water and salt in the body fluid are adjusted by appropriate alterations in composition of the dialysate fluid.

"Home Hemodialysis" means a type of dialysis that is done at home by the patient and a partner. Both are trained in the dialysis facility until the patient and partner become proficient to dialyze at home. The dialysis is usually three times per week.

"Home-Assisted Hemodialysis" means hemodialysis done in a home and/or long term care setting through a staff-assisted program. The patient is not trained to do dialysis himself/herself.

"Hospital" means a facility, institution, place or building licensed pursuant to or operated in accordance with the Hospital Licensing Act [210 ILCS 45] or a State-operated facility that is utilized for the prevention, diagnosis and treatment of physical and mental illness. For purposes of this Subchapter, two basic types of hospitals are recognized:

General Hospital – a facility that offers an integrated variety of categories of service and that offers and performs scheduled surgical procedures on an inpatient basis.

Special or Specialized Hospital – a facility that offers, primarily, a special or particular category of service.

*"Illinois Department of Public Health" or "Agency" or "IDPH" means the Department of Public Health of the State of Illinois. [20 ILCS 3960/3]*

"In-Center Hemodialysis" means a category of service that is provided in an end stage renal disease facility licensed by the State of Illinois and/or certified by the Centers for Medicare and Medicaid Services.

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"In-Center Hemodialysis Treatment" means a regimen of hemodialysis received by a patient usually three times a week, averaging four hours.

"Independent Travel Time Studies" means studies developed and submitted to refine or supplement the determination of Normal Travel Time. Independent Travel Time studies will be considered by HFSRB only if conducted utilizing the criteria specified in this Part.

"Index of Medically Underserved" or "IMU" means shortage designation criteria applied to determine Medically Underserved Area or Medically Underserved Population designation. The four variables of the IMU are ratio of primary medical care physicians per 1,000 population, infant mortality rate, percentage of the population with incomes below the poverty level, and percentage of the population age 65 or over (Source: Health Resources and Services Administration Bureau of Health Professions website (<http://bhpr.hrsa.gov>)).

"Intensive Care Service" means a category of service providing the coordinated delivery of treatment to the critically ill patient or to patients requiring continuous care due to special diagnostic considerations requiring extensive monitoring of vital signs through mechanical means and through direct nursing supervision. This service is given at the direction of a physician on behalf of patients by physicians, dentists, nurses, and other professional and technical personnel. The intensive care category of service includes the following subcategories: medical ICU, surgical ICU, coronary care, pediatric ICU, and combinations of such ICUs. This category of service does not include intermediate intensive or coronary care and special care units that are included in the medical-surgical category of service.

"Intensive Care Unit" or "ICU" means a distinct part of a facility that provides a program of intensive care service; that is designed, equipped, organized and operated to deliver optimal medical care for the critically ill or for patients with special diagnostic conditions requiring specialized equipment, procedures and staff; and that is under the direct visual supervision of a nursing staff. Prior to February 15, 2003, the repeal of 77 Ill. Adm. Code 1110.1010, 1110.1020 and 1110.1030, the beds and corresponding utilization for the burn treatment category of service were included in the intensive care category of service.

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"Inventory of Health Care Facilities and Services and Need Determinations" means a statewide inventory of beds and other services, and need determinations that HFSRB shall maintain and update on the Board's website, as mandated in the Health Facilities Planning Act. (See Section 12(4) of the Act.)

"Key Room" means a term used in space planning to designate the primary functional component of a department used to develop a space program or estimate of square feet for that department. Examples of key rooms include, but are not limited to, examination rooms for ambulatory care, operating rooms for surgical suites, treatment stations for dialysis, imaging rooms for radiology.

"Kidney Transplantation Center" means a hospital that directly furnishes transplantation and other medical and surgical specialty services required for the care of the kidney transplant patient, including inpatient dialysis furnished directly or under arrangement.

"Kidney Transplantation Service" means a category of service that involves the surgical replacement of a nonfunctioning human kidney with a donor kidney in order to restore renal function to the patient.

"Maternity Care" means a subcategory of obstetric service related to the medical care of the patient prior to and during the act of giving birth either to a living child or to a dead fetus and to the continuing medical care of both patient and newborn infant under the direction of a physician, by physicians, nurses, and other professional and technical personnel.

"Maternity Facility" or "Maternity Unit" means an entire facility or a distinct part of a facility that provides a program of maternity and newborn care and that is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act.

"Medically Underserved Areas" means a whole county or a group of contiguous counties, or a group of county or civil divisions, or a group of urban census tracts in which residents have a shortage of personal health services, as determined by HHS' Shortage Designation Branch in the Health Resources and Services Administration (HRSA) Bureau of Health Professions National Center for Health Workforce.

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"Medically Underserved Populations" means groups of persons who face economic, cultural or linguistic barriers to health care, as determined by HHS' Shortage Designation Branch in the Health Resources and Services Administration (HRSA) Bureau of Health Professions National Center for Health Workforce.

"Medical-Surgical Service" means a category of service pertaining to the medical-surgical inpatient care performed at the direction of a physician, by physicians, dentists, nurses and other professional and technical personnel. For purposes of 77 Ill. Adm. Code Subchapter a (Illinois Health Care Facilities Plan), this category of service may include medical-surgical and their respective sub-specialties of service. The medical-surgical category of service specifically does not include the following other separate categories of service and their subcategories:

Obstetric Service;

Pediatric Service;

Intensive Care Service;

Comprehensive Physical Rehabilitation Service;

Acute and Chronic Mental Illness Treatment Service;

Neonatal Intensive Care Service;

General Long-Term Care Service;

Specialized Long-Term Care Service;

Long-Term Acute Care Service.

"Medical-Surgical Unit" means an assemblage of inpatient beds and related facilities in which medical-surgical services are provided to a defined and limited class of patients according to their particular medical care needs.

"Modernization" means modification of an existing health care facility by means of building, alteration, reconstruction, remodeling, replacement and/or expansion,

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the erection of new buildings, or the acquisition, alteration or replacement of equipment. Modification does not include a substantial change in either the bed count or scope of the facility.

"Neonatal Intensive Care" means a level of care providing constant and close medical coordination, multi-disciplinary consultation and supervision to those neonates with serious and life threatening developmental or acquired medical and surgical problems that require highly specialized treatment and highly trained nursing personnel.

"Neonatal Intensive Care Service" means a category of service providing treatment of the infant for problems identified in the neonatal period that warrant intensive care. An intensive neonatal care service must include a related obstetric service for care of the high-risk mother (except when the facility is dedicated to the care of children).

"Neonatal Intensive Care Unit" means a distinct part of a facility that provides a program of intensive neonatal care and that is designed, equipped and operated to deliver medical and surgical care to high-risk infants.

"Neonatologist" means a physician who is certified by the American Board of Pediatrics Subboard of Neonatal-Perinatal Medicine or a licensed osteopathic physician with equivalent training and experience and certified by the American Osteopathic Board of Pediatricians.

"Newborn Nursery Level I", "Newborn Nursery Level II", "Newborn Nursery Level II with Extended Neonatal Capabilities" and "Newborn Nursery Level III" mean designations for hospitals providing newborn health care as defined and listed in the Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640).

"Non-Hospital Based Ambulatory Surgery" means a category of service relating to surgery that is performed at ambulatory surgical treatment centers on patients that arrive and are discharged the same day. Ambulatory surgery as the provision of surgical services may require anesthesia or a period of post-operative observation or both on a patient whose inpatient stay is not anticipated as being medically necessary.

"Non-emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or

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freestanding emergency center who have conditions or illnesses that are not classified as level one or level two based upon the Emergency Severity Index.

"Normal Travel Time" means the time necessary to traverse a route by an individual vehicle driving at posted speed limits between any two points of interest. Normal Travel Time is to be considered by HFSRB only as calculated utilizing methodologies specified in this Part. Normal Travel Time for proposed projects shall be established by using the facility's location as the base point and utilizing time factors specified in the applicable rules.

HFSRB NOTE: Normal Travel Time as used in this Part is a conceptual model approximating a reasonable time of travel between two points. It is intended to exclude a "worst" or "best" case situation such as travel during rush hours, midnight hours, or by emergency vehicle.

"Observation Days" means the number of days of service provided to outpatients for the purpose of determining whether a patient requires admission as an inpatient or other treatment.

"Obstetric/Gynecological Care" means a subcategory of obstetric service in which medical care is provided to clean (non-infectious) gynecological, surgical or medical cases that are admitted to a postpartum section of an obstetric unit in accordance with the requirements of the Hospital Licensing Act.

"Obstetric Service" means a category of service pertaining to the medical or surgical care of maternity and newborn patients or medical or surgical cases that may be admitted to a postpartum unit

"Occupancy Rate" means a measure of inpatient health facility use, determined by dividing average daily census by the number of authorized beds. It measures the average percentage of a facility's beds occupied and may be institution-wide or specific for one department or service.

"Occupancy Target" means a utilization level established by IDPH for a facility or service reflecting adequate access as well as operational efficiency.

"Open Heart Surgery" means a category of service that utilizes any form of cardiac surgery that requires the use of extracorporeal circulation and oxygenation. The use of a pump during the procedure distinguishes "open heart" from "closed heart" surgery.

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"Operating Room (Class B)" or "Surgical Procedure Room (Class B)" means a setting designed and equipped for major or minor surgical procedures performed in conjunction with oral, parenteral or intravenous sedation or under analgesic or dissociative drugs. (Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons, 633 N. Saint Clair Street, Chicago IL 60611-3211, 312/202-5000; 2000, no later amendments or editions included)

"Operating Room (Class C)" means a setting designed and equipped for major surgical procedures that require general or regional block anesthesia and support of vital bodily functions. (Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons, 633 N. Saint Clair Street, Chicago IL 60611-3211, 312/202-5000; 2000, no later amendments or editions included)

"Out-of-Home Respite Care" means care provided in a facility setting to a clinically stable individual whose medical condition does not require major diagnostic procedures or therapeutic interventions and who normally receives care in a home environment for the purposes of providing a respite to the caregiver from the responsibilities of providing the care.

"Patient Care Unit" means the grouping of beds to provide an inpatient category of service. Units are physically identifiable areas that are staffed to provide all care required for particular service.

"Patient Days" means the total number of days of service provided to inpatients over a 12-month period, usually expressed as annual patient days measured. This figure includes observation days if the observation patient occupies a bed that is included in IDPH's Inventory of Health Care Facilities and Services and Need Determinations.

"Patient Migration" means the total number of patients who reside in a given planning area but receive services at health care facilities located in another planning area for a given year. Patient migration is determined by utilizing the latest available patient origin data concerning admissions to health care facilities by various categories of service for a given year. The term in-migration refers to the number of patients who are not residents of a planning area that enter the area

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to receive services, while the term out-migration refers to the number of planning area residents who leave the planning area to obtain services elsewhere.

"Pediatric Catheterization" means the cardiac catheterization of patients zero to 14 years in age.

"Pediatric Facility" or "Distinct Pediatric Unit" means an entire facility or a distinct unit of a facility, where the nurses' station services only that unit, that provides a program of pediatric service and is designed, equipped, organized and operated to render medical-surgical care to the zero to 14 age population.

"Pediatric Service" means a category of service for the delivery of treatment pertaining to the non-intensive medical-surgical care of a pediatric patient (zero to 14 years in age) performed at the direction of a physician on behalf of the patient by physicians, dentists, nurses and other professional and technical personnel.

"Perinatal Center" means a referral facility designated under the Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640) and intended to care for the high risk patient before, during or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services. "Perinatal Center" is further defined in the Developmental Disability Prevention Act [410 ILCS 250/2(e)].

"Peritoneal Dialysis" means a type of dialysis in which the dialysate fluid is infused slowly into the peritoneum, causing dialysis of water and waste products to occur through the peritoneal sac, which acts as a semi-permeable membrane. The fluid and waste, after accumulating for a period of time (one hour), is drained from the abdomen and the process is repeated.

"Planning Area" means a defined geographic area within the State established by HFSRB as a basis for the collection, organization, and analysis of information to determine health care resources and needs and to serve as a basis for planning.

"Population Estimates" means the latest available numbers of residents of a geographic area based upon birth and death records and other inputs, as determined by IDPH. These numbers may be further broken down by age and sex cohorts.

"Population Projections" means the numbers of residents of a geographic area

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projected for one or more future time periods, as determined by IDPH and based upon State of Illinois population projections, as available. These numbers are for defined geographic areas and may be further broken down by age and sex cohorts.

"Post-Anesthesia Recovery Phase I" means the phase in surgical recovery that focuses on providing a transition from a totally anesthetized state to one requiring less acute interventions. Recovery occurs in the post-anesthesia care unit (PACU). The purpose of this phase is for patients to regain physiological homeostasis and receive appropriate nursing intervention as needed.

"Post-Anesthesia Recovery Phase II" means the phase in surgical recovery that focuses on preparing the patient for self care, care by family members, or care in an extended care environment. The patient is discharged to phase II recovery when intensive nursing care no longer is needed. In the phase II area, sometimes referred to as the step-down or discharge area, the patient becomes more alert and functional.

"Postsurgical Recovery Care Center" *means a designated site which provides postsurgical recovery care for generally healthy patients undergoing surgical procedures that require overnight nursing care, pain control, or observation that would otherwise be provided in an inpatient setting. Such a center may be either freestanding or a defined unit of an ambulatory surgical treatment center or hospital. The maximum length of stay for patients in a postsurgical recovery care center is not to exceed 72 hours.* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])

"Postsurgical Recovery Care Center Alternative Health Care Model" means a category of service for the provision of postsurgical recovery care within a postsurgical recovery care center.

"Pre-Dialysis" means that the initiation of hemodialysis therapy is anticipated within 12 months.

"Pump Procedures" means the utilization of a heart/lung pump in surgery to perform the work of the heart and lungs. Included in these procedures are myocardial revascularization, aortic and mitral valve replacement, ventricular aneurysm repairs, pulmonary valvuloplasty, and all other procedures utilizing a cardiac pump.

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"Quality of Care", for purposes of 77 Ill. Adm. Code 1110.230, the degree to which delivered health services meet established professional standards and are judged to be of value to the consumer. Quality may also be seen as the degree to which actions taken or not taken maximize the probability of beneficial health outcomes and minimize risk and other outcomes, given the existing state of medical science and art. (Source: "A Glossary of Terms for Community Health Care and Services for Older Persons", World Health Organization Centre for Health Development, 5-1, 1-chome, Wakinohama-Kaigandori, Chuo-Ku, Kobe 651-0073 Japan, tel. +81 78 230 3100; 2004, no later amendments or editions included)

"Rapid Population Growth Rate" means an average of the three most recent annual growth rates of a defined geographic area's population that has exceeded the average of three to seven immediately preceding annual growth rates by at least 100%.

"Renal Dialysis Facility" means a freestanding facility, or a unit within an existing health care facility, that furnishes routine chronic dialysis services to chronic renal disease patients. Routine services are self-dialysis, training in self-dialysis, dialysis performed by trained professional staff, and chronic maintenance dialysis, including peritoneal dialysis.

"Resource Hospital" means the hospital that is responsible for an Emergency Medical Services (EMS) System in a specific geographic region, as defined in the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

"Selected Organ Transplantation Center" means a hospital that provides staffing and other adult or pediatric medical and surgical specialty services required for the care of a transplant patient.

"Selected Organ Transplantation Service" means a category of service relating to the surgical transplantation of any of the following human organs: heart, lung, heart-lung, liver, pancreas or intestine. It does not include bone marrow or cornea transplants.

"Self-Care Dialysis" or "Self-Dialysis" means maintenance dialysis performed by a trained patient in a special facility with or without the assistance of a family member or other helper.

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"Self-Care Dialysis Training" means a program that trains patients or their helpers, or both, to perform self-care dialysis in the in-center setting.

"Site" means the location of an existing or proposed facility. An existing facility site is determined by street address. In a proposed facility the legal property description or the street address can be used to identify the site.

"Special Procedures Laboratory with a Cardiac Catheterization Service" means a special procedures or angiography laboratory that has the equipment, staff and support services required to provide cardiac catheterization and in which catheterizations are routinely performed. The laboratory is also utilized for other procedures, such as angiography, not directly related to cardiac catheterization.

"Specialized Long-Term Care" means a classification consisting of categories of service that provide inpatient care primarily for children (ages zero through 21) or inpatient care for adults who require specialized treatment and care because of mental or developmental disabilities. The Specialized Long-Term Care Classification includes the following categories of services:

Chronic Mental Illness (MI) – levels of care provided to severely mentally ill clients in a structured setting in a psychiatric unit of a general hospital, in a private psychiatric hospital, or in a State-operated facility primarily in order to facilitate the improvement of their functioning level, to prevent further deterioration of their functioning level, or, in some instances, to maintain their current level of functioning.

Long-Term Care for the Developmentally Disabled (Adult) (DD-Adult) – levels of care for developmentally disabled adults as defined in the Illinois Mental Health and Developmental Disabilities Code [405 ILCS 5] (including those facilities licensed as Intermediate Care Facilities for the Developmentally Disabled (ICF/DD)) that provide an integrated, individually tailored program of services for developmentally disabled adults and that provide an active, aggressive and organized program of services directed toward achieving measurable behavioral and learning objectives.

Long-Term Care for the Developmentally Disabled (Children) (DD-Children) – levels of care for developmentally disabled children limited to those residents ages zero through 21 years and whose condition

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meets the definition of developmental disabilities in the Illinois Mental Health and Developmental Disabilities Code.

"Subacute Care" means the provision of *medical specialty care for patients who need a greater intensity or complexity of care than generally provided in a skilled nursing facility but who no longer require acute hospital care. Subacute care includes physician supervision, registered nursing and physiological monitoring on a continual basis.* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])

"Subacute Care Hospital" *means a designated site that provides medical specialty care for patients who need a greater intensity or complexity of care than generally provided in a skilled nursing facility but who no longer require acute hospital care. The average length of stay for patients treated in subacute care hospitals shall not be less than 20 days; for individual patients, the expected length of stay at the time of admission shall not be less than 10 days. A subacute care hospital is either a freestanding building or a distinct physical and operational entity within a hospital or nursing home building. A subacute care hospital shall only consist of beds currently existing in licensed hospitals or skilled nursing facilities.* (Section 35 of the Alternative Health Care Delivery Act)

"Subacute Care Hospital Model" means a category of service for the provision of subacute care.

"Surgical Referral Site" means an ambulatory surgical treatment center or hospital in which surgery will be performed and the surgical patient then transferred to the recovery care center.

"Teaching Institution" means, for the purpose of selected organ transplantation category of service, a hospital having a major relationship with a medical school as defined and listed in the Directory of Residency Training Programs developed by the American Medical Association and the National Organ Procurement and Transplantation Network (AMA, 535 N. Dearborn, Chicago IL 60610, 312/751-6079; 2009-2010, no later amendments or editions included).

"Urea" means the chief product of urine and the final product of protein metabolism in the body.

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"Urea Reduction Ratio" or "URR" means the amount of blood cleared of urea during dialysis. It is reflected by the ratio of the measured level of urea before dialysis and urea remaining after dialysis. The larger the URR, the greater the amount of urea removed during the dialysis treatment.

"Use Rate" means the ratio of inpatient days per 1,000 population over a 12-month period (Inpatient Days/Population in Thousands = Use Rate). For need assessment purposes, HFSRB may establish minimum or maximum use rates in order to promote the development of additional resources or to limit unnecessary duplication of services and beds in a planning area.

"Utilization Standards" means an operational target for facilities or services that may demonstrate operational efficiencies, minimum proficiency or other performance parameters. Utilization standards and their purposes are established by category of service. Utilization may be expressed by various ratios, such as facility or bed service occupancy rates or hours of use for types of equipment, operating rooms, dialysis stations, etc.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

## SUBPART C: PLANNING POLICIES

**Section 1100.440 Requirements for Authorized Hospital Beds**

- a) Authorized hospital beds are to be classified as one of the following:
  - 1) Physically Available Beds
    - A) Patient rooms and patient care units (PCUs) shall be compliant with applicable licensure codes and standards for hospital facilities, pursuant to the Hospital Licensing Requirements (77 Ill. Adm. Code 250) as determined by IDPH. ~~If a patient room or a PCU is not compliant with the Hospital Licensure Requirements, an action plan of correction shall be in place, including a schedule for completion. The action plan shall be in the process of being implemented on schedule for the PCU and beds to be considered authorized and recorded as part of the inventory.~~

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- B) The approved number of beds is to be recorded in the Inventory of Health Care Facilities.
- 2) Reserve Beds
- A) Patient rooms and PCUs must be compliant with applicable licensure codes and standards for hospital facilities, as determined by IDPH. ~~If a patient room or a PCU is not compliant with licensure codes and standards for hospital facilities, there must be an action plan of correction in place, including a schedule for completion. The action plan shall be in the process of being implemented on schedule for the PCU and beds to be considered authorized and recorded as part of the inventory. (See 77 Ill. Adm. Code 250.)~~
  - B) Patient rooms and PCUs shall be able to be set up and physically available for inpatient care within 72 hours, including equipment, furnishings and non-time-sensitive supplies.
  - C) Patient room and PCU equipment, furnishings and supplies designated for reserve beds shall be maintained either on the hospital's campus or in a storage facility that is owned or operated by the hospital.
  - D) The number of reserve beds shall not exceed 10% of the sum of physically available beds and transitional beds within each category of service. Hospitals with a total bed count of less than 50 beds may report up to a total of five reserve beds.
  - E) The approved number of beds is to be recorded in the Inventory of Health Care Facilities.
- 3) Transitional Beds
- A) For transitional beds that are part of an approved CON project, the CON project is to be compliant with CON requirements.

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- B) For transitional beds that are not part of a CON project, the individually identified beds can be designated transitional for no more than one reporting period.
  - C) The approved number of beds is to be recorded in the Inventory of Health Care Facilities.
- b) The sum of physically available, reserve, and transitional beds for each category of service shall not exceed the authorized bed capacity for that service.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

## SUBPART D: NEED ASSESSMENT

**Section 1100.520 Medical-Surgical Care and Pediatric Care**

- a) Planning Areas  
There are 40 medical-surgical and pediatric care planning areas that have been delineated by HFSRB contained within six regions established for the State of Illinois.
  - 1) Region A (comprised of HSAs 6, 7, 8 and 9)
    - A) Planning Area A-1: City of Chicago Community Areas of Uptown, Lincoln Square, North Center, Lakeview, Lincoln Park, Near North Side, Edison Park, Norwood Park, Jefferson Park, Forest Glen, North Park, Albany Park, Portage Park, Irving Park, Dunning, Montclare, Belmont Cragin, Hermosa, Avondale, Logan Square, O'Hare and Edgewater.
    - B) Planning Area A-2: City of Chicago Community Areas of Humboldt Park, West Town, Austin, West Garfield Park, East Garfield Park, Near West Side, North Lawndale, South Lawndale, Lower West Side, Loop, Armour Square, McKinley Park and Bridgeport.
    - C) Planning Area A-3: City of Chicago Community Areas of Douglas, Oakland, Fuller Park, Grand Boulevard, Kenwood, Near South Side, Washington Park, Hyde Park, Woodlawn, South

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Shore, Chatham, Avalon Park, South Chicago, Burnside, Calumet Heights, Roseland, Pullman, South Deering, East Side, Garfield Ridge, Archer Heights, Brighton Park, New City, West Elsdon, Gage Park, Clearing, West Lawn, West Englewood, Englewood, Chicago Lawn and Greater Grand Crossing.

- D) Planning Area A-4: City of Chicago Community Areas of West Pullman, Riverdale, Hegewisch, Ashburn, Auburn Gresham, Beverly, Washington Heights, Mount Greenwood, and Morgan Park; Cook County Townships of Lemont, Stickney, Worth, Lyons, Palos, Calumet, Thornton, Bremen, Orland, Rich and Bloom.
- E) Planning Area A-5: DuPage County.
- F) Planning Area A-6: Cook County Townships of River Forest, Oak Park, Cicero, Berwyn, Riverside, Proviso, Leyden and Norwood Park.
- G) Planning Area A-7: Cook County Townships of Maine, Elk Grove, Schaumburg, Palatine and Wheeling.
- H) Planning Area A-8: City of Chicago Community Areas of Rogers Park and West Ridge; Cook County Townships of Northfield, New Trier, Niles and Evanston.
- I) Planning Area A-9: Lake County.
- J) Planning Area A-10: McHenry County.
- K) Planning Area A-11: Cook County Townships of Barrington and Hanover; Kane County Townships of Hampshire, Rutland, Dundee, Burlington, Plato, Elgin, Virgil, Campton and St. Charles.
- L) Planning Area A-12: Kendall County; Kane County Townships of Kaneville, Black Berry, Aurora, Big Rock, Sugar Grove, Batavia and Geneva.
- M) Planning Area A-13: Grundy and Will Counties.

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- N) Planning Area A-14: Kankakee County.
- 2) Region B (comprised of HSA 1)
- A) Planning Area B-1: Boone and Winnebago Counties; DeKalb County Townships of Franklin, Kingston, and Genoa; Ogle County Townships of Monroe, White Rock, Lynnville, Scott, Marion, Byron, Rockvale, Leaf River and Mount Morris.
- B) Planning Area B-2: Jo Daviess and Stephenson Counties; Ogle County Townships of Forrester, Maryland, Lincoln, and Brookville; Carroll County Townships of Washington, Savanna, Woodland, Mount Carroll, Freedom, Salem, Cherry Grove-Shannon and Rock Creek-Lima.
- C) Planning Area B-3: Whiteside County; Lee County Townships of Palmyra, Nelson, Harmon, Hamilton, Dixon, South Dixon, Marion, East Grove, Nachusa, China, Amboy, May, Ashton, Bradford, Lee Center, and Sublette; Carroll County Townships of York, Fairhaven, Wysox, and Elkhorn Grove; Ogle County Townships of Eagle Point, Buffalo, Pine Creek, Woosung, Grand Detour, Oregon, Nashua, Taylor, Pine Rock and Lafayette.
- D) Planning Area B-4: Lee County Townships of Reynolds, Alto, Viola, Willow Creek, Brooklyn, and Wyoming; DeKalb County Townships of Paw Paw, Victor, Somonauk, Sandwich, Shabbona, Clinton, Squaw Grove, Milan, Afton, Pierce, Malta, DeKalb, Cortland, Mayfield, South Grove and Sycamore; Ogle County Townships of Flagg and Dement.
- 3) Region C (comprised of HSAs 2 and 10)
- A) Planning Area C-1: Woodford, Peoria, Tazwell, and Marshall Counties; Stark County Townships of Goshen, Toulon, Penn, West Jersey, Valley and Essex.
- B) Planning Area C-2: LaSalle, Bureau, and Putnam Counties; Stark County Townships of Elmira and Osceola.

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- C) Planning Area C-3: Henderson, Warren and Knox Counties.
  - D) Planning Area C-4: McDonough and Fulton Counties.
  - E) Planning Area C-5: Rock Island, Henry and Mercer Counties.
- 4) Region D (comprised of HSA 4)
- A) Planning Area D-1: Champaign, Douglas, and Piatt Counties; Ford County Townships of Lyman, Sullivant, Peach Orchard, Wall, Drummer, Dix, Patton, and Button; Iroquois County Townships of Loda, Pigeon Grove and Artesia.
  - B) Planning Area D-2: Livingston and McLean Counties; Ford County Townships of Rogers, Mona, Pella and Brenton.
  - C) Planning Area D-3: Vermilion County; Iroquois County Townships of Milks Grove, Chebanse, Papineau, Beaverville, Ashkum, Martinton, Beaver, Danforth, Douglas, Iroquois, Crescent, Middleport, Belmont, Concord, Sheldon, Ash Grove, Milford, Stockland, Fountain Creek, Lovejoy, Prairie Green, Onarga and Ridgeland.
  - D) Planning Area D-4: DeWitt, Macon, Moultrie and Shelby Counties.
  - E) Planning Area D-5: Coles, Cumberland, Clark and Edgar Counties.
- 5) Region E (comprised of HSA 3)
- A) Planning Area E-1: Logan, Menard, Mason, Sangamon, Christian and Cass Counties; Brown County Townships of Ripley, Cooperstown, and Versailles; Schuyler County Townships of Littleton, Oakland, Buena Vista, Rushville, Browning, Hickory, Woodstock, Bainbridge and Frederick.
  - B) Planning Area E-2: Macoupin and Montgomery Counties.

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- C) Planning Area E-3: Greene, Jersey and Calhoun Counties.
  - D) Planning Area E-4: Pike, Scott and Morgan Counties.
  - E) Planning Area E-5: Adams and Hancock Counties; Schuyler County Townships of Birmingham, Brooklyn, Camden, and Huntsville; Brown County Townships of Pea Ridge, Missouri, Lee, Mount Sterling, Buckhorn and Elkhorn.
- 6) Region F (comprised of HSAs 5 and 11)
- A) Planning Area F-1: Madison and St. Clair Counties; Monroe County Precincts 2, 3, 4, 5, 7, 10, 11, 14, 16, 17, 18, 19, 21, and 22; Clinton County Townships of Sugar Creek, Looking Glass, Germantown, Breese, St. Rose, Wheatfield, Wade, Sante Fe, Lake, Irishtown, Carlyle and Clement.
  - B) Planning Area F-2: Bond, Fayette, and Effingham Counties; Clay County Townships of Blair, Bible Grove, and Larkinsburg; Jasper County Townships of Grove, North Muddy, South Muddy, Smallwood, Wade and Crooked Creek.
  - C) Planning Area F-3: Crawford, Lawrence, Richland, Wabash, and Edwards Counties; Jasper County Townships of Hunt City, Willow Hill, Ste. Marie, Fox, and Grandville; Clay County Townships of Louisville, Songer, Xenia, Oskaloosa, Hoosier, Harter, Stanford, Pixley, and Clay City; Wayne County Townships of Orchard, Keith, Garden Hill, Berry, Bedford, Lamard, Indian Prairie, Zif, Elm River, Jasper, Mount Erie, Massilion, Leech, Barnhill and Grover.
  - D) Planning Area F-4: Marion, Jefferson, and Washington Counties; Wayne County Townships of Big Mound, Orel, Hickory Hill, Arrington and Four Mile; Clinton County Townships of East Fork, Meridian and Brookside.

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- E) Planning Area F-5: Hamilton, White, Gallatin, Hardin, and Saline Counties; Pope County Townships of Eddyville #6 and Golconda #2.
- F) Planning Area F-6: Franklin, Williamson, Johnson, and Massac Counties; Pope County Townships of Jefferson #4, Webster #5, Golconda #1 and Golconda #3.
- G) Planning Area F-7: Randolph, Perry, Jackson, Union, Alexander, and Pulaski Counties; Monroe County Precincts 1, 6, 8, 9, 12, 13, 15, 20 and 23.

b) Age Groups

- 1) For medical-surgical care, ages 15 and over.
- 2) For pediatric care, ages 0-14.

c) Occupancy Targets:

1) Occupancy Targets for "Modernization".

A)	Medical-Surgical	1-25 beds	60%
		26-99 beds	75%
		100-199 beds	85%
		200+ beds	88%
B)	Pediatrics	1-30 beds	65%
		31+ beds	75%

2) Occupancy Targets for "Addition of Beds".

A)	Medical-Surgical	1-99 beds	80%
		100-199 beds	85%
		200+ beds	90%
B)	Pediatrics	1-99 MS beds	80%
		100-199 MS beds	85%
		200+ MS beds	90%

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- d) Bed Capacity
- 1) Medical-surgical bed capacity is the total number of medical-surgical beds for a facility as determined by HFSRB pursuant to this Part.
  - 2) Pediatric bed capacity is the total number of pediatric beds for a facility as determined by HFSRB pursuant to this Part.
- e) Need Determination
- In assessing the number of beds required to serve the residents of a planning area, HFSRB shall establish a base year and utilize the following methodology to determine the projected number of medical-surgical and pediatric beds needed in a planning area:
- 1) Divide the three year average of experienced medical-surgical and pediatric patient days (i.e., the average of the base year's and the two prior years' patient days) for each of five age groups (0-14, 15-44, 45-64, 65-74, and 75+) by the base year population estimate for each age group, resulting in age specific base use rates;
  - 2) Multiply each age specific base use rate by the population projection, ~~10~~ **five** years from the base year, to obtain each age group's projected patient days;
  - 3) Add the projected days of the age groups to obtain total projected patient days;
  - 4) Increase or decrease the projected patient days by a migration patient days factor to obtain total projected patient days. The migration patient days factor is determined as follows:
    - A) Subtract the number of medical-surgical and pediatric in-migration admissions (i.e., non-planning area residents who were admitted to planning area facilities) from the number of out-migration admissions (i.e., planning area residents who were admitted to facilities located outside of the planning area) to obtain either a positive or negative net patient migration number;

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- B) Multiply the net patient migration number by the State's base year average length of stay for the combined medical-surgical and pediatric admissions to obtain net migration patient days for the planning area;
  - C) Multiply the net migration patient days number by .50 (50% statutory adjustment factor) to obtain the migration patient days factor;
- 5) Divide the total projected patient days by the number of days in the projected year to obtain the planning area's projected average daily census (ADC);
  - 6) Divide the ADC by .80 (80% occupancy factor) if the ADC is below 100; by .85 (85% occupancy factor) if the ADC is 100 through 199; and by .90 (90% occupancy factor) if the ADC is 200 or over, to obtain the projected planning area bed need;
  - 7) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of surplus (excess) beds or the projected bed deficit or additional beds needed in the area.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

**Section 1100.530 Obstetric Care Category of Service**

- a) **Planning Areas**  
Planning areas are the same as those for medical-surgical and pediatric care.
- b) **Age Groups**
  - 1) For maternity care, female ages 15-44.
  - 2) For gynecological care within obstetrics units, female ages 15 and over.
- c) **Facility Utilization Rates**  
Facilities that provide an obstetrics service should operate those beds at or above an annual minimum occupancy rate of:

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- 1) 60% for facilities with a bed capacity of 1-10 beds;
  - 2) 75% for facilities with a bed capacity of 11-25 beds;
  - 3) 78% for facilities with a bed capacity of 26 or more beds.
- d) **Bed Capacity**  
Obstetrics bed capacity is the total number of obstetrics beds for a facility as determined by [HFSRB/HFPB](#) pursuant to this Part.
- e) **Need Determination**  
The following methodology is utilized to determine the projected number of obstetrics beds needed in a planning area:
- 1) Multiply the projected year's female 15-44 population (the projected year is ~~five~~<sup>10</sup> years from the base year) by the current fertility rate of the health planning area to obtain projected births;
  - 2) Multiply the projected number of births by a hospitalization factor of .99 (99%) to determine number of projected births occurring in hospitals;
  - 3) Multiply projected births occurring in hospitals by length of stay factor of 2.5 days to obtain projected maternity patient days;
  - 4) Divide the gynecology utilization (of the base year) within obstetrics units by the current female 15+ population to obtain a gynecology patients use rate;
  - 5) Multiply the use rate of gynecology patients by the projected female 15+ population to obtain projected gynecology patient days;
  - 6) Divide the projected maternity patient days by 365 to obtain a maternity average daily census;
  - 7) Divide the projected gynecology patient days by 365 to obtain a gynecology average daily census;
  - 8) Divide the gynecology patient days by .9 (90%) to determine obstetric

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beds needed for gynecology patients;

- 9) Divide the maternity average daily census by .60 (60% occupancy factor) if the ADC is below 10; by .75 (75% occupancy factor) if the ADC is 10 through 25; and by .78 (78% occupancy factor) if the ADC is 26 and over, to obtain obstetrics beds needed for maternity patients;
- 10) Add the maternity bed need (step 9) with the gynecology need (step 8) to determine total unadjusted obstetrics bed need.
- 11) Determine the number of patients entering the planning area from outside and the number of area residents leaving the planning area for obstetrics service;
- 12) Multiply the total number of patients entering the area and those leaving the area by 2.5 to determine a patient day estimate for in-migration and out-migration;
- 13) Multiply the patient totals for area in-migration and out-migration by a .85 (85%) adjustment factor;
- 14) Subtract the resulting in-migration adjusted patient day total from the out-migration adjusted patient day total to determine the net in or out patient day migration estimate;  
  
STATE BOARD NOTE: Patient migration adjustment is for a one year period and the base year shall be the date of the latest available patient origin data.
- 15) Divide the net in or out patient day estimate by 365 to determine the average daily census for migration;
- 16) Add to net in-migration areas the average daily census for migration to the unadjusted bed need to determine the migration adjusted obstetrics bed need; in net out-migration areas subtract the average daily census for migration to determine adjusted obstetrics bed need;
- 17) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of

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surplus (excess) beds or the projected bed deficit or additional beds needed in the area.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

**Section 1100.540 Intensive Care Category of Service**

- a) **Planning Areas**  
Planning areas are the same as those for medical-surgical and pediatrics care.
- b) **Age Groups**  
For intensive care, all ages.
- c) **Facility Utilization Rates**  
Facilities that provide intensive care services should operate those beds at or above an annual minimum occupancy rate of 60%.
- d) **Bed Capacity**  
Intensive care bed capacity is the total number of intensive care beds for a facility as determined by [HFSRB/HFPB](#) pursuant to this Part.
- e) **Need Determination**  
In assessing the number of beds required to serve the residents of a planning area, [HFSRB/HFPB](#) shall establish a base year and utilize the following methodology to determine the projected number of intensive care beds needed in a planning area:
  - 1) Divide the three year average of experienced intensive care patient days by the total base year population to obtain a use rate;
  - 2) Multiply the use rate by the projected year's total population projection, ~~five~~<sup>10</sup> years from the base year, to obtain projected patient days;
  - 3) Divide the projected patient days by days in the projected year to obtain a projected average daily census;
  - 4) Divide the projected average daily census by .60 (60% occupancy factor) to obtain the projected planning area bed need;

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- 5) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of surplus (excess) beds or the projected bed deficit or additional beds needed in the area.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

**Section 1100.550 Comprehensive Physical Rehabilitation Category of Service**

- a) **Planning Areas**  
Planning areas for comprehensive physical rehabilitation are Health Service Areas.
- b) **Age Groups**  
For comprehensive physical rehabilitation, all ages.
- c) **Utilization Target**  
Facilities that provide a comprehensive physical rehabilitation service should operate those beds at or above an annual minimum occupancy rate of 85%.
- d) **Bed Capacity**  
Comprehensive Physical Rehabilitation bed capacity is the total number of comprehensive physical rehabilitation beds for a facility as determined by [HFSRB](#) pursuant to this Part.
- e) **Need Determination**  
The following methodology is utilized to determine the projected number of comprehensive physical rehabilitation beds needed in a planning area:
  - 1) Divide the base year's experienced rehabilitation patient days by the base year population estimate to determine the planning area's experienced use rate. If the experienced use rate is less than 60% of the State's base year experienced use rate, adjust the planning area's use rate to 60% of the State's base year use rate to establish a minimum use rate;
  - 2) Multiply the planning area's experienced or minimum use rate, if applicable, by the population projection for ~~five~~10 years from the base year to determine projected patient days for the planning area;

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- 3) Divide the projected patient days by the number of days in the projected year to obtain the projected average daily census;
- 4) Divide the projected average daily census by .85 (85% occupancy rate) to obtain the projected planning area bed need;
- 5) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of excess beds (surplus) or the projected need (deficit) for additional beds in the area.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

**Section 1100.560 Acute Mental Illness Treatment Category of Service**

- a) Planning Areas
  - 1) For HSAs I, II, III, IV, V, X and XI, the HSA is the planning area;
  - 2) For HSAs VI, VII, VIII and IX, medical-surgical and pediatric care planning areas A-1 through A-14 are the planning areas.
- b) Age Groups  
For acute mental illness, all ages.
- c) Utilization Target  
Facilities that provide an acute mental illness service should operate those beds at or above an annual minimum occupancy rate of 85%.
- d) Bed Capacity  
Acute Mental Illness bed capacity for facilities not operated by the Department of Human Services is the total number of acute mental illness beds for a facility as determined by [HFSRB/HFPB](#) pursuant to this Part. For facilities operated by the Department of Human Services, all mental illness beds are counted as chronic beds. State facilities can provide acute mental illness care, but for purposes of review, only the service, not the beds, is recognized as acute.
- e) Need Determination for Bed Not Operated by the Department of Human Services  
The following methodology is utilized to determine the projected number of acute

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mental illness beds needed in a planning area:

- 1) A bed need of .11 beds per 1,000 projected population is established in each planning area as the minimum bed need.
  - 2) Calculate the planning area's experienced use rate by dividing the number of patient days in the base year by the base year population in thousands. Multiply the experienced use rate by the population estimate in thousands to obtain estimated patient days. Divide the estimated patient days by the number of days in the population projection (which is ~~five~~10 years from the base year) to determine the projected average daily census (ADC). Divide the estimated ADC by .85 (85% occupancy factor) to obtain a projected bed need in the planning area.
  - 3) When the projected bed need is less than the minimum bed need, the minimum bed need is the projected bed need. When the estimated bed need is greater than the minimum bed need, the estimated bed need is the projected bed need.
  - 4) Calculate the number of additional beds needed in each area by subtracting the number of existing beds from the projected bed need.
  - 5) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of excess (surplus) beds or the projected need for additional beds (deficit) in the area.
- f) No bed need formula for facilities operated by the Department of Human Services has been developed. It is the responsibility of the applicant to document the need for a project by complying with the Review Criteria contained in 77 Ill. Adm. Code 1110.

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

**Section 1100.630 In-Center Hemodialysis Category of Service**

- a) Planning Areas  
Planning areas for the in-center hemodialysis category of service are Health Service Areas.

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- b) Age Groups  
For in-center hemodialysis, all ages.
- c) Utilization Target  
Facilities providing in-center hemodialysis should operate their dialysis stations at or above an average annual utilization rate of 80%, assuming three patient shifts per day per renal dialysis station operating six days a week.
- d) Need Determination  
The five-year need determination is a short-term assessment that applies to the planning area need requirements in the 77 Ill. Adm. Code 1110 category of service review criteria. The in-center hemodialysis or end stage renal disease (ESRD) station need is a five year projection from the base year. The need for additional treatment stations can be projected utilizing the following methodology:
- 1) Establish a minimum institutional dialysis rate by dividing the total number of institutional dialysis patients in the base year by the State base year population estimate in thousands and multiply the result by .6 (60%).
  - 2) Determine each planning area's experienced institutional dialysis rate by dividing the number of patients receiving dialysis in the base year by the planning area population projection in thousands for the base year.
  - 3) Multiply each planning area's population projection in thousands by the greater of the minimum institutional dialysis rate or the experienced institutional dialysis rate for the planning area to determine the estimated number of institutional dialysis patients.
  - 4) Multiply the planning area's projected number of institutional dialysis patients by a factor of 1.33 (5 year increase in prevalence) to determine the projected number of institutional dialysis patients in the planning area for the projected year.
  - 5) Multiply the projected number of annual institutional dialysis patients by 156 (3 treatments/week x 52 weeks) to determine the projected number of institutional procedures.

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- 6) Divide the projected number of annual institutional procedures by 749 (3 shifts/day x 6 days/week x 52 weeks/year x .80 utilization target) to determine the projected number of stations needed for the projected year.
  - 7) Subtract the number of existing stations from the projected number of needed stations to determine the excess (surplus) or additional (deficit) number of stations needed.
- e) ~~10-Year Need Determination~~  
The 10-year need determination for in-center hemodialysis or end-stage renal disease (ESRD) stations involves a 10-year projection from the base year. This formula is used for long-term planning purposes. The need for additional treatment stations can be projected utilizing the following methodology:
- 1) ~~Establish a minimum institutional dialysis rate by dividing the total number of institutional dialysis patients in the base year by the State base year population estimate in thousands and multiply the result by .6 (60%).~~
  - 2) ~~Determine each planning area's experienced institutional dialysis rate by dividing the number of patients receiving dialysis in the base year by the planning area population projection in thousands for the base year.~~
  - 3) ~~Multiply each planning area's population projection in thousands by the greater of the minimum institutional dialysis rate or the experienced institutional dialysis rate for the planning area to determine the estimated number of institutional dialysis patients.~~
  - 4) ~~Multiply the projected number of annual institutional dialysis patients by 156 (3 treatments/week x 52 weeks) to determine the projected number of institutional procedures.~~
  - 5) ~~Divide the projected number of annual institutional procedures by 749 (3 shifts/day x six days/week x 52 weeks/year x .80 utilization target) to determine the projected number of stations needed for the projected year.~~
  - 6) ~~Subtract the number of existing stations from the projected number of needed stations to determine the excess (surplus) or additional (deficit) number of stations needed.~~

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(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

**Section 1100.640 Non-Hospital Based Ambulatory Surgical Treatment Center Services – Category of ServiceSurgery**

- a) Planning Areas  
No planning areas are established for need determination purposes. Ambulatory surgical treatment facilities (ASTCs) shall be inventoried by health service area.
- b) Age Groups  
For non-hospital based ambulatory surgery, all ages.
- c) Utilization Target  
ASTCs surgical or treatment rooms should be utilized at a minimum of 80% occupancy. The 80% occupancy equates to 1,500 hours of use per room per year (including setup and cleanup time) and is based upon treatment room availability of 7.5 hours per day times 250 days per year.
- d) Need Determination  
No formula need determination for the number of ASTCs and the number of surgical or treatment rooms in an area has been established. Need must be established pursuant to the applicable review criteria of 77 Ill. Adm. Code 1110.

~~Need Assessment: For purposes of this Subchapter, need will be only a facility need and will be the responsibility of the applicant to document by complying with the Review Criteria contained in 77 Ill. Adm. Code 1110: Subpart P.~~

(Source: Amended at 38 Ill. Reg. 2822, effective February 1, 2014)

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- 1) Heading of the Part: Health Facilities and Services Review Operational Rules
- 2) Code Citation: 77 Ill. Adm. Code 1130
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1130.410	Amend
1130.990	Amend
1130.1030	Amend
1130.1080	Amend
- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]
- 5) Effective Date of Rule: February 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 Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments published in the *Illinois Register*: 37 Ill. Reg. 7198, May 31, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period: None

The following changes were made in response to comments and suggestions of JCAR:

- a) In Section 1130.990(c), "15 business days" was changed to "14 business days"; and
- b) In Section 1130.990 (b), "shall also" was changed to "are encouraged to".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

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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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The subject amendments to Part 1130 are adopted to: reflect recent changes to the Health Facilities Planning Act [20 ILCS 3960]; amend language for clarification and in some cases, expansion of operational requirements of the Certificate of Need (CON) process; and repeal Sections that have been deemed outdated or unnecessary.
- 16) Information and questions regarding this adopted rule shall be directed to:

Claire Burman  
Rules Coordinator  
Health Facilities and Services Review Board  
122 S. Michigan Avenue, Suite 700  
Chicago, IL 60603

312/814-8814  
e-mail: Claire.Burman@illinois.gov

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD  
SUBCHAPTER b: OTHER BOARD RULES

PART 1130  
HEALTH FACILITIES AND SERVICES REVIEW OPERATIONAL RULES

SUBPART A: AUTHORITY

- Section  
1130.110 Statutory Authority/Applicability  
1130.120 Introduction  
1130.130 Purpose  
1130.140 Definitions  
1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

- Section  
1130.210 Persons and Facilities Subject to the Act  
1130.215 Health Care Facilities Subject to the Act  
1130.220 Necessary Parties to the Application for Permit or Exemption  
1130.230 Fees  
1130.240 Reporting and Notification Requirements  
1130.250 HFSRB Meetings

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

- Section  
1130.310 Projects or Transactions Subject to the Act

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR  
EXEMPTION FROM PERMIT REQUIREMENTS

- Section  
1130.410 Projects or Transactions Exempt from Permit ~~Requirement~~Requirements

SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

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## Section

- 1130.500 General Requirements for Exemptions
- 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)
- 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
- 1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
- 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds
- 1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
- 1130.540 Requirements for Exemptions Involving Discontinuation
- 1130.541 Requirements for Exemptions for Combined Facility Licensure (Repealed)
- 1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
- 1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
- 1130.544 Requirements for Exemption for the Addition of Dialysis Stations (Repealed)
- 1130.550 Agency Processing of an Application for Exemption
- 1130.560 State Board Action
- 1130.570 Validity of an Exemption and Reporting Requirements
- 1130.580 Relinquishment of an Exemption
- 1130.590 Revocation of an Exemption

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW  
AND PROCESSING OF APPLICATIONS FOR PERMIT

## Section

- 1130.610 Duration of the Review Period and Time Frames
- 1130.620 Technical Assistance, Classification, Completeness Review, Review Procedures and Application Processing Fee
- 1130.630 HFSRB Staff Actions During the Review Period
- 1130.635 Additional Information Provided During the Review Period
- 1130.640 Extension of the Review Period
- 1130.650 Modification of an Application
- 1130.655 HFSRB Consideration and Action
- 1130.660 Approval of an Application
- 1130.670 Intent to Deny an Application

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1130.680 Denial of an Application

## SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

## Section

1130.710 Validity of Permits  
1130.720 Obligation  
1130.730 Extension of the Obligation Period  
1130.740 Permit Renewal  
1130.750 Alteration of Post-Permit Projects  
1130.760 Annual Progress Reports  
1130.770 Project Completion, Final Realized Costs and Cost Overruns  
1130.775 Relinquishment of a Permit  
1130.780 Revocation of a Permit  
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFSRB Rules

## SUBPART H: DECLARATORY RULINGS

## Section

1130.810 Declaratory Rulings

## SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

## Section

1130.910 Applicability  
1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit  
1130.930 Notice of Public Hearing on Applications for Permit  
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1130.950 Written Comments on Applications for Permit  
1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)  
1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)  
1130.980 Procedures Concerning Public Hearing for Certificate of Exemption for Change of Ownership  
1130.990 Procedures for Public Hearing and Comment on Proposed Rules  
1130.995 Procedures for Public Comment on All Other Matters

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## SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

## Section

1130.1010	The Right to an Administrative Hearing and Applicable Rules
1130.1020	Initiation of a Contested Case (Pleadings)
1130.1030	Waiver of Hearing
1130.1040	Parties to Hearings
1130.1050	Appearance – Right to Counsel
1130.1060	Prehearing Conferences
1130.1070	Intervention
1130.1080	Disqualification of Administrative Law Judge
1130.1090	Form of Papers
1130.1100	Service
1130.1110	Conduct of Hearings
1130.1120	Discovery
1130.1130	Motions
1130.1140	Subpoenas
1130.1150	Administrative Law Judge's Report and Final Decision
1130.1160	Proposal for Decision
1130.1170	Final Decision
1130.1180	Records of Proceedings
1130.1190	Miscellaneous
1130.1200	Copies of Pleadings to be Filed
1130.1210	Applicability

1130.APPENDIX A Capital Expenditure Minimums/Review Thresholds

**AUTHORITY:** Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

**SOURCE:** Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998;

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amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21, 2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 37 Ill. Reg. 6227, effective June 1, 2013; amended at 38 Ill. Reg. 2869, effective February 1, 2014.

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR  
EXEMPTION FROM PERMIT REQUIREMENTS**Section 1130.410 Projects or Transactions Exempt from Permit  
Requirement**

The following proposed projects and transactions are not subject to the requirement to obtain a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart and Subpart E and an exemption is issued by HFSRB:

- a) the change of ownership of an existing health care facility. *This is not applicable to a healthcare facility that is licensed under the Nursing Home Care Act (with the exceptions of facilities operated by a county or Illinois Veterans Home) [20 ILCS 3960/3].*
- b) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:
  - 1) revocation of or denial of license renewal by a State or local regulatory agency;
  - 2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;
  - 3) discontinuation action taken by HFSRB;
  - 4) the voluntary surrender of a suspended license.
- c) the combination of two or more existing health care facilities into a single licensed health care facility, when:

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- 1) the existing facilities are located on the same site or on sites adjacent to one another;
  - 2) the licensed person for the existing facilities is the same;
  - 3) the combination is for the sole purpose of operating the existing facilities under a single license; and
  - 4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.
- d) ~~a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations, provided that the number of stations to be added does not exceed the planning area's need for additional stations, as calculated in the Inventory, and also provided that the number of stations to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.~~
- d)e) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.

(Source: Amended at 38 Ill. Reg. 2869, effective February 1, 2014)

## SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

**Section 1130.990 Procedures for Public Hearing and Comment on Proposed Rules**

- a) All proposed rulemaking is subject to the provisions of the IAPA.
- b) HFSRB will provide notice of the public comment period, together with the publication of the proposed rules in the Illinois Register, as part of the IAPA's First Notice requirements.
- c) HFSRB shall conduct public hearings on all proposed rules, if requested in writing within 14 business days following the publication of the proposed rules in the Illinois Register. Notice of public hearings will be posted on the HFSRB website (<http://hfsrb.illinois.gov>), and provide notice of public hearings as part of the IAPA first notice requirements.

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- d) Commentors participating at a public hearing are encouraged to submit their testimony in writing.
- e) The entire proceedings of every HFSRB public hearing will be transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB public hearing.
- f) Written comments should be submitted in accordance with the First Notice~~first notice~~ requirements published in the Illinois Register.

(Source: Amended at 38 Ill. Reg. 2869, effective February 1, 2014)

## SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

**Section 1130.1030 Waiver of Hearing**

An applicant's right to an administrative hearing on an application denied by HFSRB pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. If an administrative hearing is not requested within the required timeframe, the right to an administrative hearing is waived. Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFSRB. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Amended at 38 Ill. Reg. 2869, effective February 1, 2014)

**Section 1130.1080 Disqualification of Administrative Law Judge**

Prior to commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to HFSRB. The report shall include a proposed ruling on the motion and the reasons for the ruling. If HFSRB determines that bias or a conflict of interest exists, it shall grant the motion and the HFSRB Chairman~~Director of IDPH~~ shall appoint a new administrative law judge within 30 days after HFSRB's determination. *An*

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*adverse ruling, in and of itself, shall not constitute bias or conflict of interest* [5 ILCS 100/10-30].

(Source: Amended at 38 Ill. Reg. 2869, effective February 1, 2014)

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- 1) Heading of the Part: Inventories, Registers, and Records
- 2) Code Citation: 17 Ill. Adm. Code 4020
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
4020.110	New
4020.120	New
4020.130	New
4020.140	New
4020.210	New
4020.220	New
4020.230	New
4020.240	New
4020.250	New
4020.260	New
4020.270	New
4020.310	New
- 4) Statutory Authority: Implementing and authorized by Sections 6 and 7 of the Illinois Natural Areas Preservation Act [525 ILCS 30/6 and 7].
- 5) Effective Date of Rule: January 10, 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 all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: May 24, 2013, 37 Ill. Reg. 7111
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:  
  
In Section 4020.220(c), a period has been added after the word "basis".

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In Section 4020.240(b)(2), "rate" has been capitalized; "and" has been deleted; "1" has been changed to "one".

In Section 4020.240(b)(3), "rate" has been capitalized.

In Section 4020.240(c)(2) and (4), "reports" has been capitalized.

In Section 4020.240(e), "shall" has been changed to "will".

In Section 4020.250, "three" has been changed to "3".

In Section 4020.270, the following has been added:

"4) Payment of fees that constitutes an overpayment or underpayment will be returned to the data requestor."

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rule implements the revised statutory language that directs the Nature Preserves Commission to develop and set fees to be charged persons, corporations and agencies for the use of data from Commission maintained databases that cover the actual cost of collecting, compiling, maintaining and distributing these data. Fees collected under this adopted rule would be deposited into the Natural Areas Acquisition Fund to support the aforementioned database.
- 16) Information and questions regarding these adopted rule shall be directed to:

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

217/782-1809

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

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NOTICE OF ADOPTED RULES

TITLE 17: CONSERVATION  
CHAPTER V: NATURE PRESERVES COMMISSION

PART 4020  
INVENTORIES, REGISTERS AND RECORDS

SUBPART A: GENERAL PROVISIONS

Section

- 4020.110 Purpose
- 4020.120 Applicability
- 4020.130 Definitions
- 4020.140 Penalties

SUBPART B: DATA REQUESTS AND FEES

Section

- 4020.210 General
- 4020.220 Submitting Data Requests
- 4020.230 Request Denial
- 4020.240 Fees
- 4020.250 Data Updates
- 4020.260 Exceptions: Discounts and Waivers
- 4020.270 Collection of Fees

SUBPART C: DATA USE AND LIMITATIONS

Section

- 4020.310 Data Use and Limitations

AUTHORITY: Implementing and authorized by Sections 6 and 7 of the Illinois Natural Areas Preservation Act [525 ILCS 30/6 and 7].

SOURCE: Adopted at 38 Ill. Reg. 2879, effective January 10, 2014.

SUBPART A: GENERAL PROVISIONS

**Section 4020.110 Purpose**

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The purpose of this Part is:

- a) To clarify the type of data included in inventories, registers and records compiled and maintained on behalf of the Commission.
- b) To establish and describe fees to recover the actual cost of collecting, storing, managing, compiling and providing access to natural heritage data, including inventories, registers and records required by Section 6.01 of the Act.
- c) To describe the limits on how accessed natural heritage data may be used.

**Section 4020.120 Applicability**

This Part applies to all natural heritage data compiled and maintained on behalf of the Commission as required by Section 6.01 of the Act.

**Section 4020.130 Definitions**

As used in this Part, the following terms have the meanings indicated, except where context requires otherwise:

"Act" means the Illinois Natural Area Preservation Act [525 ILCS 30].

"Board" means the Illinois Endangered Species Protection Board created by Section 6 of the Illinois Endangered Species Protect Act [520 ILCS 10/6].

"Commission" means the Illinois Nature Preserves Commission created by Section 4 of the Act.

"Department" means the Illinois Department of Natural Resources.

"Element Occurrence" means an area of land and/or water in which a species is, or was, reported to be present or means a local population.

"Licensee" means any person licensed to use natural heritage data subject to the terms of a Data Licensing Agreement.

"Natural Areas Acquisition Fund" means the Illinois Natural Areas Acquisition Fund established in Section 14 of the Open Space Lands Acquisition and

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Development Act [525 ILCS 35/14]. The fund is used by the Department for the acquisition, preservation and stewardship of natural areas, including habitats for endangered and threatened species, high quality natural communities, wetlands, and other areas with unique or unusual natural heritage qualities.

"Natural Heritage Data", "Natural Heritage Database" or "Data" means recorded information on the biology, existence and locations of threatened and endangered species and other species; protective status of these species; inventories of natural features, including, but not limited to, the Illinois Natural Areas Inventory sites and the resources that allow a site to qualify; and means data collected pursuant to 17 Ill. Adm. Code 4010 (Register of Land and Water Reserves). Natural heritage data is owned by the State of Illinois and compiled and maintained by the Department's Natural Heritage Database Program as a service to assist, and in cooperation with, the Commission and the Board. Access to natural heritage data shall be in the form of spatial data, reports or custom data formats subject to Natural Heritage Database Program approval.

"Natural Heritage Database Program" or "NHD Program" means the program within the Department responsible for maintaining the natural heritage data.

"Quadrangle" means one of 1,071 U.S. Geological Survey 1:24,000-scale topographic maps covering the State of Illinois, also known as 7.5-minute quadrangles.

"Person" means any individual, corporation, partnership, firm, organization, association, government entity or agency, or body politic.

"T&E Species" or "Threatened and Endangered Species" means any species or subspecies listed by the Board pursuant to Section 7 of the Illinois Endangered Species Protection Act.

**Section 4020.140 Penalties**

Any person who violates this Part, falsifies or makes any misrepresentation in the data licensing agreement, required records, or any other information required to be given to the Department shall be subject to the penalties set forth in Section 22 of the Act.

## SUBPART B: DATA REQUESTS AND FEES

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**Section 4020.210 General**

- a) A fee will be charged (see Section 4020.240) for compiling and providing natural heritage data for any persons requesting that information for research, educational, environmental, land management, land development and similar purposes. All fees are non-refundable.
- b) The Commission shall, at a regular public meeting held pursuant to 2 Ill. Adm. Code 2150.210 through 2150.280, review natural heritage data fees at least every 5 years to assess whether those fees are meeting NHD Program costs. The Commission shall promulgate any necessary fee changes by modifying this Part in consultation with the Department.
- c) The Commission and Department shall enter into a Data Licensing Agreement with licensees to provide natural heritage data and collect fees pursuant to this Part.
- d) Revenues generated specifically under the natural heritage data fee shall be deposited into the Natural Areas Acquisition Fund and appropriated to the Department for the purpose of collecting, storing, managing, compiling and providing access to support, maintain and update the NHD and its data. Department costs with respect to the NHD include, but are not limited to, personnel, information technology and data collection costs. All fees shall be tracked with a unique identifying code.
- e) Distribution of data to third parties is prohibited.

**Section 4020.220 Submitting Data Requests**

- a) Requests for natural heritage data shall be submitted via the online system or in writing via mail, electronic mail or fax. Requests should be directed to the Natural Heritage Database Program, Office of Resource Conservation, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702.
- b) Persons requesting and receiving natural heritage data via written request shall provide the following:

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- 1) Contact information (name, company/organization, address, telephone number, and electronic mail address);
  - 2) Desired data and format;
  - 3) Geographic extent of desired data;
  - 4) Explanation of how the data will be used and who will have access to the data; and
  - 5) Payment of fees in full unless alternate arrangements are made.
- c) All persons requesting and receiving natural heritage data via written request shall first be required to sign a one-year Data Licensing Agreement that dictates the conditions for use of the data. Fees shall be paid in full before natural heritage data is provided unless alternate arrangements are made. Licensing agreements may be renewed on a yearly basis. Distribution of data to third parties, including that from a consultant to client or subcontractor to contractor, is prohibited.

**Section 4020.230 Request Denial**

- a) Requests contrary to the purposes of the Act, or for purposes in violation of the Wildlife Code [520 ILCS 5], the Fish and Aquatic Life Code [515 ILCS 5], or the Illinois Endangered Species Protection Act shall be denied.
- b) If it is determined that a licensee has violated the terms of the Data Licensing Agreement or is in violation of Section 4020.310, all rights to use the data shall be immediately revoked and any future requests for natural heritage data shall be denied.
- c) Natural heritage data are exempt from disclosure as valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss, as allowed by Section 7(i) of the Freedom of Information Act [5 ILCS 140/7(i)].

**Section 4020.240 Fees**

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- a) **Base Fee.** There will be a base fee for each request in addition to spatial data and report fees. The base fee is \$75 per request.
- b) **Spatial Data Fees.** Spatial natural heritage data layers will be provided in Geographic Information System (GIS) format.
  - 1) **Quadrangle Rate.** Fees for spatial natural heritage data will be assessed a fee for each topographic quadrangle. Project sites will be buffered 5 miles and requesters will be charged for each quadrangle intersected. The quadrangle rate fee is \$50 per quadrangle.
  - 2) **Linear Rate.** Fees for spatial natural heritage data for linear projects measuring greater than 25 miles in length and less than 0.5 miles in width are assessed a fee of \$15 per quadrangle intersected by the project line. Requestors are required to submit their linear project area in GIS format, or else the Quadrangle Rate will apply. Linear project boundaries will be buffered by one mile on each side of the project line and data will be provided for that area.
  - 3) **Custom Rate.** Fees for custom data requests will be assessed by the NHD Program manager at the time of the request.
- c) **Report Fees.** Report data will be provided in PDF or Excel format.
  - 1) **Quadrangle Reports.** The fee for reports detailing information about the natural heritage data that occurs within a topographic quadrangle is \$50 per quadrangle.
  - 2) **Linear Reports.** The fee for reports detailing information about natural heritage data that occurs in linear project areas measuring greater than 25 miles in length and less than 0.5 miles in width are assessed a fee of \$15 per quadrangle intersected by the project line. Requestors are required to submit their linear project area in GIS format, or else the Quadrangle Report Rate will apply. Linear project boundaries will be buffered by one mile on each side of the project line and report data will be provided for that area.
  - 3) **Species Reports.** The fee for reports detailing information about T&E species is \$25 per element occurrence.

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- 4) Custom Reports. Fees for custom report requests will be assessed by the NHD Program manager at the time of the request.
- d) Natural heritage data fees will be capped at no more than \$20,000 per requestor.
- e) Users of natural heritage data accessed through the Department's EcoCAT system will be assessed a fee of \$25 and the base fee will be waived.

**Section 4020.250 Data Updates**

Natural heritage data is updated on a daily to quarterly basis, depending on the dataset. Therefore, licensees are encouraged to get updated data as appropriate based on their project parameters. Spatial data updates are free during the one-year Data Licensing Agreement period. The update must be for data within the same portion of the State covered in the Data Licensing Agreement. Licensees are allowed up to 3 data updates in a calendar year and must request their own updates.

**Section 4020.260 Exceptions: Discounts and Waivers**

- a) No fees shall be charged to the Department, Commission or Board for requests that fulfill the day-to-day operational needs of the Department, Commission or Board, including land management planning, status assessment and land owner contact.
- b) Fees may be waived or reduced in writing under select circumstances, including:
  - 1) Written agreements with the Department, Commission or Board in which Department, Commission or Board costs are reimbursed or offset and/or in which the request furthers Department, Commission or Board missions.
  - 2) Requests for college students actively working on a thesis or dissertation research project determined by Department, Commission or Board to further Department, Commission or Board missions.
- c) Requesters shall be assessed the base fee even when a discount or waiver is given.
- d) No waiver or reduction of fees shall, in any way, impair the State of Illinois' ownership or licensing rights to the natural heritage data provided.

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**Section 4020.270 Collection of Fees**

- a) Fee payment is expected at the time of the request unless alternate arrangements are made.
- b) Fees may be paid online, when available, or by certified or cashier's check payable to the Illinois Natural Heritage Database Program, to the Natural Heritage Database Program – Office of Resource Conservation, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702. No cash payments will be accepted.
  - 1) Payment shall not include any other fees or payments due to the Department for any purpose other than the fee due under this Part.
  - 2) Payment of fees shall be deposited in the Natural Areas Acquisition Fund and tracked separately.
  - 3) No fee remitted to the Department under this Part shall be refunded in whole or in part at any time for any reason.
  - 4) Payment of fees that constitutes an overpayment or underpayment will be returned to the data requestor.

## SUBPART C: DATA USE AND LIMITATIONS

**Section 4020.310 Data Use and Limitations**

- a) Natural heritage data is non-transferable and cannot be provided to third parties. Any and all requests for data access from third parties shall be directed to the NHD Program by the licensee. Licensees, such as consultants or subcontractors, may not provide natural heritage data to third parties, such as a client or contractor. If the third party needs the natural heritage data for a project, the third party must also pay the fee and sign a Data License Agreement.
- b) The accuracy of this data is time-limited as the NHD is updated on a daily to quarterly basis. Licensees are encouraged to get data updates.

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- c) If the licensee is a governmental or private entity, the licensee shall ensure that access to the data is limited to those individuals within the entity who require access to the data for the stated project and purpose of the Data Licensing Agreement. The licensee is responsible for ensuring that all such individuals understand and adhere to the terms of the Data Licensing Agreement.
- d) Release of precise species locations may threaten natural heritage resources. Licensees shall take reasonable precautions to ensure the confidentiality of T&E species locations. When precise locations need to be displayed in publicly-accessible documents or websites, species location should be generalized or displayed without species' names when possible.
- e) Licensees must provide the NHD Program with any T&E species information that is collected during the term of the Data Licensing Agreement so as to keep the natural heritage database current. This information includes species location, date observed, names of observers, and number observed.
- f) Licensees shall identify the "Illinois Department of Natural Resources, Illinois Nature Preserves Commission, Illinois Endangered Species Protection Board, and Natural Heritage Database" as the data source on any map or publication and shall include the release date of the data.
- g) Natural heritage data is provided for planning and assessment purposes only. Receipt of the data does not constitute Department, Commission or Board review or authorization of any proposed project and does not exempt the licensee from securing necessary permits and approvals from the Department, Commission, Board or other regulatory agency.
- h) Data maintained by the NHD Program is gained from the best and most recent information available and undergoes quality control and quality assurance. Because environmental conditions change daily, the NHD Program cannot provide a conclusive statement on the presence, absence or condition of significant natural features identified in the NHD and can only summarize the information known at the time of each agreement. An executed Data Licensing Agreement shall not constitute Department, Commission or Board validation of the Licensee's interpretation of the data.
- i) The natural heritage data being provided constitutes a representation of the more extensive information available in manual and electronic files.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Illinois National Guard (ING) Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 2730
- 3) Section Number: 2730.30                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]
- 5) Effective Date of Rule: January 15, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of this 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*: September 20, 2013, 37 Ill. Reg. 15332
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These rules govern the administration of the Illinois National Guard Grant Program. Under the bill, a Guardsman who has served for over ten years would be eligible for an additional two years of tuition and fee benefits at an Illinois public university or community college.
- 16) Information and questions regarding this adopted rule shall be directed to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

Lynn Hynes  
Agency Rules Coordinator  
Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, IL 60015

847/948-8500 ext. 2305  
fax: 847/831-8299  
email: [lynn.hynes@isac.illinois.gov](mailto:lynn.hynes@isac.illinois.gov)

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

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2730  
ILLINOIS NATIONAL GUARD (ING) GRANT PROGRAM

Section	
2730.10	Summary and Purpose
2730.20	Applicant Eligibility
2730.30	Program Procedures
2730.40	Institutional Procedures

**AUTHORITY:** Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].

**SOURCE:** Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 6 Ill. Reg. 8239, effective June 30, 1982; new rules adopted at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10877; amended at 8 Ill. Reg. 17016, effective September 5, 1984; amended at 9 Ill. Reg. 20827, effective January 1, 1986; amended at 11 Ill. Reg. 3202, effective January 29, 1987; amended at 12 Ill. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17857; amended at 14 Ill. Reg. 10567, effective July 1, 1990; amended at 16 Ill. Reg. 11254, effective July 1, 1992; amended at 17 Ill. Reg. 10563, effective July 1, 1993; amended at 18 Ill. Reg. 10303, effective July 1, 1994; amended at 20 Ill. Reg. 9187, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11119, effective July 18, 1997; amended at 22 Ill. Reg. 11100, effective July 1, 1998; amended at 24 Ill. Reg. 9148, effective July 1, 2000; amended at 25 Ill. Reg. 8406, effective July 1, 2001; amended at 26 Ill. Reg. 10013, effective July 1, 2002; amended at 27 Ill. Reg. 10338, effective July 1, 2003; amended at 29 Ill. Reg. 9904, effective July 1, 2005; amended at 30 Ill. Reg. 11623, effective July 1, 2006; amended at 32 Ill. Reg. 10305, effective July 1, 2008; amended at 36 Ill. Reg. 9408, effective July 1, 2012; amended at 37 Ill. Reg. 9504, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 15439, effective September 3, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 2891, effective January 15, 2014.

**Section 2730.30 Program Procedures**

- a) The recipient is exempt from paying the following:

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- 1) tuition;
  - 2) registration fees;
  - 3) graduation fees;
  - 4) general activity fees;
  - 5) matriculation fees; and
  - 6) term fees.
- b) The recipient is responsible for payment of other fees, including the following:
- 1) book rental fees;
  - 2) laboratory and supply fees;
  - 3) air flight fees;
  - 4) hospital and health insurance fees;
  - 5) room and board;
  - 6) parking fees;
  - 7) student union fees;
  - 8) athletic fees;
  - 9) proficiency or placement exam fees and other similar fees; and
  - 10) service fees.
- c) Benefits are applicable to both undergraduate and graduate enrollment. There is no minimum credit-hour enrollment requirement. Benefits are applicable for noncredit courses.
- d) Benefits are limited to use only at Illinois public senior universities and at any Illinois public community college.

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- e) Within the constraints of appropriation levels, two semester or three quarter term payments and one summer term payment are made directly to the institution after it officially certifies to ISAC that the applicant has registered and is attending classes. No seminars or other special terms are covered under the grant. Summer term is considered the final term of the academic and fiscal year.
- f) Benefits for eligible recipients who have completed less than 10 years of active duty service in the Illinois National Guard are limited to the equivalent of four academic years of full-time enrollment.
- g) Benefits for eligible recipients who have completed 10 years of active duty service in the Illinois National Guard are limited to the equivalent of six academic years of full-time enrollment.

1) Benefits for an academic year shall be determined on the basis of credit hours in which the qualified applicant enrolls. Each~~To determine the amount of eligibility a recipient has used,~~ credit ~~hour~~hours (and noncredit ~~hour~~hours for which benefits are used) will be converted to "eligibility units" according to the following chart:

Number of Hours	Semester School	Quarter School
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
0 - 2.99 hours	1 unit	1 unit

2) Eligible recipients who have completed less than 10 years of active duty service in the Illinois National Guard~~Recipients~~ may continue to reapply and accumulate up to 120 units,~~after which point eligibility for program benefits will cease.~~ Eligible recipients who have completed 10 years of active duty service in the Illinois National Guard may continue to reapply and accumulate up to 180 units. ~~Full~~However, ~~full~~ program benefits may be extended for one additional term if the recipient has accumulated fewer than ~~the maximum number of eligibility units~~~~120 eligibility units~~ but does not have enough units remaining for the number of hours in which she/he is enrolled for the term.

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- 3) If an eligible recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.
- 4) In the event that the recipient withdraws from a course or courses prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.
- 5) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same number of total faculty contact hours.

~~h)g)~~ If a current year applicant is discharged, transferred to the inactive Illinois National Guard, or has membership extended by the Illinois National Guard, ISAC will send a revised eligibility letter or ineligibility letter to the applicant. In the case of discharge, a copy of the letter will be sent to the institution of record.

~~i)h)~~ Except as otherwise provided in this Part, if a recipient ceases to be an active status member of the Illinois National Guard during a term, benefits cease, and the student is responsible for the unpaid costs attributed to the remainder of the term. If an applicant becomes eligible during a term, in accordance with Section 2730.20(b), benefits will be prorated for that portion of the term for which the applicant is eligible, provided the application is submitted by the deadlines. Costs are prorated on the basis of the institution's scheduled days of instruction minus institutionally scheduled holidays and examination periods.

Calculation: Total tuition cost divided by total instructional days = cost per day x days of eligibility = total proration.

~~j)i)~~ If the recipient of a grant awarded under this Part ceases to be a member of the Illinois National Guard, but has been active in the Illinois National Guard for at least five consecutive years and had his or her studies interrupted by being called to federal active duty for at least six months, then that recipient shall continue to be eligible for a grant for one year after his or her discharge from the Illinois National Guard, provided that the recipient has not already received the exemption from tuition and fees for the equivalent of four years of full-time enrollment under this Part.

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- k)† Out-of-state residents will receive tuition and applicable fee benefits equivalent to those received by in-state residents at the Illinois institution; recipients attending out-of-district community colleges will receive tuition and applicable fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-state and out-of-state tuition nor will they be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.
- l)† If a student is eligible for both an Illinois National Guard Grant and a MAP grant, the Illinois National Guard benefits must be used first. A student cannot decline an Illinois National Guard Grant in favor of using MAP.
- m)† If a recipient of the grant fails to complete his or her military obligation according to the agreement, all proceeds received must be repaid to the Illinois Department of Military Affairs. DMAIL will collect the funds, which will be used by ISAC for the purpose of this Part.

(Source: Amended at 38 Ill. Reg. 2891, effective January 15, 2014)

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- 1) Heading of the Part: Golden Apple Scholars of Illinois Program
- 2) Code Citation: 23 Ill. Adm. Code 2764
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2764.20	Amend
2764.30	Amend
2764.40	Amend
- 4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)]
- 5) Effective Date of Rulemaking: January 15, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of this 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*: September 20, 2013, 37 Ill. Reg. 15334
- 11) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: The only change made was technical in nature.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 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: These rules govern the administration of the Golden Apple Scholars of Illinois Program. As a result of newly-enacted legislation, the program is being restructured to reflect a clarification of the agency's administrative

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responsibilities with respect to the program, as well as the managerial responsibilities of the not-for-profit Golden Apple Scholars for Excellence in Teaching with respect to the same.

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

Lynn Hynes  
Agency Rules Coordinator  
Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, IL 60015

847/948-8500 ext. 2305  
fax: (847) 831-8299  
email: lynn.hynes@isac.illinois.gov

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

## ILLINOIS STUDENT ASSISTANCE COMMISSION

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## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

## PART 2764

## GOLDEN APPLE SCHOLARS OF ILLINOIS PROGRAM

## Section

2764.10	Summary and Purpose
2764.20	Applicant Eligibility
2764.30	Program Procedures
2764.40	Institutional Procedures

**AUTHORITY:** Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].

**SOURCE:** Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. 9141, effective July 1, 1996; old Part repealed at 21 Ill. Reg. 11027 and new Part adopted at 21 Ill. Reg. 11029, effective July 18, 1997; amended at 22 Ill. Reg. 11043, effective July 1, 1998; amended at 24 Ill. Reg. 9095, effective July 1, 2000; amended at 27 Ill. Reg. 10395, effective July 1, 2003; emergency amendment at 27 Ill. Reg. 14860, effective September 10, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1749, effective January 25, 2004; amended at 28 Ill. Reg. 9162, effective July 1, 2004; amended at 30 Ill. Reg. 11687, effective July 1, 2006; amended at 32 Ill. Reg. 10333, effective July 1, 2008; amended at 33 Ill. Reg. 9784, effective July 1, 2009; amended at 36 Ill. Reg. 13957, effective September 1, 2012; emergency amendment at 37 Ill. Reg. 15446, effective September 3, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 2898, effective January 15, 2014.

**Section 2764.20 Applicant Eligibility**

- a) All qualified applicants must be designated as a Golden Apple Scholar by the Golden Apple Foundation for Excellence in Teaching (the Foundation).
- b) A qualified applicant, at the time of designation as a Golden Apple Scholar by the Golden Apple Foundation for Excellence in Teaching, shall:
  - 1) be a United States citizen or eligible noncitizen;

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- 2) be a resident of Illinois;
  - 3) be a high school graduate or a person who has received a General Educational Development (GED) Certificate;
  - 4) be enrolled at a four-year institution designated by the Foundation as a participating Illinois college or university; and
  - 5) have entered into a program agreement and promissory note with the Foundation and ISAC, as described in this Part.
- c) In order to receive scholarship assistance under this Part, a qualified applicant shall:
- 1) be enrolled ~~at the junior or senior level~~ in a postsecondary course of study leading to initial teacher certification or taking additional courses needed to gain Illinois State Board of Education (ISBE) approval to teach, including alternative teacher certification [110 ILCS 947/52];
  - 2) have earned a cumulative grade point average of 2.5 on a 4.0 scale if enrolled at the sophomore, junior or senior level; and
  - 3) have participated in all required programs and adhered to the residential guidelines and standards of conduct as a designated Golden Apple Scholar of the Foundation.
- d) In any academic year in which the qualified applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), the Minority Teachers of Illinois Scholarship Program (23 Ill. Adm. Code 2763), the Special Education Teacher Tuition Waiver Program (23 Ill. Adm. Code 2765), or the Teach Illinois Scholarship (23 Ill. Adm. Code 2768), ~~or from the Golden Apple Foundation~~, the qualified applicant shall not be eligible for scholarship assistance under this Part.

(Source: Amended at 38 Ill. Reg. 2898, effective January 15, 2014)

**Section 2764.30 Program Procedures**

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- a) Qualified applicants shall have completed and filed an application for program participation with the Foundation prior to becoming eligible for scholarship assistance under this Section. Applications shall be made available to qualified applicants by and submitted to the Foundation before a qualified applicant may be designated as a Golden Apple Scholar by the Foundation.
- b) The Foundation shall designate Golden Apple Scholars as defined in their established selection protocol.
- c) Each year, the Foundation shall identify Golden Apple Scholars eligible to receive scholarship assistance from ISAC under this Part by submitting to ISAC any necessary data related to the qualified applicant and, at such time, by certifying that:
  - 1) Students selected to receive scholarship assistance under this Part meet the eligibility requirements described in Section 2764.20(a) or in the Higher Education Student Assistance Act [110 ILCS 947/52];
  - 2) Students selected to receive scholarship assistance under this Part have entered into a Program Agreement and Promissory Note with the Foundation that satisfies the requirements listed in this Part; and
  - 3) Thirty percent of students selected to receive scholarship assistance under this Part in a given fiscal year will be awarded to students residing in counties having a population of fewer than 500,000.
- d) In order to receive scholarship assistance under this Part, a Golden Apple Scholar must have signed a program agreement and promissory note~~Program Agreement and Promissory Note~~ with the Foundation on behalf of~~and~~ ISAC that includes the following stipulations:
  - 1) the recipient pledges to teach, on a full time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline, which shall include early childhood education;
  - 2) the recipient shall begin teaching within two years~~one year~~ following completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;

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- 3) the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school that qualifies for teacher loan cancellation under section 465(a)(2)(A) of the HEA (20 USC 1087ee(a)(2)(A));
  - 4) if the teaching requirement is not fulfilled, the scholarship assistance provided under this Part converts to a loan and the recipient must repay the entire amount of the scholarship prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;
  - 5) the recipient agrees to provide the Foundation or ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and
  - 6) the recipient promises to use the proceeds of the scholarship for educational expenses.
- e) All amounts collected on a scholarship that converts to a loan under this Part, less any portion of those funds that equals the amount in expenses that ISAC has incurred in collecting the debt, shall be remitted to the Comptroller for deposit in the General Revenue Fund.
- f) A recipient of a scholarship awarded under this Part shall not be in violation of the program agreement and promissory note for failing to begin teaching within two years after graduation if, during that period, the recipient agreement entered into pursuant to subsection (d) during the period in which the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces; or
  - 2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or
  - 3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or
  - 4) is actively seeking and unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (d)(3) for one

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continuous period not to exceed two years, and is able to provide evidence of that fact; or

- 5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or
  - 6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching commitment; or
  - 7) is participating in a program established by Executive Order 10924 of the President of the United States or the National Community Service Act of 1990 (42 USC 12501 et seq., as amended).
- g) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within 10 years ~~after the scholarship converts to a loan. The Commission shall grant a period of forbearance or deferment during repayment of the loan that shall not be counted toward the 10-year repayment period. This 10-year period may be extended~~ if the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces; or
  - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or
  - 3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or
  - 4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or
  - 5) withdraws from a course of study leading to certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.
- h) During the time a recipient qualifies for periods of deferment or forbearance described ~~any of the extensions listed~~ in subsection (g), he or she shall not be required to make payments and interest shall not accrue.

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- i) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a teacher, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;
  - 2) the date the Foundation informs ISAC or ISAC otherwise learns that a recipient of scholarship assistance has not fulfilled the teaching obligation; or
  - 3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.
- j) A recipient shall not be required to repay the amount of the scholarship received if he or she becomes permanently and totally disabled, so as to be unable to perform the essential function of a teacher with or without accommodation as determined by a licensed physician, or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

(Source: Amended at 38 Ill. Reg. 2898, effective January 15, 2014)

**Section 2764.40 Institutional Procedures**

- a) The institution shall submit eligibility information for selected recipients in sufficient time for ISAC to make award announcements.
- b) The institution shall submit a certification of eligibility for selected recipients with its request for payment, within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.
- c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship, except that multiple disbursements shall not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the scholarship is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

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- d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.
- e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.
- f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.
- g) Scholarship assistance provided under this Part shall be subject to the following conditions:
  - 1) A recipient may receive up to ~~84~~ semesters or ~~126~~ quarters of scholarship assistance under this program.
  - 2) Scholarship funds are applicable toward two semesters or three quarters of half-time and full-time study within an academic year.
  - 3) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.
  - 4) Program scholarships are applicable only toward tuition, fees and room and board charges or commuter allowances, if applicable.
  - 5) The annual scholarship amount shall be computed by the institution and be the lesser of:
    - A) tuition and fees plus room and board expenses charged by the institution;
    - B) tuition and fees plus the institution's standard cost of living allowance for students living off-campus;
    - C) an amount not to exceed ~~\$5,000~~~~\$10,000~~ unless otherwise authorized by this Section; ~~or~~
    - ~~D) an amount not to exceed \$15,000, subject to appropriation, if the~~

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~~student is pursuing a course of study necessary to teach in a teacher shortage discipline in which he or she commits to teach, and the student has also made a commitment to teach at a hard to staff school.~~

- 6) The total amount of scholarship assistance awarded under this Section to a recipient of scholarship assistance under this Part in a given academic year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.
- 7) A recipient of scholarship assistance under this Part may receive grant assistance under the Monetary Award Program only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the scholarship assistance awarded under this Section.
- h) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.

(Source: Amended at 38 Ill. Reg. 2898, effective January 15, 2014)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Disadvantaged Business Revolving Loan Program
- 2) Code Citation: 92 Ill. Adm. Code 5
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
5.10	New
5.20	New
5.30	New
5.40	New
5.50	New
5.60	New
5.70	New
5.80	New
5.90	New
5.100	New
5.110	New
5.120	New
5.130	New
5.140	New
5.150	New
5.160	New
5.170	New
5.180	New
5.190	New
5.200	New
5.210	New
- 4) Statutory Authority: Implementing Section 2705-610, and authorized by Section 2705-610(c), of the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610]
- 5) Effective Date of Rule: January 10, 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 by reference, is on file in the Department's Office of Chief Counsel and is available for public inspection.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 15513; September 27, 2013
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: Several grammatical and formatting changes were made. The Department has also added definitions for "Conventional Lender," "Escrow Agent," and "Unified Certification Program."
- 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 rule replace any emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 2705-610 of the Department of Transportation Law of the Civil Administrative Code of Illinois (Law) [20 ILCS 2705/2705-610] establishes a low-interest loan program for DBEs certified by the Illinois Department of Transportation for participation on Department-procured construction and construction-related contracts. (See Section 2705-610(c) of the Law.)

The Department is authorized to provide for assistance to DBEs with project financing costs to those firms that are ready, willing, and able to participate on Department construction contracts. The Department's disparity study recommends and supports a financing program to address this financial barrier faced by DBEs. (See Section 2705-610(a) of the Law.) This Part prescribes procedures, conditions and limitations applicable to the loans, which are funded from the Working Capital Revolving Loan Fund, a special fund under the State Treasury established by the Illinois General Assembly.

- 16) Information and questions regarding these adopted rules shall be directed to:

Sannaz Etemadi  
Office of Chief Counsel  
Illinois Department of Transportation  
2300 S. Dirksen Parkway, Room 313  
Springfield, IL 62764

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

217/524-7763

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER a: GENERALPART 5  
DISADVANTAGED BUSINESS REVOLVING LOAN PROGRAM

## Section

5.10	Program Overview
5.20	Effective Date
5.30	Purpose
5.40	Definitions
5.50	Eligibility
5.60	General Application Information
5.70	Loan Application Contents
5.80	Place of Filing
5.90	Terms and Conditions of Loan
5.100	Pre-Eligibility Process
5.110	Loan Selection Committee
5.120	Review of Loan Application
5.130	Eligible Expenditures
5.140	Ineligible Expenditures
5.150	Funds Control Process
5.160	Repayment Procedures
5.170	Failure to Complete the Work Authorized for Loan Assistance
5.180	Failure to Repay the Loan
5.190	Ethics Training for Loan Selection Committee and Fund Control Agent or Agents
5.200	Conflicts of Interest
5.210	Confidentiality

AUTHORITY: Implementing Section 2705-610, and authorized by Section 2705-610(c), of the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610].

SOURCE: Adopted by emergency rulemaking at 37 Ill. Reg. 15531, effective September 13, 2013, for a maximum of 150 days; adopted at 38 Ill. Reg. 2908, effective January 10, 2014.

**Section 5.10 Program Overview**

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- a) Section 2705-610 of the Department of Transportation Law of the Civil Administrative Code of Illinois (Law) [20 ILCS 2705/2705-610] establishes a low-interest loan program for *disadvantaged business enterprises* (DBEs) *certified by the Department for participation on Department-procured construction and construction-related contracts*. (Section 2705-610(c) of the Law.) The Department is authorized *to provide for assistance to DBEs with project financing costs for those firms that are ready, willing, and able to participate on Department construction contracts. The Department's disparity study recommends and supports a financing program to address this barrier faced by DBEs*. (Section 2705-610(a) of the Law)
- b) The funds for this program are appropriated annually by the Illinois General Assembly from the Working Capital Revolving Loan Fund established as a special fund in the State treasury. (Section 2705-610(d) of the Law)

**Section 5.20 Effective Date**

This Part applies to loans made for the fiscal year beginning July 1, 2013 and ends June 1, 2018.

**Section 5.30 Purpose**

The purpose of this Part is to implement Section 2705-610 of the Law by providing procedures, conditions and limitations applicable to low-interest loans made to DBE loan applicants.

**Section 5.40 Definitions**

Each term in this Part has the meaning set forth as follows unless its use clearly requires a different meaning.

"Applicant" means any eligible DBE who is applying for a loan under the Law and this Part.

"Application" means those forms and documents required by the Department to be submitted by an applicant in support of its request for a loan granted under this Part.

"Certified by the Illinois Department of Transportation" means the DBE is certified by the Unified Certification Program, of which the Department is a member, for all purposes under this Part.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

"Code" means the Illinois Procurement Code [30 ILCS 500].

"Committee" means the Loan Selection Committee created by the Department in accordance with Section 7705-610(c) of the Law and Section 5.110 of this Part.

"Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. (Section 2705-610(b) of the Law)

"Construction-related Services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction. (Section 2705-610(b) of the Law)

"Contractor" means one who participates, through a contract or subcontract at any tier, in a United States Department of Transportation-assisted or Illinois Department of Transportation-assisted highway, rail, transit, or airport program. (Section 2705-610(b) of the Law)

"Conventional Lender" means a federally or state chartered bank or credit union.

"Department" means the Illinois Department of Transportation.

"Disadvantaged Business Enterprise" or "DBE" has the meaning ascribed to it under 49 CFR 26.5 (2013), unless rebutted pursuant to 49 CFR 26.67(b).

"Eligible Expenditures" means expenditures that are *current liabilities or working capital expenses associated with participation in the performance of contracts procured and awarded by the Department for transportation construction and construction-related purposes.* (Section 2705-610(f) of the Law)

"Escrow Account" means a fiduciary account established with:

*a banking corporation which is both organized under the Illinois Banking Act [205 ILCS 5] and authorized to accept and administer trusts in this*

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*State; or*

*a national banking association which has its principal place of business in this State and which is authorized to accept and administer trusts in this State. (Section 2705-610(b) of the Law)*

"Escrow Agent" means the State or national bank or trust company having authority to administer an escrow account.

*"Fund Control Agent or Agents" means a person who provides managerial and technical assistance to DBEs and holds the authority to manage a loan under this Part. The Fund Control Agent or Agents will be procured by the Department under a request for proposal process governed by the Illinois Procurement Code [30 ILCS 500] and rules adopted under that Code (see 44 Ill. Adm. Code 6). (Section 2705-610(b) of the Law)*

"Ineligible Expenditures" means the expenses listed in Section 5.130.

"Law" means the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610].

*"Loan" or "Loan Assistance Funds" means a low-interest line of credit made available to a selected DBE under this Part for the purposes set forth in Section 5.30. (Section 2705-610(b) of the Law)*

"Partial Payment" means a payment made to the prime contractor, subcontractor or lower tiered subcontractor based upon the engineer's written estimate of the quantity of work performed and material allowances that are advanced.

"Prime Contractor" means the individual, firm, partnership, joint venture or corporation contracting with the Department for performance of prescribed work.

"Prime Rate" means the minimum interest rate charged by a commercial bank on short-term business loans to large, best-rated customers or corporations.

"Program" means the Disadvantaged Business Revolving Loan Program.

"Secretary" means the Secretary of the Illinois Department of Transportation.

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"State" means the State of Illinois.

"Unified Certification Program" has the meaning established in Subpart E of 49 CFR 26.

**Section 5.50 Eligibility**

To be eligible to receive a loan under this Part, the applicant will meet all of the following criteria:

- a) The applicant must be a DBE *certified by the* Unified Certification Program, of which the *Department* is a member, *for participation on Department-procured construction and construction-related contracts.* (Section 2705-610(c) of the Law)
- b) The applicant must demonstrate in the loan application not less than two years of experience participating in transportation construction or construction-related projects.
- c) The applicant must have been denied a loan for operating expenses or costs from two or more conventional lenders, such as a bank or credit union.
- d) The loan denials referenced in subsection (c) must have requested a loan amount that is no more than 50% greater than the loan amount requested under this Part.
- e) If the applicant is incorporated, the corporate entity must not have had a bankruptcy or foreclosure in the past five years. If the applicant is not incorporated, the owners and principals of the entity must not have had a bankruptcy or foreclosure in the past five years.
- f) The applicant must not currently be encumbered by tax liens, criminal liens or restitution orders, judgment liens or offsets that could attach to, or require payment from, the loan or that requires repayments to be made by the loan funds granted under this Part.
- g) The applicant must not be delinquent in payment of any debt to the State of Illinois, as defined by Section 50-11 of the Illinois Procurement Code (Code) [30 ILCS 500/50-11], that has not been satisfied or for which a repayment plan has not been entered into with the State.

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**Section 5.60 General Application Information**

- a) The loan application is available on the Department's website at [www.dot.il.gov/doingbusiness/dbe/revolvingloan.html](http://www.dot.il.gov/doingbusiness/dbe/revolvingloan.html).
- b) For assistance in filling out the loan application, an applicant should call the Department's Office of Business and Workforce Diversity at 217/782-5490.

**Section 5.70 Loan Application Contents**

The following required loan application contents will be considered by the Loan Selection Committee when awarding an applicant with a loan:

- a) A completed application signed by the socially and economically disadvantaged person having a minimum of 51% ownership of, and with management and daily business operational control of, the DBE that will receive the loan.
- b) A description of the applicant's need for the loan, how the applicant will use the funds from the loan, and the anticipated term/length of the need for loan funds.
- c) Complete contact information, including name, address, phone number and email address for at least two references who can speak on behalf of the applicant's experience participating in transportation construction or construction-related projects without defaults or non-completion.
- d) Letters of rejection from two or more conventional lenders indicating that the applicant has been denied a loan from each lender (see Section 5.50(c) and (d)). The letters of rejection must not be more than one year old at the time of submission of the loan application.
- e) Applicable financial information, including, but not limited to, three years of federal income tax returns, profit/loss statements, balance sheets, personal financial statements, and IRAs.
- f) Bank account balances for the past 90 days and an inventory of construction-related equipment currently owned by the DBE.
- g) Copy of an approved contract or other documentation indicating selection of the

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DBE as a contractor or subcontractor on a Department construction project, if known at time of application. If not known at time of application, the applicant shall provide this information within five calendar days after its selection as a contractor or subcontractor.

**Section 5.80 Place of Filing**

Applications shall be returned to:

DBE Loan Selection Committee  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, Illinois 62764

**Section 5.90 Terms and Conditions of Loan**

- a) Loan applications will be accepted at any time. For a loan to be considered for a particular letting, the loan application must be received a minimum of 30 calendar days prior to that letting.
- b) Loan applications will be valid for a period of six months from the date the application is signed. Prior to final loan approval, applicants will be required to certify that there have been no changes to the information or documentation contained in the loan application.
- c) Applicants will be limited to three loans during the duration of the loan program (see Section 5.20). Individuals with 20% or more ownership or stock in more than one DBE firm will be limited to a total of three loans, in aggregate, during the duration of the program. Multiple loans will not be concurrently awarded. *An applicant shall not be permitted to obtain a loan under this program for a different and additional project until payment in full of any outstanding loans previously awarded under this program have been received by the Department.* (Section 2705-610(g) of the Law)
- d) The interest rate for loans awarded under this Part will be calculated as the Prime Rate + 0.5%. The interest rate will be calculated as of the Monday preceding execution of the loan agreement and the interest rate will remain fixed for the duration of the loan term.

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- e) The loan amount awarded to any successful applicant will not exceed the lesser of 55% of the contract value supporting the loan or \$249,000.

**Section 5.100 Pre-Eligibility Process**

- a) The Department will perform a preliminary eligibility determination based upon the submittal of the application and required documentation.
  - 1) Incomplete applications or applications that do not include the required documentation will be rejected.
  - 2) Applicants who meet all of the requirements, outlined in Section 5.70, will be determined to be pre-eligible to qualify for a loan.
  - 3) A determination of pre-eligibility is not a guarantee that the applicant will receive a loan under this Part.
- b) Notification of an incomplete application, pre-eligibility, eligibility or ineligibility will be sent to the applicant within 10 calendar days after receipt of the application by the Department.
- c) A determination of pre-eligibility will be valid for six months after the date of the notification.
- d) Approvals for loans under this Part will be made by the Committee in accordance with Section 5.110.
- e) In the event of a loan denial that affects DBE participation, the process will be administered by the Department by adhering to federal regulations for the substitution of a DBE for reasons including, but not limited to, the DBE's voluntary withdrawal from the project or because the DBE refuses to perform work on the subcontract because the loan impacts its ability to mobilize. Written approval from the Department for substitution of a DBE is required. (See 49 CFR 26.53(f).).
- f) Withdrawal from a contract or subcontract as a result of a loan rejection will not disqualify a DBE from consideration for future loans.

**Section 5.110 Loan Selection Committee**

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- a) The Committee will review the applications and select eligible DBEs for low-interest loans pursuant to this Part.
- b) The *Committee shall be comprised of at least three members appointed by the Secretary of the Department and shall include:*
  - 1) *At least one voting public member from the construction or financing industry.*
  - 2) *The voting or non-voting public member or members may not be employed or associated with any vendor, consultant, contractor or DBE holding a contract or subcontract with the Department nor may the public member or his or her firm be considered for a contract or subcontract with the Department while he or she is serving as a public member of the Committee.*
  - 3) *Terms of service for voting public members shall be five years.*
  - 4) *No voting public member of the Committee shall hold full consecutive terms of service, nor shall any member receive any compensation other than for reasonable expenses for service related to this Committee (Section 2705-610 of the Law). Reasonable expenses for travel reimbursement will be in compliance with current policies of the Governor's Travel Control Board (see 80 Ill. Adm. Code 2800).*
  - 5) The Secretary may appoint additional non-voting members that have particular knowledge and expertise in the Department's overall function and operation, DBE utilization, and financing. Non-voting members will serve at the discretion of the Secretary and will not have a term of service limit.
- c) The Secretary will have authority to remove a voting or non-voting member at any time. Upon the death, incapacity, resignation or removal of a voting member, the Secretary will fill the vacancy for the remainder of the unexpired term. An appointment of four or more years to an unexpired vacancy will be limited as a full term appointment as set forth in subsection (b)(4).

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- d) The Committee will meet and organize within 30 calendar days after the appointment of its members and, at that meeting, will elect a Recorder of the Committee.
- e) The Committee will create a charter and by-laws governing its activities that must receive approval by the Secretary prior to ratification by the Committee.
- f) Regular meetings of the Committee will occur within 10 calendar days after each letting, or as often as deemed necessary by the Department, at a date, time and place to be fixed by the Committee and at such additional times as the Committee deems necessary, for consideration of loan applications, reviews and transaction of any other business as properly may come before it.
- g) The Committee will provide 10 calendar days prior notice of each regularly scheduled meeting to the Fund Control Agent or Agents. No later than five calendar days prior to each meeting, the Fund Control Agent or Agents will provide a fiscal report to the Committee including, at a minimum, the number of outstanding loans and the balance of outstanding loans. The Committee will perform due diligence to ensure that approved loans do not exceed appropriated funds.

**Section 5.120 Review of Loan Application**

- a) Applications will be evaluated by the Committee. The Committee will review and rank the applications based upon assessment of need, total budget of applicant, DBE participation, and information provided in the loan application.
- b) After the Committee's review and ranking of approved applications, loan dollar amounts will be assigned to the loan applications up to the maximum amount of funding available for loans under this Part.
- c) The Committee will perform due diligence to ensure that approved loans do not exceed appropriated funds.

**Section 5.130 Eligible Expenditures**

*Loan proceeds may be used for current liabilities or working capital expenses associated with participation in the performance of contracts procured and awarded by the Department for transportation construction and construction-related purposes, including, but not limited to,*

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labor costs, salaries, wages, materials, supplies, equipment rental, utility costs, permit and right-of-entry fees, taxes, insurance and bonding. (Section 2705-610(f) of the Law)

**Section 5.140 Ineligible Expenditures**

*Loan funds shall not be used for:*

- a) *refinancing or payment of existing long-term debt* exceeding 12 months;
- b) *payment of non-current or delinquent taxes;*
- c) *payments, advances, loans, dividends or bonuses to stockholders, officers, directors, partners, or member owners of limited liability companies;*
- d) *the purchase or lease of non-construction motor vehicles or equipment* (Section 2705-610(f) of the Law);
- e) payment of expenses incurred on projects that are not within the scope of the loan or this Part; or
- f) security or collateral for another or different loan or debt.

**Section 5.150 Funds Control Process**

- a) The Fund Control Agent or Agents shall direct the Escrow Agent to disburse escrow funds to the DBE for eligible expenses in accordance with written directive from the DBE and as supported by the contract.
- b) The DBE will have full authority to direct the Fund Control Agent or Agents to disburse funds on its behalf. The DBE will have full authority to make other business decisions as is required to maintain its commercially useful function as a DBE.
- c) A DBE subcontractor, at any tier, will be required to provide lien waivers, releases, material certifications and certified payrolls to the prime contractor as may be required by the subcontract agreement. A DBE subcontractor, at any tier, will also be required to provide lien waivers, releases, material certifications and certified payrolls to the Fund Control Agent or Agents, as may be required for disbursement of funds pursuant to this Part.

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**Section 5.160 Repayment Procedures**

- a) In accordance with this Part and as agreed to by the Fund Control Agent or Agents and the DBE, loan terms and amounts will be as set forth in the loan agreement.
- b) *The loan agreement shall provide for the terms and conditions of repayment, which shall not extend repayment longer than final payment made by the Department following completion and acceptance of the work authorized for loan assistance under the program. (Section 2705-610(f) of the Law)*
- c) Loan payment amounts will be based upon the completed work-in-place for which partial payment is made and will be calculated as a percentage by dividing the partial payment amount by the total contract value multiplied by the loan principal plus accrued interest.
- d) The initial loan payment and subsequent loan payments will be due 15 calendar days from the applicant's receipt of partial payment whether disbursement is from the Department, the prime contractor, or another subcontractor.
- e) Fees or costs charged by the Fund Control Agent or Agents and Escrow Agent will be borne by the Department.
- f) A loan recipient may prepay the balance due on the loan in its entirety at any time without penalty, provided that the loan recipient first contacts the Fund Control Agent or Agents to obtain the total amount of the final payment due at that time.

**Section 5.170 Failure to Complete the Work Authorized for Loan Assistance**

- a) Failure to complete the work may cause the DBE to be ineligible for future loans.
- b) Failure to complete the work will cause the unpaid loan balance to immediately become due.

**Section 5.180 Failure to Repay the Loan**

- a) Failure to make two or more consecutive loan payments will be considered a default and will cause the unpaid loan balance to immediately become due.

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- b) Within five calendar days after a borrower's failure to make two or more consecutive payments, the Fund Control Agent or Agents will notify the Secretary of the amount of the delinquency and the unpaid loan balance including principal and accrued interest.
- c) The Secretary may certify the loan in default and refer the matter to the Department's Chief Counsel for further action.
- d) The Department, through its Office of Chief Counsel, will take other action as may be required to enforce recovery of the debt, including, but not limited to, internal offset, Comptroller offset and legal action.
- e) Default of a loan authorized under this Part will cause the DBE to be ineligible for consideration for further loans.
- f) Any unresolved debt delinquency, as defined in Section 50-11 of the Code and as governed by 44 Ill. Adm. Code 500.1217, will disqualify the DBE from obtaining a contract or subcontract with the Department or other agencies of the State.

**Section 5.190 Ethics Training for Loan Selection Committee and Fund Control Agent or Agents**

- a) Members of the Committee and the Fund Control Agent or Agents are required to participate in annual ethics training.
- b) Upon completion of the ethics training program, members of the Committee and the Fund Control Agent or Agents must certify in writing that they have completed the training program.

**Section 5.200 Conflicts of Interest**

- a) Members of the Committee cannot be related in any way to or involved with an entity submitting an application for a loan, may not be in a position of authority to participate personally and substantially in the decision to award a State contract or with oversight relative to the procurement process for the State, nor may a member have a material, personal, financial or fiduciary interest that would affect his/her participation on the Committee.

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- b) The Fund Control Agent or Agents cannot be related in any way to or involved with an entity that has been approved for a loan, may not be in a position of authority to participate personally and substantially in the decision to award a State contract or with oversight relative to the procurement process for the State, nor may a member have a material, personal, financial or fiduciary interest that would affect his/her participation in the program.
- c) Members of the Committee and the Fund Control Agent or Agents are required to report to the Department's ethics officer any situation that might indicate a conflict of interest or create the appearance of a conflict.

**Section 5.210 Confidentiality**

- a) Members of the Committee are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of their service on the Committee.
- b) The Fund Control Agent or Agents are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of his/her participation in the program.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Numbers:      Emergency Action:  
     120.10                      Amend  
     120.32                      Amend  
     120.64                      Amend
- 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: January 10, 2014
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: None
- 7) Date Filed with the Index Department: January 10, 2014
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: PA 98-104 authorizes emergency rulemaking pursuant to 5 ILCS 100/5-45(q), which provides for the expeditious and timely implementation of the provisions of Article 7 of PA 98-104 as necessary for the public interest, safety, and welfare.
- 10) Complete Description of the Subjects and Issues Involved: Makes clarification changes and clarifies the guidelines for long term care eligibility for cases under 120.64.
- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
120.324	Amend	37 Ill. Reg. 12302; August 2, 2013
120.10	Amend	37 Ill. Reg. 17272; November 8, 2013
120.11	Amend	37 Ill. Reg. 17272; November 8, 2013
120.12	Amend	37 Ill. Reg. 17272; November 8, 2013
120.14	Amend	37 Ill. Reg. 17272; November 8, 2013
120.32	Amend	37 Ill. Reg. 17272; November 8, 2013

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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120.64                      Amend                      37 Ill. Reg. 17272; November 8, 2013

12) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands any State mandate affecting units of local government.

13) Information and questions regarding this rulemaking shall be directed to:

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

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

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 120

## MEDICAL ASSISTANCE PROGRAMS

## SUBPART A: GENERAL PROVISIONS

## Section

120.1 Incorporation by Reference

## SUBPART B: ASSISTANCE STANDARDS

## Section

120.10 Eligibility for Medical Assistance

EMERGENCY

120.11 MANG(P) Eligibility

120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women

120.14 Presumptive Eligibility for Children

120.20 MANG(AABD) Income Standard

120.30 MANG(C) Income Standard

120.31 MANG(P) Income Standard

120.32 FamilyCare Assist

EMERGENCY

120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)

120.40 Exceptions To Use Of MANG Income Standard (Repealed)

120.50 AMI Income Standard (Repealed)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

## Section

120.60 Community Cases

120.61 Long Term Care

120.62 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.  
Code 140.643 (Repealed)

120.63 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings (Repealed)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

120.64 MANG(P) Cases

EMERGENCY

120.65 Department of Mental Health and Developmental Disabilities (DMHDD)  
Licensed Community – Integrated Living Arrangements (Repealed)

## SUBPART D: MEDICARE PREMIUMS

## Section

120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program  
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)  
120.73 Eligibility for Payment of Medicare Part B Premiums for Specified Low-Income  
Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1)  
120.74 Qualified Medicare Beneficiary (QMB) Income Standard  
120.75 Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified  
Individuals-1 (QI-1) Income Standards  
120.76 Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

## Section

120.80 Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

## Section

120.90 Migrant Medical Program (Repealed)  
120.91 Income Standards (Repealed)

## SUBPART G: AID TO THE MEDICALLY INDIGENT

## Section

120.200 Elimination Of Aid To The Medically Indigent  
120.208 Client Cooperation (Repealed)  
120.210 Citizenship (Repealed)  
120.211 Residence (Repealed)  
120.212 Age (Repealed)  
120.215 Relationship (Repealed)  
120.216 Living Arrangement (Repealed)  
120.217 Supplemental Payments (Repealed)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

120.218	Institutional Status (Repealed)
120.224	Foster Care Program (Repealed)
120.225	Social Security Numbers (Repealed)
120.230	Unearned Income (Repealed)
120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments
120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323	Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Health Insurance Premium Payment (HIPP) Pilot Program
120.326	Foster Care Program
120.327	Social Security Numbers
120.328	Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
120.329	Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
120.330	Unearned Income
120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
120.338	Incentive Allowance
120.340	Unearned Income In-Kind
120.342	Child Support and Spousal Maintenance Payments
120.345	Earmarked Income
120.346	Medicaid Qualifying Trusts
120.347	Treatment of Trusts and Annuities
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption
120.366	Exclusion From Earned Income Exemption
120.370	Recognized Employment Expenses

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- 120.371 Income From Work/Study/Training Programs
- 120.372 Earned Income From Self-Employment
- 120.373 Earned Income From Roomer and Boarder
- 120.375 Earned Income In-Kind
- 120.376 Payments from the Illinois Department of Children and Family Services
- 120.379 Provisions for the Prevention of Spousal Impoverishment
- 120.380 Resources
- 120.381 Exempt Resources
- 120.382 Resource Disregard
- 120.383 Deferral of Consideration of Assets
- 120.384 Spenddown of Resources
- 120.385 Factors Affecting Eligibility for Long Term Care Services
- 120.386 Property Transfers Occurring On or Before August 10, 1993
- 120.387 Property Transfers Occurring On or After August 11, 1993 and Before January 1, 2007
- 120.388 Property Transfers Occurring On or After January 1, 2007
- 120.390 Persons Who May Be Included In the Assistance Unit
- 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
- 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
- 120.395 Payment Levels for MANG (Repealed)
- 120.399 Redetermination of Eligibility
- 120.400 Twelve Month Eligibility for Persons under Age 19

## SUBPART I: SPECIAL PROGRAMS

- Section
- 120.500 Health Benefits for Persons with Breast or Cervical Cancer
- 120.510 Health Benefits for Workers with Disabilities
- 120.520 SeniorCare (Repealed)
- 120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
- 120.540 Illinois Healthy Women Program
- 120.550 Asylum Applicants and Torture Victims

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## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

120.TABLE A Value of a Life Estate and Remainder Interest

120.TABLE B Life Expectancy (Repealed)

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing the federal Deficit Reduction Act of 2005.

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days;

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peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg.

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13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003,

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effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; preemptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective

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November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 10253, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17044, effective November 26, 2012; emergency amendment at 36 Ill. Reg. 17549, effective December 3, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10208, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 1139, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2925, effective January 10, 2014.

## SUBPART B: ASSISTANCE STANDARDS

**Section 120.10 Eligibility for Medical Assistance****EMERGENCY**

- a) Eligibility for medical assistance exists when a person meets the non-financial requirements of the program and the person's countable nonexempt income (see Sections 120.64, 120.330 and 120.360) is equal to or less than the applicable Medical Assistance – No Grant (MANG) standard and, for AABD MANG, countable nonexempt resources are not in excess of the applicable resource disregards (Section 120.382). Persons receiving basic maintenance grants under Article III or IV of the Public Aid Code are eligible for medical assistance. Financial eligibility for medical assistance for other persons living in the community is determined according to Section 120.60 of this Part, unless otherwise specified. Financial eligibility for medical assistance for persons receiving long-term care services, as defined in Section 120.61(a) of this Part, is determined according to that Section, unless otherwise specified.

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- b) For AABD MANG, a person's countable income and resources include the person's countable income and resources and the countable income and resources of all persons included in the Medical Assistance standard. The person's responsible relatives living with the child must be included in the standard. The person has the option to request that a dependent child under age 18 in the home who is not included in the MANG unit be included in the MANG standard.
- c) For TANF (Temporary Assistance for Needy Families) MANG, a person's countable income includes the person's nonexempt income and the nonexempt income of all persons included in the Medical Assistance standard. The person's responsible relatives living with the child must be included in the standard. The person has the option to request that a dependent child under age 18 in the home who is not included in the MANG unit be included in the MANG standard. For applications received on or after October 1, 2013, eligibility under this subsection (c) of this Section shall be determined as set forth in Section 120.64. Notwithstanding any other provision of this Title 89, effective January 1, 2014, a person may not spend down to become eligible under this [subsection \(c\)](#)~~Section~~.
- d) For AABD MANG, if a person's countable nonexempt income is greater than the applicable MANG standard and/or countable nonexempt resources are over the applicable resource disregard, the person must meet the spenddown obligation determined for the applicable time period before becoming eligible to receive medical assistance.
- e) Effective January 1, 2014, for pregnant women and children, if countable nonexempt income is greater than the applicable ~~MANG~~ standard, a child or pregnant woman must meet the spenddown obligation determined for the applicable time period before becoming eligible to receive medical assistance.
- f) A one month eligibility period is used for persons receiving long-term care services (as defined in Section 120.61(a) of this Part). Nonexempt income and nonexempt resources over the resource disregard are applied toward the cost of care on a monthly basis, as provided in Section 120.61 of this Part.
- g) Newborns
- 1) When the Department becomes aware of the birth of a child to a recipient of a TANF or AABD grant or related medical assistance or medical assistance due to the mother's pregnancy, the child shall be deemed to

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have applied for medical assistance only, without written request, if the mother had been receiving TANF or AABD related medical assistance or medical assistance due to her pregnancy on the date of birth of the child.

- 2) The newborn shall be eligible to receive medical assistance for a period of time as determined in Section 120.400.
- h) **ACA Adults**  
Persons not otherwise eligible under this Section, who are no younger than age 19 and no older than age 64 in households with income that is at or below 133 percent of the Federal Poverty Level (FPL). Eligibility under this subsection (h) of this Section shall be determined as set forth in Section 120.64 except that no coverage for medical services under this subsection (h) shall begin prior to January 1, 2014.
- i) **Former Foster Care**  
Persons older than age 18 and younger than age 26 who reside in Illinois, who are not eligible under subsections (a) through (g) of this Section, who were in foster care under the responsibility of the State of Illinois on the date of attaining age 18 or on the date of attaining age 21 for whom a court has continued wardship for good cause and who received medical assistance under the Illinois Medicaid State Plan or waiver of such plan while in foster care. No coverage for medical services under this subsection (i) shall begin prior to January 1, 2014.

(Source: Amended by emergency rulemaking at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 38 Ill. Reg. 1139, effective January 1, 2014, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 38 Ill. Reg. 2925, effective January 10, 2014, for a maximum of 150 days)

**Section 120.32 FamilyCare Assist**  
**EMERGENCY**

- a) A caretaker relative (see Section 120.390) who is 19 years of age or older qualifies for medical assistance when countable income is at or below the appropriate income standard.

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- b) The appropriate income standard is 133 per cent of [the Federal Poverty Level \(FPL\)](#) ~~the Federal Poverty Income Guidelines, as published annually in the Federal Register~~, for the appropriate family size.
- c) For applications received on or after October 1, 2013, eligibility under this Section shall be determined as set forth in Section 120.64.
- d) Notwithstanding any other provision of this Title 89, effective January 1, 2014, a person may not spend down to become eligible under this Section.

(Source: Amended by emergency rulemaking at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 38 Ill. Reg. 1139, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2925, effective January 10, 2014, for a maximum of 150 days.)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

**Section 120.64 Determination of Eligibility for Cases Subject to Modified Adjusted Gross Income (MAGI) Methodology**  
**EMERGENCY**

- a) The eligibility period for a client shall begin with:
  - 1) the first day of the month of application; or
  - 2) the first day of any month prior to the month of application if the client so desires up to three months prior to the month of application; or
  - 3) the first day of the month after the month of application; or
  - 4) the first day of a month a pregnant woman and/or child under age 19 meets the requirements of Sections 120.11 and 120.31.
- b) The pregnant woman shall be eligible to receive medical assistance until 60 days following the last day of pregnancy. The 60 day medical coverage continues through the last day of the calendar month in which the 60 day period ends. The 60 day medical coverage period shall be provided for all women determined eligible for medical assistance under Section 120.11(a)(1) of this Section

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including women who are no longer pregnant at the time of application because the woman gave birth or had a miscarriage or an abortion, and including women who signed an adoption agreement.

- c) Children shall be eligible to receive medical assistance as determined pursuant to Section 120.400.
- d) Covered services received during the entire eligibility period will be paid by the Department (see 89 Ill. Adm. Code 140.3).
- e) A redetermination of eligibility will be made every 12 months.
- f) The client is responsible to report any changes that occur during the eligibility period which might affect eligibility for medical assistance. If changes in income or family composition occur which would make the client ineligible for medical assistance, appropriate action shall be taken by the Department, including evaluation of eligibility for other programs or termination of eligibility for medical assistance. Income changes occurring after a pregnant woman is determined eligible for coverage are not considered through the 60 day postpartum period following the last day of pregnancy.
- g) A review of case eligibility will be conducted for a pregnant woman during the second month of the 60 day extended medical coverage period. If eligible, the case shall be transferred by the Department to the appropriate program without interruption in benefit eligibility. If ineligible, the Department shall notify the client in writing.
- h) A review of case eligibility will be conducted when a child is determined ineligible for medical assistance as a child. If the child is otherwise eligible for medical assistance, the case shall be transferred by the Department without interruption in benefit eligibility. If ineligible, written notification shall be provided to the client.
- i) For applications received on or after October 1, 2013, the determination of eligibility under this Section shall comply with the Modified Adjusted Gross Income (MAGI) methodology established at section 1902(e)(14) of the Social Security Act (42 U.S.C. 1396a(e)(14)) and federal regulations established at 42 CFR 435.110 regarding parents and other caretaker relatives, 42 CFR 435.116 regarding pregnant women, 42 CFR 435.118 regarding infants and children under

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age 19, 42 CFR 435.119 regarding ACA adults, and 42 CFR 435.603 regarding application of MAGI methodologies in determining financial eligibility for medical assistance.

- 1) For the purpose of determining whether a person is a parent or caretaker relative of a "dependent child", a "dependent child" means a child who is younger than age 18.
- 2) For purposes of determining household size:
  - A) the total number of children a pregnant woman is expected to deliver shall be counted in the determination of the household size of any person in the household seeking benefits (42 CFR 435.603(b)).
  - B) For applicants who expect to file a tax return and who are not claimed as a dependent, household size shall be determined in accordance with 42 CFR 435.603(f)(1).
  - C) For applicants who expect to be claimed as a tax dependent and who do not meet an exception under 42 CFR 435.603(f)(2), household size shall be determined in accordance with 42 CFR 435.603(f)(2).
  - D) For applicants who do not file a tax return nor expect to be claimed as a tax dependent, or who are tax dependents who meet an exception under 42 CFR 435.603(f)(2), household size shall be determined in accordance with 42 CFR 435.603(f)(3).
  - E) For purposes of determining household size in accordance with 42 CFR 435.603(f)(3), the specified age is 19.
- j) This Section 120.64 shall apply to the determination of eligibility for persons eligible under [Sections](#)~~Section~~ 5-2(5), (6)(a), ~~(7)~~, (8), (15), (17) and (18) of the Public Aid Code.
- k) [Effective January 1, 2014, for purposes of determining long term care eligibility for cases under this Section 120.64, the following provisions shall apply: 89 Ill. Adm. Code 120.61, except Section 120.61\(d\); and those Sections of Subpart H of](#)

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[this Part 120 relating to long term care eligibility, including Sections 120.346, 120.347, 120.379, 120.380, 120.381, 120.382, 120.383, 120.385, and 120.388.](#)

(Source: Amended by emergency rulemaking at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2925, effective January 10, 2014, for a maximum of 150 days.)

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- 1) Heading of the Part: Children's Health Insurance Program
- 2) Code Citation: 89 Ill. Adm. Code 125
- 3) Section Numbers:                      Emergency Action:  
     125.200                                      Amend  
     125.205                                      Amend  
     125.220                                      Amend  
     125.225                                      Amend  
     125.240                                      Amend
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Article 7 of PA 98-104
- 5) Effective Date: January 10, 2014
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: None
- 7) Date Filed with the Index Department: January 10, 2014
- 8) A copy of the emergency rulemaking, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: PA 98-104 authorizes emergency rulemaking pursuant to 5 ILCS 100/5-45(q), which provides for the expeditious and timely implementation of the provisions of Article 7 of PA 98-104 as necessary for the public interest, safety and welfare.
- 10) Complete Description of the Subjects and Issues Involved: This rulemaking clarifies effective dates for implementation of MAGI methodology and application process pursuant to the Affordable Care Act, eliminates references to the All Kids Rebate program, which is eliminated effective January 1, 2014, and makes other clarifications regarding implementation of MAGI methodology.
- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
125.100	Amend	37 Ill. Reg. 17310; November 8, 2013
125.110	Amend	37 Ill. Reg. 17310; November 8, 2013

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125.200	Amend	37 Ill. Reg. 17310; November 8, 2013
125.205	Amend	37 Ill. Reg. 17310; November 8, 2013
125.220	Amend	37 Ill. Reg. 17310; November 8, 2013
125.225	Amend	37 Ill. Reg. 17310; November 8, 2013
125.230	Amend	37 Ill. Reg. 17310; November 8, 2013
125.240	Amend	37 Ill. Reg. 17310; November 8, 2013
125.245	Amend	37 Ill. Reg. 17310; November 8, 2013
125.250	Amend	37 Ill. Reg. 17310; November 8, 2013
125.260	Amend	37 Ill. Reg. 17310; November 8, 2013
125.300	Amend	37 Ill. Reg. 17310; November 8, 2013
125.320	Amend	37 Ill. Reg. 17310; November 8, 2013
125.400	Repeal	37 Ill. Reg. 17310; November 8, 2013
125.420	Repeal	37 Ill. Reg. 17310; November 8, 2013
125.430	Repeal	37 Ill. Reg. 17310; November 8, 2013
125.440	Repeal	37 Ill. Reg. 17310; November 8, 2013

12) Statement of Statewide Policy Objectives: This emergency rulemaking neither creates nor expands any State mandate affecting units of local government.

13) Information and questions regarding this rulemaking shall be directed to:

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

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

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 125

CHILDREN'S HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section

125.100 General Description

EMERGENCY

125.110 Definitions

EMERGENCY

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section

125.200 Eligibility for Children's Health Insurance Program

EMERGENCY

125.205 Eligibility Exclusions and Terminations

EMERGENCY

125.220 Application Process

EMERGENCY

125.225 Presumptive Eligibility for Children

EMERGENCY

125.230 Determination of Financial Eligibility Using Modified Adjusted Gross Income (MAGI)

EMERGENCY

125.240 Eligibility Determination and Enrollment Process

EMERGENCY

125.245 Appeals

EMERGENCY

125.250 Annual Renewals

125.260 Adding Children to the Program and Changes in Participation

EMERGENCY

125.265 Adding Eligible Adults to the Program and Changes in Participation (Repealed)

SUBPART C: ALL KIDS HEALTH PLAN

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

## Section

- 125.300 Covered Services
- 125.305 Service Exclusions
- 125.310 Copayments
- 125.320 Premium Requirements
- 125.330 Non-payment of Premium
- 125.340 Provider Reimbursement

## SUBPART D: ALL KIDS REBATE

## Section

- 125.400 Minimum Coverage Requirements (Repealed)  
EMERGENCY
- 125.420 Coverage Verification Process (Repealed)  
EMERGENCY
- 125.430 Provision of Policyholder's Social Security Number (Repealed)  
EMERGENCY
- 125.440 All Kids Rebate (Repealed)  
EMERGENCY
- 125.445 Rebate Overpayments

**AUTHORITY:** Implementing and authorized by the Children's Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

**SOURCE:** Adopted by emergency rulemaking at 22 Ill. Reg. 15706, effective August 12, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 543, effective December 24, 1998; emergency amendment at 24 Ill. Reg. 4217, effective March 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11822, effective July 28, 2000; amended at 26 Ill. Reg. 12313, effective July 26, 2002; emergency amendment at 26 Ill. Reg. 15066, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 4723, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10807, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18623, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 7163, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13632, effective September 28, 2004; emergency amendment at 30 Ill. Reg. 535, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10328, effective May 26, 2006; emergency amendment at 36 Ill. Reg. 10298, effective July 1, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5049, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10253, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 15997, effective October 1, 2013, for a maximum of 150 days; emergency amendment at 38 Ill.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

Reg. 1153, effective January 1, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days.

## SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

**Section 125.200 Eligibility for Children's Health Insurance Program**  
**EMERGENCY**

Effective July 1, 2012, a child may be eligible under the Program provided that all of the following eligibility criteria are met:

- a) The child is not eligible for Medical Assistance, including 89 Ill. Adm. Code 120.
- b) The child is under 19 years of age.
- c) Effective October 1, 2013, a child is a member of a family whose monthly countable income is above 133 percent of the Federal Poverty Level and at or below 200 percent of the Federal Poverty Level as determined using the MAGI methodology.
- d) The individual is a resident of the State of Illinois.
- e) The individual is either a United States citizen or included in one of the following categories of non-citizens:
  - 1) United States veterans honorably discharged or individuals on active military duty, or the spouse or unmarried dependent children of such persons.
  - 2) Refugees under section 207 of the Immigration and Nationality Act (8 USC 1157).
  - 3) Asylees under section 208 of the Immigration and Nationality Act.
  - 4) Individuals for whom deportation has been withheld under section 243(h) of the Immigration and Nationality Act.
  - 5) Individuals granted conditional entry under section 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980.

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- 6) Individuals lawfully admitted for permanent residence under the Immigration and Nationality Act.
  - 7) Parolees, for at least one year, under section 212(d)(5) of the Immigration and Nationality Act.
  - 8) Nationals of Cuba or Haiti.
  - 9) Individuals identified by the Federal Office of Refugee Resettlement (ORR) as victims of trafficking.
  - 10) Amerasians from Vietnam.
  - 11) Members of the Hmong or Highland Laotian tribe when the tribe helped United States personnel by taking part in military or rescue operations.
  - 12) American Indians born in Canada.
  - 13) Individuals who are a spouse, widow or child of a United States citizen or a spouse or a child or a legal permanent resident (LPR) who have been battered or subjected to extreme cruelty by the United States citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plan to live separately within one month after assistance and whose need for assistance is due, at least in part, to the abuse.
- f) The individual's Social Security Number (SSN) is provided to the Department or, if it has not been issued or is not known, proof that application has been made for an SSN is provided.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 1153, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days)

**Section 125.205 Eligibility Exclusions and Terminations**  
**EMERGENCY**

- a) An individual shall not be determined eligible for coverage under the Program if:
  - 1) The individual is an inmate of a public institution.

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- 2) The individual is a patient in an institution for mental diseases.
  - 3) The individual is a member of a family that is eligible for health benefits coverage under a State of Illinois health benefits plan on the basis of a member's employment with a public agency.
  - 4) The individual is in categories described in Section 125.200(e)(6) or (e)(7), and the individual entered the United States on or after August 22, 1996; he or she shall not be eligible for five years beginning on the date the individual entered the United States.
- b) Effective July 1, 2012, termination of an individual's coverage under the Program shall be initiated upon the occurrence of any of the following events:
- 1) A child becomes ineligible due to:
    - A) Losing his or her Illinois residency.
    - B) Attaining 19 years of age.
    - C) Becoming enrolled in Medical Assistance.
    - D) Meeting the provisions of subsection (a)(1) or (a)(3) of this Section.
  - 2) Other Events:
    - A) The required premiums under the All Kids Health Plan are not paid, as specified in Sections 125.320 and 125.330.
    - B) The individual fails to report to the Department changes in information that impacts upon the individual's eligibility for the Program.
    - C) The individual makes a request to the Department to terminate the coverage.
    - D) The Department determines that the individual is no longer eligible based on any other applicable State or federal law or regulation.

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- E) The Department determines that the individual failed to provide eligibility information that was truthful and accurate to the best of the applicant's knowledge and belief and that affected the eligibility determination.
  - F) There has been a Rebate overpayment and it has not been repaid to the Department according to terms established by the Department, ~~which may include recoupment out of future Rebate payments or a payment plan.~~
  - G) The Department determines that the individual's eligibility was incorrectly determined.
  - H) The application was approved pending receipt of the individual's Social Security Number and it is not provided later when requested.
- c) Following termination of an individual's coverage under the Program, the following action is required before the individual can be re-enrolled:
- 1) A new application must be completed and the individual must be determined otherwise eligible;
  - 2) There must be full payment of premiums under the All Kids Health Plan, for periods in which a premium was owed and not paid for the individual, including premiums owed when the individual was, for purposes of this Part, a member of another family;
  - 3) Any overpayment of Rebates paid on behalf of the individual must be repaid to the Department;
  - 4) If the termination was the result of non-payment of premiums, the individual must be out of the Program for three months before re-enrollment; and
  - 5) The first month's premium must be paid if the individual is eligible for All Kids Premium Level 1 if there was an unpaid overdue premium on the date the individual's previous case was canceled.

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- d) An application will be denied if any of the adults in the family was responsible as a caretaker relative or was enrolled in FamilyCare Premium during a period for which a premium under the Program was due to the Department and the premium remains unpaid at the time of application. Such an application shall be denied regardless of whether the individual for whom the premium remains unpaid is included in the application.
- e) An application will be denied if any of the eligible adults in the family was enrolled in FamilyCare Rebate or was a caretaker relative of a child during a period for which a Rebate overpayment was received or was the payee of a Rebate overpayment and the overpayment has not been repaid to the Department. Such an application shall be denied regardless of whether the individual for whom the Rebate overpayment remains unpaid is included in the application.
- f) A certificate of prior creditable coverage will be issued when the individual's coverage is terminated under the All Kids Health Plan.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 1153, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days)

**Section 125.220 Application Process****EMERGENCY**

- a) Families will be able to apply for the Program using any of the following methods:
  - 1) Submit the Department's application to an address specified by the Department.
  - 2) Apply at a Department of Human Services (DHS) local office.
  - 3) Apply through an All Kids Application Agent that has an agreement in place with the Department.
  - 4) Apply online at [www.allkids.com](http://www.allkids.com).
  - 5) Additional methods that the Department establishes.
- b) The application will meet all requirements found at 89 Ill. Adm. Code 110.10.

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- c) Families are obligated to provide truthful and accurate information for determining eligibility and to report promptly to the Department any change in non-financial information provided on the application or financial information for eligible adults.
- d) The Department may cease accepting or processing applications if enrollment in the Program is closed due to limited appropriations.
- e) The Department shall send a notification of its determination within 45 calendar days after the date the application was received.
- f) The 45 calendar days may be extended when a decision cannot be reached because:
  - 1) information necessary for a determination is available only from a third party and the party fails to respond or delays his or her response to the request for such information, or
  - 2) additional information is needed from the applicant.
- g) Notwithstanding any other provision of this Part, no application for All Kids Rebate shall be accepted after September 30, 2013.
- h) [Effective October 1, 2013, the](#)~~The~~ application review process shall comply with 89 Ill. Adm. Code 110.20 and 110.40.

(Source: Amended by emergency rulemaking at 37 Ill. Reg. 15997, effective October 1, 2013, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 1153, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days)

**Section 125.225 Presumptive Eligibility for Children**  
**EMERGENCY**

- a) A child younger than 19 years of age may be presumed eligible for an All Kids Health Plan under this Part if all of the following apply:
  - 1) an application for medical benefits has been made on behalf of the child;

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- 2) the child is a resident of Illinois;
  - 3) the child is not an inmate of a public institution as described in Section 125.205(a)(1);
  - 4) effective October 1, 2013, the child is a member of a family whose monthly countable income, as stated on the application, is above 133 percent of the Federal Poverty Level and at or below 200 percent of the Federal Poverty Level as determined using the MAGI methodology;
  - 5) the State employee who registers the application has no information that the child is not a U.S. citizen or a qualified non-citizen as described in 89 Ill. Adm. Code 125.200(e) or 89 Ill. Adm. Code 118.500; and
  - 6) the child has not been presumed eligible under this Part 125 or 89 Ill. Adm. Code 118 or 120 within the past 12 months.
- b) Entities qualified to make a determination of presumptive eligibility include State employees involved in enrolling children in programs under this Part 125 or 89 Ill. Adm. Code 118 or 120.
  - c) The presumptive eligibility period begins on the date of application.
  - d) The presumptive eligibility period ends on the date the State's determination of the child's eligibility under this Part 125 or 89 Ill. Adm. Code 118 or 120 is updated in the data system.
  - e) No copayment or premium requirements apply during the period of presumptive eligibility.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 1153, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days)

**Section 125.240 Eligibility Determination and Enrollment Process**  
**EMERGENCY**

- a) Effective October 1, 2013, for new applicants if the monthly countable income is above 133 percent and at or below 200 percent of the Federal Poverty Level as determined using MAGI methodology ~~for a child for the number of individuals in~~

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[the family](#), and all other eligibility requirements of this Part are met and enrollment is open, the individual will be enrolled in the Program.

- b) Effective October 1, 2013, for new applicants, for purposes of cost sharing, children in the All Kids Health Plan will be enrolled into either All Kids Share or All Kids Premium as follows:
  - 1) If monthly countable income is above 133 percent and at or below 150 percent of the Federal Poverty Level, as determined using [the](#) MAGI methodology, the individual will be enrolled in All Kids Share.
  - 2) If monthly countable income is above 150 percent and at or below 200 percent of the Federal Poverty Level, as determined using [the](#) MAGI methodology, a child will be enrolled in All Kids Premium Level 1.
- c) Applicants will be notified, in writing, regarding the outcome of their eligibility determination.
- d) Eligibility determinations for the Program made by the 15<sup>th</sup> day of the month will be effective the first day of the following month. Eligibility determinations for the Program made after the 15<sup>th</sup> day of the month will be effective no later than the first day of the second month following that determination. The duration of eligibility for the Program for children will be 12 months unless one of the events described in Section 125.205(c)(1) or (c)(3) occurs. The 12 months of eligibility will commence when the first child in a case is covered under the Program. Children added to the Program after the eligibility period begins will be eligible for the balance of the 12-month eligibility period.
- e) Individuals determined to be eligible for the All Kids Health Plan may obtain coverage for a period prior to the date of application for the Program. This coverage shall be subject to the following:
  - 1) The family must request the prior coverage for the individual within six months following the initial date of coverage under the All Kids Health Plan.
  - 2) The prior coverage will be individual specific and will only be available the first time the individual is enrolled in the Program.
  - 3) The prior coverage will begin with services rendered during the two weeks

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prior to the date the individual's application for the All Kids Health Plan was filed and will continue until the individual's coverage under the All Kids Health Plan is effective pursuant to subsection (e).

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 1153, effective January 1, 2014, for a maximum of 150 days; amended by emergency rulemaking at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days)

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 86 Ill. Adm. Code 5000
- 3) 

<u>Section Numbers</u> :	<u>Emergency Action</u> :
5000.10	New
5000.20	New
5000.110	New
5000.120	New
5000.210	New
5000.300	New
5000.305	New
5000.310	New
5000.315	New
5000.320	New
5000.325	New
5000.330	New
5000.335	New
5000.340	New
5000.345	New
5000.350	New
- 4) Statutory Authority: Implementing and authorized by the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010]
- 5) Effective Date of Rules: January 9, 2014
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking has no earlier effective date specified.
- 7) Date Filed with the Index Department: January 9, 2014
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This new Part will ensure that the Tribunal is in compliance with 1-65(d) of the Illinois Independent Tax Tribunal Act (35 ILCS 1010/1-65(d) (requiring that "[h]earings shall be conducted in accordance with such rules of practice and

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

procedure as the Tax Tribunal shall promulgate," and 1-45(c) of the Act (requiring that the Tribunal "adopt rules for the procedures to be used in securing a bond or lien under this ").

- 10) A Complete Description of the Subjects and Issues Involved: The Rules set forth basic provisions regarding proceedings before the Tribunal, as well as various operational requirements for the Tribunal.
- 11) Are there any proposed amendment to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create a State mandate for units of local government.
- 13) Information and questions regarding this rulemaking shall be directed to:

James Conway  
Chief Administrative Law Judge  
Illinois Independent Tax Tribunal  
Phone: 312-814-4291  
james.conway@illinois.gov

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

ILLINOIS INDEPENDENT TAX TRIBUNAL

NOTICE OF EMERGENCY RULES

TITLE 86: REVENUE

CHAPTER V: ILLINOIS INDEPENDENT TAX TRIBUNAL

PART 5000

ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS

SUBPART A: ORGANIZATION

Section

5000.10 Definitions

EMERGENCY

5000.20 Composition of the Tribunal

EMERGENCY

SUBPART B: INFORMATION

Section

5000.110 Requests for Records

EMERGENCY

5000.120 Materials Immediately Available

EMERGENCY

SUBPART C: RULEMAKING

Section

5000.210 Rulemaking Procedures

EMERGENCY

SUBPART D: PROCEDURAL RULES

Section

5000.300 General

EMERGENCY

5000.305 Representation

EMERGENCY

5000.310 Pleadings

EMERGENCY

5000.315 Motion Practice

EMERGENCY

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

5000.320 Status Hearings

EMERGENCY

5000.325 Discovery

EMERGENCY

5000.330 Service

EMERGENCY

5000.335 Subpoenas

EMERGENCY

5000.340 Stipulations

EMERGENCY

5000.345 Hearings

EMERGENCY

5000.350 Bonds

EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010].

SOURCE: Adopted by emergency rulemaking at 38 Ill. Reg. 2956, effective January 9, 2014, for a maximum of 150 days.

## SUBPART A: ORGANIZATION

**Section 5000.10 Definitions****EMERGENCY**

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

"Act" means the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010].

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual responsible for receiving and responding to requests for public records.

"Department" means the Illinois Department of Revenue.

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

"Tribunal" means the Illinois Independent Tax Tribunal, Chief Administrative Law Judge, or presiding administrative law judge as the context may dictate whenever it occurs in this Part.

"Statutory Notice" means any notice listed in 35 ILCS 1010/1-45.

**Section 5000.20 Composition of the Tribunal  
EMERGENCY**

- a) The Tribunal consists of a Chief Administrative Law Judge and up to three additional Administrative Law Judges, each appointed by the Governor with the advice and consent of the Senate. The Chief Administrative Law Judge shall serve a 5-year term. The administrative law judges, other than the Chief Administrative Law Judge, shall initially be appointed to staggered terms of no greater than 4 years. After the initial terms of office, all administrative law judges, other than the Chief Administrative Law Judge, shall be appointed for terms of 4 years. Each administrative law judge is eligible for reappointment. (See 35 ILCS 1010/1-25(a).)
- b) *The Chief Administrative Law Judge shall have sole charge of the administration of the Tax Tribunal and shall apportion among the judges all causes, matters, and proceedings coming before the Tax Tribunal. Each administrative law judge shall exercise the power of the Tax Tribunal. [35 ILCS 1010/1-25(f)]*

## SUBPART B: INFORMATION

**Section 5000.110 Requests for Records  
EMERGENCY**

- a) A request for access to records for inspection and copying shall be submitted in writing to the Freedom of Information Officer at the office of the Tribunal. Requests for public records may be submitted by mail, e-mail, hand delivery or facsimile, directed to the FOI Officer, as follows:

FOI OFFICER  
Illinois Independent Tax Tribunal  
160 N. LaSalle Ave.  
Chicago, IL 60601

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- b) The request must describe the public record sought, being as specific as possible. If the description is not sufficiently clear to allow easy identification of the records sought, the requester may be asked to supply additional necessary information.

**Section 5000.120 Materials Immediately Available  
EMERGENCY**

As required by the Freedom of Information Act, certain information about the Tribunal, including, without limitation, a description of the Tribunal's responsibilities, organizational structure, categories of public records, and process for obtaining public records, shall publically and immediately be available on the Tribunal's website.

## SUBPART C: RULEMAKING

**Section 5000.210 Rulemaking Procedures  
EMERGENCY**

Procedures of the Tribunal must be conducted in compliance with applicable provisions of the Illinois Administrative Procedure Act [5 ILCS 100].

## SUBPART D: PROCEDURAL RULES

**Section 5000.300 General  
EMERGENCY**

- a) Scope. This Subpart shall govern all proceedings before the Tribunal.
- b) Intent. These standards of practice and procedure shall govern all proceedings brought before the Illinois Independent Tax Tribunal pursuant to the Illinois Tax Tribunal Act of 2012 [35 ILCS 1010]. They are intended to provide the public with a clear, uniform, rapid, inexpensive and just system of resolving controversies with the Illinois Department of Revenue.
- c) Hours. The principal offices of the Tribunal shall be open each day for the transaction of business and filing of documents between the hours of 9:00 a.m. and 5:00 p.m., Saturdays, Sundays, and legal holidays excepted.

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

- d) The Illinois Supreme Court Rules and the Illinois Code of Civil Procedure, as amended, shall apply to proceedings before the Tribunal, except to the extent they conflict or are otherwise inconsistent with the requirements specifically provided herein.

**Section 5000.305 Representation  
EMERGENCY**

- a) Representation of petitioner in proceedings before the Tribunal.
  - 1) Personal appearance. Appearances in proceedings conducted before the Tribunal may be by the petitioner pro se. A partnership may act through one of its general partners without filing any power of attorney.
  - 2) Representation by others. All parties not acting on their own behalf shall be represented by an attorney authorized to practice before the courts of the state of Illinois.
  - 3) Pro Hac Vice admission. Persons authorized to practice law in another jurisdiction may, upon certifying in writing that they have followed the Illinois Supreme Court procedures for admission to practice Pro Hac Vice in Illinois, and upon proper application to Tribunal, be authorized to practice before the Tribunal in a particular proceeding.
- b) Substitution or withdrawal of representative. A party's representative may be changed and a new representative substituted by written notice to the Tribunal and to all other parties when the proceedings will not be unreasonably delayed. The Tribunal may in such circumstances permit substitution of representatives at hearing. Representatives who wish to withdraw must immediately file a written notice of withdrawal.

**Section 5000.310 Pleadings  
EMERGENCY**

- a) Petition. All proceedings in the Tribunal must be commenced by the filing of a petition.
  - 1) Form of petition. The petition shall contain or identify:

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

- A) the name, address, and telephone number of the petitioner;
  - B) the name, address, telephone number and email address of the petitioner's representative(s), if any;
  - C) the taxpayer's identification number;
  - D) a copy of the Statutory Notice at issue;
  - E) the years or periods involved;
  - F) separately numbered paragraphs stating, in clear and concise terms a summary of the errors of fact or law which the petitioner alleges have been made by the Department (e.g., in issuing the Statutory Notice), together with a statement of the facts or law upon which the petitioner relies to establish said errors;
  - G) the relief sought by the petitioner;
  - H) the signature of the petitioner or the petitioner's representative, if any; and
  - I) a check or money order in the amount of \$500 made payable to Illinois Independent Tax Tribunal or application for waiver of such fee.
- 2) Filing and service of petition.
- A) The petition and two copies thereof shall be filed with the Tribunal within the time limitations prescribed by the applicable statutory Sections. Petitions may be filed in person at the offices of the Tribunal in Springfield or in Chicago, by certified or registered mail, by messenger, or by private parcel delivery service. The Tribunal may permit electronic filing of Petitions and other pleadings. The petitioner shall also serve a copy of the petition upon the Department simultaneously.
  - B) Where the clerk of the Tribunal determines that the petition is in proper form, the clerk shall send to the petitioner a dated

## ILLINOIS INDEPENDENT TAX TRIBUNAL

## NOTICE OF EMERGENCY RULES

acknowledgment of receipt of the petition and immediately forward a copy of the acknowledgment to the Department for preparation of the answer. The time within which the Department must answer the petition shall start to run from the date of its receipt of the Tribunal's notification that the taxpayer has filed a petition in the proper form.

- 3) Protests improperly filed with the Office of Administrative Hearings. In the event a taxpayer files a protest within the allowable timeframe for that protest with the Office of Administrative Hearings that is dismissed due to lack of jurisdiction because it should have been filed with the Tribunal, a petition will be considered to be timely filed if the taxpayer files a petition with the Tribunal within 60 days after notice of such a dismissal.
- 4) Corrected petitions.
  - A) Where the petition filed by a petitioner is not in the form required by this Section, the clerk shall promptly return it to the petitioner together with a statement indicating each requirement with which the petition does not comply, and extend to the petitioner an additional 30 days within which to file a corrected petition with the Tribunal. Where the clerk determines that the corrected petition is in proper form, the clerk shall then acknowledge receipt of the corrected petition and forward the acknowledgment and the corrected petition to the Department pursuant to subsection (a)(2). For purposes of the time limitations for filing and service of a petition, a corrected petition is deemed to have been filed and served at the time the original petition was filed and served. However, the time within which the Department must answer the corrected petition shall start to run from the date of its receipt of the Tribunal's notification that the taxpayer has filed a corrected petition in the proper form.
  - B) Where the petitioner fails to file a corrected petition within the time prescribed in subsection (a)(4)(A), the clerk shall notify the chief administrative law judge, who may take such action as is deemed appropriate.

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- 5) Discretionary Late Hearings. If a Statutory Notice becomes final without a timely petition being filed as provided in subsection (a)(2) of this Section, the taxpayer may request that the Department grant a discretionary late hearing as provided in Section 908(b)(2) of the Illinois Income Tax Act [35 ILCS 5/908(b)(2)] or Section 4 of the Retailers' Occupation Tax Act [35 ILCS 120/4]. Such application shall be made to the Chief Administrative Law Judge of the Department's Office of Administrative Hearings, and it shall specify each Statutory Notice at issue and the reasons why a timely petition was not filed, and any other information required by 86 Ill. Adm. Code 200.175. If such request is granted by the Department, the taxpayer shall file a petition with the Tribunal within 60 days and shall attach a copy of the letter granting a discretionary late hearing.
  - 6) Waiver of \$500 filing fee. In the event of financial hardship, a taxpayer may file an application for waiver of the \$500 filing fee. A form for such application shall be prescribed by the Tribunal. Such application shall be submitted with the petition.
- b) Answer.
- 1) Filing and service of answer. The Department shall file an answer and two copies with the Tribunal and serve a copy thereof on the petitioner, if appearing pro se, or the petitioner's representative(s), within 30 days after receipt of the Tribunal's notification that the taxpayer has filed a petition in the proper form.
  - 2) Form of Answer. The answer as filed shall contain numbered paragraphs corresponding to the petition and shall contain:
    - A) a specific admission or denial of each material allegation of fact contained in the petition;
    - B) affirmative defenses, if any; and
    - C) the relief sought by the Department.
  - 3) Allegations deemed admitted. Material allegations of fact set forth in the petition that are not expressly admitted or denied in the answer shall be

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deemed to be admitted, unless the Department states in its Answer that it has no knowledge thereof sufficient to form a belief, and attaches an affidavit of the truth of the statement of want of knowledge.

- 4) Failure of Department to answer. Where the Department fails to answer within the prescribed time, the petitioner may make a motion, on notice to the Department, for a determination of default. The administrative law judge designated by the chief administrative law judge to review the motion shall either grant the motion and issue a default determination, or grant such other relief as is warranted.
- c) Amended pleadings. Either party may amend a pleading without leave at any time before the period for responding to it expires. After such time, a pleading may be amended only with the written consent of the adverse party or with the permission of the Tribunal. The Tribunal shall freely grant consent to amend upon such terms as may be just. Except as otherwise ordered by the Tribunal, there shall be an answer to an amended pleading if an answer is required to the pleading being amended. Filing of the answer, or, if the answer has already been filed, the amended answer shall be made no later than 30 days after the filing of the amended petition. The taxpayer may not amend a petition after expiration of the time for filing a petition, if such amendment would have the effect of conferring jurisdiction on the Tribunal over a matter that would otherwise not come within its jurisdiction. An amendment of a pleading shall relate back to the time of filing of the original pleading only as prescribed by Section 2-616 of the Code of Civil Procedure.

**Section 5000.315 Motion Practice  
EMERGENCY**

- a) Form and contents. A motion shall be in writing and must specify the supporting papers (e.g., affidavits, admissions, etc.) upon which the motion is based, in separate numbered paragraphs, the relief requested and the grounds for such relief. Any brief shall be filed with the motion and a copy served on the adverse party.
- b) Notice of Motion. A Notice of Motion shall accompany each motion. The Notice of Motion shall specify whether or not the motion is agreed to by the adverse party. The Notice of Motion shall also specify whether the moving party desires an oral argument on the motion.

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- c) Response to motions. If a motion is not an agreed motion, the adverse party shall notify the clerk for the Tribunal within five business days after receipt of a Notice of Motion whether the adverse party desires to file a response to the motion and a proposed briefing schedule. The time for filing a response shall not exceed 28 days without the permission of the Tribunal. The time for filing a reply, if any such reply is requested, shall not exceed 14 days without the permission of the Tribunal. The adverse party shall also indicate whether it desires an oral argument. Upon approval by the Tribunal, the clerk will schedule an oral argument and send notice of the date and time to the parties.
- d) Hearings on motions. All motions will be decided on the moving papers and answers submitted without oral argument, unless a specific request for oral argument is made by a party and granted by the Tribunal.
- e) Finality of orders. An order by an administrative law judge on any motion that does not finally determine all matters and issues contained in the petition, for purposes of review by the Appellate Court, shall not be deemed final and conclusive until the administrative law judge shall have rendered a determination on the remaining matters and issues.
- f) Motion to Transfer. The Tribunal may on its own motion and on notice to the parties, or either party may by filing a motion, transfer the case to the Office of Administrative Hearings if the petition has been timely but erroneously filed with the clerk of the Tribunal. If such a motion is granted, the clerk of the Tribunal shall certify and transmit all papers filed with the Tribunal to the Office of Administrative Hearings of the Department of Revenue.
- g) Motion to dismiss. A motion to dismiss must be filed before the answer is due or the grounds for dismissal may be raised as an affirmative defense in the answer. In no event shall a failure by a party to make such a motion be deemed a waiver of any defense. Only one such motion shall be made.
- h) Dismissal by the administrative law judge on his/her own motion.
  - 1) The administrative law judge may, on its own motion and on notice to the parties, issue a determination or decision dismissing a petition on the ground that:

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- A) the Tribunal lacks jurisdiction over the subject matter of the petition;
  - B) the Tribunal lacks jurisdiction over the taxpayer; or
  - C) the petition has not been timely filed or served.
- 2) If the basis for the administrative law judge's dismissal is that the Office of Administrative Hearings of the Department of Revenue has jurisdiction over the subject matter of the petition, such petition shall be transferred to the Office of Administrative Hearings.
    - i) Motion to recuse administrative law judge.
      - 1) A Tribunal administrative law judge assigned to the case may on his or her own motion, or either party may by motion before the chief administrative law judge, move to recuse the administrative law judge assigned to its case on the basis that the administrative law judge has a personal bias with respect to the case or that the administrative law judge is otherwise disqualified to hear and decide the case.
      - 2) The party's motion to recuse the administrative law judge must be accompanied by an affidavit setting forth the facts upon which the assertion of bias or other disqualification is based.
      - 3) The motion to recuse must be made at least 30 days prior to the scheduled hearing date and shall comply with all procedural provisions relating to form as described in § 1-05(a).
      - 4) The adverse party may respond to the motion to recuse by serving its response on the chief administrative law judge and the moving party not later than ten days from the date the motion to recuse was served on such adverse party.
      - 5) In response to the motion to recuse, the chief administrative law judge shall assign a different administrative law judge to the case or deny the motion by written order. Such order shall be issued not later than ten days prior to the scheduled hearing date. A party may not file an exception to

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such an order until the administrative law judge shall render a determination on the remaining matters and issues.

**Section 5000.320 Status Hearings****EMERGENCY**

- a) Initial Status Conference. An initial status conference shall be set within 60 days after the date of filing of the Petition.
- b) Notice. The parties shall be given at least 15 days' notice of the first status hearing date, and at least seven days' notice of any other hearing date unless the parties agree otherwise. A request by any party for a preference in scheduling will be honored to the extent possible.
- c) Telephonic Hearings. Status conferences and hearings on motions may be conducted telephonically at the request of the parties. Any order setting a status conference or hearing date shall specify whether the parties and/or their representatives are to appear in person, by telephone or as otherwise agreed.

**Section 5000.325 Discovery****EMERGENCY**

- a) General. As stated in 35 ILCS 1010/1-60, the Illinois Supreme Court Rules and the Illinois Code of Civil Procedure, as amended, shall apply to all discovery, requests for admission, and pre-trial procedure.
- b) Interrogatories. Answers to interrogatories shall be filed with the clerk of the Tribunal.
- c) Requests for Admissions. Requests for admission of fact shall be filed with the clerk of the Tribunal. Within 28 days after service of the requests, the answering party shall serve upon the party requesting the admission and file with the clerk of the Tribunal either a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party cannot truthfully admit or deny those matters or a written objection to each request.
- d) Other Discovery. Except as provided in subsections (b) and (c), discovery requests and answers shall not be filed with the Tribunal.

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**Section 5000.330 Service  
EMERGENCY**

- a) Date of filing and service. If any document required to be filed and served under this Part within a prescribed period or on or before a prescribed date is, after such period or date, delivered by United States mail or other third party commercial carrier, the date of the United States postmark stamped on the envelope or the date the document is delivered by the third party commercial carrier, messenger or private parcel delivery service will be deemed to be the date of filing or service.
- b) Saturday, Sunday, or legal holiday. When the last day prescribed under this Part for filing or service falls on a Saturday, Sunday, or legal holiday in the State of Illinois, such filing or service shall be considered timely if it is performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.
- c) Service by Email. The parties may consent to service by email. The date of service will then be the date the email is sent.

**Section 5000.335 Subpoenas  
EMERGENCY**

- a) Upon the request of any party, the administrative law judge assigned to the case may issue subpoenas to require the attendance of witnesses at a deposition or hearing or to require the production of documentary evidence; provided, however, that where it appears to the administrative law judge requested to issue the subpoena that the subpoena sought may be unreasonable, oppressive, excessive in scope, or unduly burdensome, such administrative law judge may, as a condition precedent to the issuance of the subpoena, require the person seeking the subpoena to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the administrative law judge requested to issue the subpoena shall, after consideration of all the circumstances, determine that the subpoena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, such administrative law judge may refuse to issue the subpoena, or issue it only upon such conditions as such administrative law judge deems appropriate. In the event that an administrative law judge has not been assigned to the case or the administrative law judge is unavailable, the request to issue subpoenas may be made to the chief administrative law judge. Subpoenas

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will be delivered to the person requesting them and service thereof will be said person's responsibility.

- b) Request to withdraw or modify a subpoena. Upon issuance of a subpoena pursuant to subsection (a) above, any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 14 days after the date of service of such subpoena, request that the subpoena be withdrawn or modified by filing such request with the administrative law judge assigned to the case or, if no such assignment has been made, to the chief administrative law judge. Such request shall be upon notice to the other party and shall otherwise conform to the procedural requirements of this Part for motions.

**Section 5000.340 Stipulations  
EMERGENCY**

- a) General. The parties are required to stipulate, to the fullest extent to which complete or qualified agreement can or fairly should be reached, all undisputed facts not privileged that are relevant to the pending controversy. Included in matters required to be stipulated are all facts, all documents and papers or contents or aspects thereof, and all evidence that fairly should not be in dispute. Where the truth or authenticity of facts or evidence claimed to be relevant by one party is not disputed, an objection on the ground of materiality or relevance may be noted by the adverse party but is not to be regarded as just cause for refusal to stipulate. The requirement of stipulation applies under this Part without regard to where the burden of proof may lie with respect to the controversies involved. Documents or papers or other exhibits annexed to or filed with the stipulation shall be considered to be part of the stipulation.
- b) Form. Stipulations shall be written and signed by the parties thereto or by their representatives, if any, and shall be filed with the Tribunal. Documents or other papers that are the subject of stipulation in any respect and that the parties intend to place before the Tribunal shall be annexed to or filed with the stipulation. The stipulation shall be clear and concise. Separate items shall be stated in separate paragraphs and shall be appropriately numbered. Exhibits attached to a stipulation shall be lettered serially.
- c) Binding effect. A stipulation shall be treated, to the extent of its terms, as a conclusive admission by the parties to the stipulation, unless otherwise permitted by the Tribunal or agreed upon by the parties. The Tribunal shall not permit a

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party to a stipulation to qualify, change or contradict a stipulation, in whole or in part, except where justice requires. A stipulation and the admissions therein shall be binding and have effect only in the pending proceeding and not for any other purpose, and they shall not be used against any party thereto in any other proceeding before the Tribunal, the Department, or the courts.

- d) Submission without hearing. The parties may consent in writing to waive oral argument on contested motions and have the controversy determined on submission without need for appearance at a hearing.

**Section 5000.345 Hearings****EMERGENCY**

- a) Out-of-state petitioners. If the taxpayer does not have his or her place of business in this State, such hearing shall be held at the office designated by the Tribunal. If the chosen location is undesirable, upon a showing of just cause, the taxpayer may petition the Tribunal to move the hearing to another office.
- b) Post-hearing briefs. At the discretion of the administrative law judge, the parties may submit post-hearing briefs including proposed findings of fact and conclusions of law.

**Section 5000.350 Bonds****EMERGENCY**

- a) General. The Tax Tribunal may require the taxpayer to post a bond equal to 25% of the liability at issue
  - 1) upon motion of the Department and a showing that
    - A) the taxpayer's action is frivolous or legally insufficient or
    - B) the taxpayer is acting primarily for the purpose of delaying the collection of tax or prejudicing the ability ultimately to collect the tax, or
  - 2) if, at any time during the proceedings, it is determined by the Tax Tribunal that the taxpayer is not pursuing the resolution of the case with due diligence. If the Tax Tribunal finds in a particular case that the taxpayer

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cannot procure and furnish a satisfactory surety or sureties for the kind of bond required herein, the Tax Tribunal may relieve the taxpayer of the obligation of filing such bond, if, upon the timely application for a lien in lieu thereof and accompanying proof therein submitted, the Tax Tribunal is satisfied that any such lien imposed would operate to secure the assessment in the manner and to the degree as would a bond.

- b) **Surety Bonds.** If the Tax Tribunal determines that a taxpayer should post a bond, any surety bond must be obtained from a third party and filed with the Tax Tribunal.
- c) **Liens.** If a taxpayer is unable to procure and furnish a satisfactory surety or sureties, the Tax Tribunal may impose a lien or liens in lieu of bond against any real or personal property of the taxpayer in the amount of the required bond. A taxpayer who is required, but unable to procure a bond, must file a sworn statement of assets and liabilities, a title search of any real property to be encumbered, and a UCC search of any personal property to be encumbered with the Tax Tribunal.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) 

<u>Section Number:</u> 310.APPENDIX A TABLE T	<u>Peremptory Action:</u> Amendment
--	--
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services (CMS) is amending the Pay Plan (80 Ill. Adm. Code 310) Section 310.Appendix A Table T to reflect the Agreement by and between the Illinois Federation of Teachers, AFL-CIO Local 919 and the State of Illinois Departments of Central Management Services and Human Services, Office of Rehabilitation Services August 16, 2012 through June 30, 2015 signed December 10, 2013. Effective July 1, 2012, the employees at the frozen agency are placed on the appropriate step and/or lane change of the wage scale that they would have been placed but for the freeze. Effective August 16, 2013, the Step 8 was raised by \$25 per month to \$75 per month for the employees who attained 10 years of continuous service and have 3 or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2013. For the employees who attained 15 years of continuous service and have 3 or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2013, the Step 8 rate was increased by \$25 per month to \$100 per month. Employees who are eligible for longevity on or before January 1, 2002, shall continue to receive longevity pay after being placed on Step 8 while they remain in the same or lower pay grade. Employees not eligible for longevity pay on or before the date they are placed on Step 8 shall begin to receive longevity pay after 3 years or more of creditable service on Step 8. Effective August 16, 2013 and 2014, the pay rates for all bargaining unit classifications and steps shall be increased by 2%. Step 1a, 1b and 1c shall be implemented for all employees hired on or after August 16, 2014 with a 3% step differential.
- 5) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]
- 6) Effective Date: January 9, 2014

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- 7) A Complete Description of the Subjects and Issues Involved: In Section 310.Appendix A Table T, the August 16, 2011 rate table is removed. The effective date of the January 1, 2012 is changed to August 16, 2012. The rate tables effective August 16, 2013 and 2014 are added. The longevity pay is added to the Note.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: January 9, 2014
- 10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.
- 11) Is this rulemaking in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes
- 12) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
310.47	Amend	37 Ill. Reg. 16048, October 18, 2013
310.80	Amend	37 Ill. Reg. 16048, October 18, 2013
310.220	Amend	37 Ill. Reg. 16048, October 18, 2013
310.410	Amend	37 Ill. Reg. 16048, October 18, 2013
310.415	Amend	37 Ill. Reg. 16048, October 18, 2013
310.490	Amend	37 Ill. Reg. 16048, October 18, 2013
310.495	Amend	37 Ill. Reg. 16048, October 18, 2013
310.500	Amend	37 Ill. Reg. 16048, October 18, 2013
310.Appendix A Table E	Amend	37 Ill. Reg. 16048, October 18, 2013
310.Appendix A Table F	Amend	37 Ill. Reg. 16048, October 18, 2013
310.Appendix A Table G	Amend	37 Ill. Reg. 16048, October 18, 2013
310.Appendix A Table Q	Amend	37 Ill. Reg. 16048, October 18, 2013
310.47	Amend	38 Ill. Reg. 196, January 3, 2014
310.100	Amend	38 Ill. Reg. 196, January 3, 2014
310.410	Amend	38 Ill. Reg. 196, January 3, 2014
310.460	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE B	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE C	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE D	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE E	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE F	Amend	38 Ill. Reg. 196, January 3, 2014

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310.APPENDIX A TABLE G	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE H	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE I	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE J	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE K	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE N	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE O	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE P	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE Q	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE R	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE S	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE V	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE W	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE X	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE Y	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE Z	Amend	38 Ill. Reg. 196, January 3, 2014
310.APPENDIX A TABLE AA	Amend	38 Ill. Reg. 196, January 3, 2014

- 13) Statement of Statewide Policy Objectives: The amendment to the Pay Plan affects only the employees subject to the Personnel Code and does not set out any guidelines that affect local or other jurisdictions in the State.
- 14) Information and questions regarding this preemptory amendment shall be directed to:

Mr. Jason Doggett, Manager, Compensation Section  
Division of Technical Services and Agency Training and Development  
Bureau of Personnel  
Department of Central Management Services  
504 William G. Stratton Building  
Springfield IL 62706

217/782-7964  
Fax: 217/524-4570  
CMS.PayPlan@Illinois.gov

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310  
PAY PLAN

## SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hire Rate
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes (Repealed)
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

## SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated Rate
310.280	Designated Rate

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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310.290	Out-of-State Rate (Repealed)
310.295	Foreign Service Rate (Repealed)
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

## SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.415	Merit Compensation Salary Range Assignments
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases and Bonuses
310.455	Intermittent Merit Increase (Repealed)
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

SUBPART D: FROZEN NEGOTIATED-RATES-OF-PAY DUE TO  
FISCAL YEAR APPROPRIATIONS AND EXPIRED SALARY SCHEDULES IN  
COLLECTIVE BARGAINING UNIT AGREEMENTS

Section	
310.600	Jurisdiction (Repealed)
310.610	Pay Schedules (Repealed)
310.620	In-Hiring Rate (Repealed)
310.630	Definitions (Repealed)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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310.640	Increases in Pay (Repealed)
310.650	Other Pay Provisions (Repealed)
310.660	Effective Date (Repealed)
310.670	Negotiated Rate (Repealed)
310.680	Trainee Rate (Repealed)
310.690	Educator Schedule for Frozen RC-063 and Frozen HR-010 (Repealed)
310.APPENDIX A	Negotiated Rates of Pay
310.TABLE A	RC-104 (Conservation Police Supervisors, Illinois Fraternal Order of Police Labor Council)
310.TABLE B	VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' – ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #700)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Departments of Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators and Educator Trainees, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Departments of Central Management Services, Natural Resources and Transportation, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.TABLE AD	RC-184 (Blasting Experts, Blasting Specialists and Blasting Supervisors Department of Natural Resources, SEIU Local 73)
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310.TABLE O	Frozen RC-028-Rates-of-Pay (Paraprofessional Human Services Employees, AFSCME) (Repealed)
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310.TABLE AB	Frozen RC-150-Rates-of-Pay (Public Service Administrators Option 6, AFSCME) (Repealed)
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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984;

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emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 3230, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July

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18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg.

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12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory

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amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill.

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Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at

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29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; preemptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; preemptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; preemptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December

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13, 2007; preemptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; preemptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; preemptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; preemptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; preemptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; preemptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; preemptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; preemptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; preemptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; preemptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; preemptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; preemptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; preemptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; preemptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; preemptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; preemptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; preemptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; preemptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; preemptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; preemptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; preemptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; preemptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; preemptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; preemptory amendment at 34 Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; preemptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; preemptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; preemptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010; preemptory amendment at 34 Ill. Reg. 6214, effective April 16, 2010; amended at 34 Ill. Reg. 6583, effective April 30, 2010; preemptory amendment at 34 Ill. Reg. 7528, effective May 14, 2010; amended at 34 Ill. Reg. 7645, effective May 24, 2010; preemptory amendment at 34 Ill. Reg. 7947, effective May 26, 2010; preemptory amendment at 34 Ill. Reg. 8633, effective June 18, 2010; amended at 34 Ill. Reg. 9759, effective July 1, 2010; preemptory amendment at 34 Ill. Reg. 10536, effective July 9, 2010; preemptory amendment at 34 Ill. Reg. 11864, effective July 30, 2010; emergency amendment at 34 Ill. Reg. 12240, effective August 9, 2010, for a maximum of 150 days; preemptory amendment at 34 Ill. Reg. 13204, effective August 26, 2010; preemptory amendment at 34 Ill. Reg. 13657, effective September 8, 2010; preemptory amendment at 34 Ill. Reg. 15897, effective September 30, 2010; preemptory amendment at 34 Ill. Reg. 18912, effective November 15, 2010; preemptory amendment at 34 Ill. Reg. 19582, effective December 3, 2010; amended at 35 Ill. Reg. 765, effective December 30, 2010; emergency amendment at 35 Ill. Reg. 1092,

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## NOTICE OF PEREMPTORY AMENDMENT

effective January 1, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 2465, effective January 19, 2011; peremptory amendment at 35 Ill. Reg. 3577, effective February 10, 2011; emergency amendment at 35 Ill. Reg. 4412, effective February 23, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 4803, effective March 11, 2011; emergency amendment at 35 Ill. Reg. 5633, effective March 15, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 5677, effective March 18, 2011; amended at 35 Ill. Reg. 8419, effective May 23, 2011; amended at 35 Ill. Reg. 11245, effective June 28, 2011; emergency amendment at 35 Ill. Reg. 11657, effective July 1, 2011, for a maximum of 150 days; emergency expired November 27, 2011; peremptory amendment at 35 Ill. Reg. 12119, effective June 29, 2011; peremptory amendment at 35 Ill. Reg. 13966, effective July 29, 2011; peremptory amendment at 35 Ill. Reg. 15178, effective August 29, 2011; emergency amendment at 35 Ill. Reg. 15605, effective September 16, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 15640, effective September 15, 2011; peremptory amendment at 35 Ill. Reg. 19707, effective November 23, 2011; amended at 35 Ill. Reg. 20144, effective December 6, 2011; amended at 36 Ill. Reg. 153, effective December 22, 2011; peremptory amendment at 36 Ill. Reg. 564, effective December 29, 2011; peremptory amendment at 36 Ill. Reg. 3957, effective February 24, 2012; peremptory amendment at 36 Ill. Reg. 4158, effective March 5, 2012; peremptory amendment at 36 Ill. Reg. 4437, effective March 9, 2012; amended at 36 Ill. Reg. 4707, effective March 19, 2012; amended at 36 Ill. Reg. 8460, effective May 24, 2012; peremptory amendment at 36 Ill. Reg. 10518, effective June 27, 2012; emergency amendment at 36 Ill. Reg. 11222, effective July 1, 2012, for a maximum of 150 days; peremptory amendment at 36 Ill. Reg. 13680, effective August 15, 2012; peremptory amendment at 36 Ill. Reg. 13973, effective August 22, 2012; peremptory amendment at 36 Ill. Reg. 15498, effective October 16, 2012; amended at 36 Ill. Reg. 16213, effective November 1, 2012; peremptory amendment at 36 Ill. Reg. 17138, effective November 20, 2012; peremptory amendment at 37 Ill. Reg. 3408, effective March 7, 2013; amended at 37 Ill. Reg. 4750, effective April 1, 2013; peremptory amendment at 37 Ill. Reg. 5925, effective April 18, 2013; peremptory amendment at 37 Ill. Reg. 9563, effective June 19, 2013; amended at 37 Ill. Reg. 9939, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 11395, effective July 1, 2013, for a maximum of 150 days; peremptory amendment at 37 Ill. Reg. 11524, effective July 3, 2013; peremptory amendment at 37 Ill. Reg. 12588, effective July 19, 2013; peremptory amendment at 37 Ill. Reg. 13762, effective August 8, 2013; peremptory amendment at 37 Ill. Reg. 14219, effective August 23, 2013; amended at 37 Ill. Reg. 16925, effective October 8, 2013; peremptory amendment at 37 Ill. Reg. 17164, effective October 18, 2013; peremptory amendment at 37 Ill. Reg. 20410, effective December 6, 2013; peremptory amendment at 38 Ill. Reg. 2974, effective January 9, 2014.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

**Section 310.APPENDIX A Negotiated Rates of Pay****Section 310.TABLE T HR-010 (Teachers of Deaf, IFT)**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Plan Code</u>
Educator	13100	HR-010	N

**Effective ~~August 16, 2011~~**  
**Bargaining Unit: HR-010**

<u>Lane</u>	<u>Educational Level</u>	<u>STEPS</u>							
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
1	BA	3270	3451	3638	3819	4015	4202	4608	4793
2	BA + 8 Hours	3374	3555	3749	3944	4148	4344	4760	4951
3	BA + 16 Hours	3460	3664	3870	4071	4266	4480	4915	5111
4	BA + 24 Hours	3557	3772	3983	4194	4413	4621	5073	5278
5	MA	3666	3880	4098	4318	4543	4758	5222	5431
6	MA + 16 Hours	3752	3970	4188	4411	4638	4851	5322	5533
7	MA + 32 Hours	3867	4083	4305	4529	4757	4973	5452	5670

**Effective ~~August 16~~ January 1, 2012**  
**Bargaining Unit: HR-010**

<u>Lane</u>	<u>Educational Level</u>	<u>STEPS</u>							
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
1	BA	3311	3494	3683	3867	4065	4255	4666	4853
2	BA + 8 Hours	3416	3599	3796	3993	4200	4398	4820	5013
3	BA + 16 Hours	3503	3710	3918	4122	4319	4536	4976	5175
4	BA + 24 Hours	3601	3819	4033	4246	4468	4679	5136	5344
5	MA	3712	3929	4149	4372	4600	4817	5287	5499
6	MA + 16 Hours	3799	4020	4240	4466	4696	4912	5389	5602
7	MA + 32 Hours	3915	4134	4359	4586	4816	5035	5520	5741

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

**Effective August 16, 2013**  
**Bargaining Unit: HR-010**

<u>Lane</u>	<u>Educational Level</u>	<u>STEPS</u>							
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>1</u>	<u>BA</u>	<u>3377</u>	<u>3564</u>	<u>3757</u>	<u>3944</u>	<u>4146</u>	<u>4340</u>	<u>4759</u>	<u>4950</u>
<u>2</u>	<u>BA + 8 Hours</u>	<u>3484</u>	<u>3671</u>	<u>3872</u>	<u>4073</u>	<u>4284</u>	<u>4486</u>	<u>4916</u>	<u>5113</u>
<u>3</u>	<u>BA + 16 Hours</u>	<u>3573</u>	<u>3784</u>	<u>3996</u>	<u>4204</u>	<u>4405</u>	<u>4627</u>	<u>5076</u>	<u>5279</u>
<u>4</u>	<u>BA + 24 Hours</u>	<u>3673</u>	<u>3895</u>	<u>4114</u>	<u>4331</u>	<u>4557</u>	<u>4773</u>	<u>5239</u>	<u>5451</u>
<u>5</u>	<u>MA</u>	<u>3786</u>	<u>4008</u>	<u>4232</u>	<u>4459</u>	<u>4692</u>	<u>4913</u>	<u>5393</u>	<u>5609</u>
<u>6</u>	<u>MA + 16 Hours</u>	<u>3875</u>	<u>4100</u>	<u>4325</u>	<u>4555</u>	<u>4790</u>	<u>5010</u>	<u>5497</u>	<u>5714</u>
<u>7</u>	<u>MA + 32 Hours</u>	<u>3993</u>	<u>4217</u>	<u>4446</u>	<u>4678</u>	<u>4912</u>	<u>5136</u>	<u>5630</u>	<u>5856</u>

**Effective August 16, 2014**  
**Bargaining Unit: HR-010**

<u>Lane</u>	<u>Educational Level</u>	<u>STEPS</u>										
		<u>1c</u>	<u>1b</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>1</u>	<u>BA</u>	<u>3135</u>	<u>3238</u>	<u>3342</u>	<u>3445</u>	<u>3635</u>	<u>3832</u>	<u>4023</u>	<u>4229</u>	<u>4427</u>	<u>4854</u>	<u>5049</u>
<u>2</u>	<u>BA + 8 Hours</u>	<u>3234</u>	<u>3341</u>	<u>3447</u>	<u>3554</u>	<u>3744</u>	<u>3949</u>	<u>4154</u>	<u>4370</u>	<u>4576</u>	<u>5014</u>	<u>5215</u>
<u>3</u>	<u>BA + 16 Hours</u>	<u>3316</u>	<u>3425</u>	<u>3535</u>	<u>3644</u>	<u>3860</u>	<u>4076</u>	<u>4288</u>	<u>4493</u>	<u>4720</u>	<u>5178</u>	<u>5385</u>
<u>4</u>	<u>BA + 24 Hours</u>	<u>3409</u>	<u>3521</u>	<u>3634</u>	<u>3746</u>	<u>3973</u>	<u>4196</u>	<u>4418</u>	<u>4648</u>	<u>4868</u>	<u>5344</u>	<u>5560</u>
<u>5</u>	<u>MA</u>	<u>3514</u>	<u>3630</u>	<u>3746</u>	<u>3862</u>	<u>4088</u>	<u>4317</u>	<u>4548</u>	<u>4786</u>	<u>5011</u>	<u>5501</u>	<u>5721</u>
<u>6</u>	<u>MA + 16 Hours</u>	<u>3597</u>	<u>3716</u>	<u>3834</u>	<u>3953</u>	<u>4182</u>	<u>4412</u>	<u>4646</u>	<u>4886</u>	<u>5110</u>	<u>5607</u>	<u>5828</u>
<u>7</u>	<u>MA + 32 Hours</u>	<u>3706</u>	<u>3829</u>	<u>3951</u>	<u>4073</u>	<u>4301</u>	<u>4535</u>	<u>4772</u>	<u>5010</u>	<u>5239</u>	<u>5743</u>	<u>5973</u>

NOTE: Bilingual Pay – For positions for which job descriptions require the use of sign language, or which require the employee to be bilingual, bilingual pay is paid on a percentage scale based on the sign communication proficiency interview (SCPI) test. An employee is paid the following percentage of the employee's monthly base salary depending on the skill level that the employee achieved on the SCPI test and paid monthly as bilingual pay in addition to the base salary:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

1%	Survival
2%	Survival Plus
3%	Intermediate
4%	Intermediate Plus
5%	Advanced

Longevity Pay – Effective August 16, 2000, the Step 7 was increased by \$25 per month for the employees who attained 10 years of continuous service and have 3 or more years of creditable service on Step 7 in the same pay grade. Effective August 16, 2004, the Step 8 rate was increased by \$25 per month for the employees who attained 10 years of continuous service and have 3 years or more years of creditable service on Step 8 in the same or higher pay grade. For the employees who attained 15 years of continuous service and have 3 or more years of creditable service on Step 8 in the same or higher pay grade, the Step 8 rate was raised by \$50 per month. Longevity is paid each month per calendar year. Effective August 16, 2010, the Step 8 was raised by \$50 per month for the employees who attained 10 years of continuous service and have 3 or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2010. For the employees who attained 15 years of continuous service and have 3 or more years of creditable service on Step 7 in the same or higher pay grade on or before August 16, 2010, the Step 8 rate was increased by \$75 per month. Effective August 16, 2013, the Step 8 was raised by \$25 per month to \$75 per month for the employees who attained 10 years of continuous service and have 3 or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2013. For the employees who attained 15 years of continuous service and have 3 or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2013, the Step 8 rate was increased by \$25 per month to \$100 per month. Employees who are eligible for longevity on or before January 1, 2002, shall continue to receive longevity pay after being placed on Step 8 while they remain in the same or lower pay grade. Employees not eligible for longevity pay on or before the date they are placed on Step 8 shall begin to receive longevity pay after 3 years or more of creditable service on Step 8.

(Source: Amended by peremptory rulemaking at 38 Ill. Reg. 2974, effective January 9, 2014)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 8, 2014 through January 13, 2014. These rulemakings are scheduled for review at the Committee's February 18, 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>
2/26/14	<u>Department of Financial and Professional Regulation</u> , Massage Licensing Act (68 Ill. Adm. Code 1284)	11/22/13 37 Ill. Reg. 18400	2/18/14
2/26/14	<u>Department of Financial and Professional Regulation</u> , Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)	11/22/13 37 Ill. Reg. 18407	2/18/14

## DEPARTMENT ON AGING

## JANUARY 2014 REGULATORY AGENDA

a) Heading and Code Citations: General Programmatic Requirements, 89 Ill. Adm. Code 220

1) Rulemaking:

- A) Description: Part 220 will be amended or repealed as necessary to address policy changes for Medicaid eligibility, enhanced federal matching funds, and managed care participation; to incorporate comprehensive care coordination and duties relating to automated medication dispenser services into the existing case management system; to modify service requirements and rates for emergency home response services; to set forth procurement guidelines and responsibilities for agencies handling eligibility determinations and providing automated medication dispenser services; and to update the rules regarding confidentiality; disclosure of information; and the appeals process for programs administered by the Department on Aging.
- B) Statutory Authority: 20 ILCS 105/4.01(11) and 4.02
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
- E) Effect on small businesses, small municipalities or not for profit corporations: Any entity serving as a provider agency for the Department on Aging under the Comprehensive Care Coordination and Community Care Programs will be affected by this rulemaking.
- F) Agency contact person for information:

Karen Alice Kloppe  
Deputy General Counsel  
Illinois Department on Aging  
One Natural Resources Way, Suite 100  
Springfield, Illinois 62702-1271

## DEPARTMENT ON AGING

## JANUARY 2014 REGULATORY AGENDA

217/785-3346

G) Related rulemakings and other pertinent information: None

b) Heading and Code Citations: Community Care Program, 89 Ill. Adm. Code 240

1) Rulemaking:

- A) Description: Part 240 will be amended or repealed as necessary to address policy changes for Medicaid eligibility, enhanced federal matching funds, and managed care participation; to incorporate comprehensive care coordination and duties relating to automated medication dispenser services into the existing case management system; to modify service requirements and rates for emergency home response services; to set forth procurement guidelines and responsibilities for agencies handling eligibility determinations and providing automated medication dispenser services; and to update the rules regarding confidentiality; disclosure of information; and the appeals process for programs administered by the Department on Aging.
- B) Statutory Authority: 20 ILCS 105/4.01(11) and 4.02
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
- E) Effect on small businesses, small municipalities or not for profit corporations: Any entity serving as a provider agency for the Department on Aging under the Comprehensive Care Coordination and Community Care Programs will be affected by this rulemaking.
- F) Agency contact person for information:

Karen Alice Kloppe  
Deputy General Counsel  
Illinois Department on Aging

## DEPARTMENT ON AGING

## JANUARY 2014 REGULATORY AGENDA

One Natural Resources Way, Suite 100  
Springfield, Illinois 62702-1271

217/785-3346

G) Related rulemakings and other pertinent information: None

c) Heading and Code Citations: Elder Rights, 89 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: Part 270 will be amended or repealed as necessary to set forth responsibilities for the Abuse Fatality Review Team Advisory Council; to establish guidelines to implement reporting of verified and substantiated abuse by caregivers in the Health Care Worker Registry of the Department of Public Health; and to update rules to reflect the transfer of investigation authority over alleged cases of abuse to the Department on Aging from the Illinois Department of Human Services Office of the Inspector General for the Adult Protective Services Program under Public Act 98-49.
- B) Statutory Authority: 320 ILCS 20/10 and 20 ILCS 105/4.04(c) and 4.01(11)
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
- E) Effect on small businesses, small municipalities or not for profit corporations: Any entity serving as a provider agency for the Department on Aging under the Adult Protective Service will be affected by this rulemaking.
- F) Agency contact person for information:

Karen Alice Kloppe

DEPARTMENT ON AGING

JANUARY 2014 REGULATORY AGENDA

Deputy General Counsel  
Illinois Department on Aging  
One Natural Resources Way, Suite 100  
Springfield, Illinois 62702-1271

217/785-3346

- G) Related rulemakings and other pertinent information: None

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citations): Illinois Bovidae and Cervidae Tuberculosis Eradication Act, 8 Ill. Adm. Code 80
- 1) Rulemaking:
- A) Description: This rulemaking allows for the use of USDA approved blood tests for Tuberculosis testing in cervidae. These blood tests enable testing to be completed with less handling of the animal resulting in reduced stress to the animal.
- B) Statutory Authority: Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Cervid producers should realize a positive affect through reduced handling time and stress on animals being tested.
- F) Agency contact person for information:
- Dr. Mark Ernst  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, IL 62794-9281
- 217/557-4645  
fax: 217/558-6033
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citations): Animal Disease Laboratories Act, 8 Ill. Adm. Code 110
- 1) Rulemaking:

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

- A) Description: This rulemaking will remove language specific to the Centralia Animal Disease Laboratory, and the Springfield Serology Lab which are no longer operational. Testing that was administered in Centralia that is not available at the Galesburg Animal Disease Laboratory will be removed. Additionally, lab tests and the fee schedule for the Galesburg Animal Disease Laboratory have been updated.
- B) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Veterinary clinics, municipalities, and landowners/farmers that used the Centralia or Springfield laboratories are now sending their samples to the Galesburg Laboratory. If the test is not available at Galesburg Laboratory, they may be working with a private laboratory or the University of Illinois Veterinary Diagnostic Laboratory.
- F) Agency contact person for information:
- Dr. Mark Ernst  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, IL 62794-9281
- 217/557-4645  
fax: 217/558-6033
- G) Related rulemakings and other pertinent information: The Centralia Animal Disease Laboratory closed on December 31, 2012.
- c) Part(s) (Heading and Code Citations): Diseased Animals, 8 Ill. Adm. Code 85
- 1) Rulemaking:

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

- A) Description: This rulemaking is in response to the USDA's Animal and Plant Health Inspection Services' (APHIS) implementation of a final rule to establish a national chronic wasting disease (CWD) herd certification program and minimum requirements for interstate movement of deer, elk and moose, and cervids. APHIS will approve State programs that establish movement restrictions on CWD-positive, CWD-suspect, and CWD-exposed animals; conduct tracebacks on such animals to determine what other animals may be affected by the disease; require the testing of all farmed cervids that die or are euthanized; and maintain premises and animal identification for all herds participating in approved State programs.
- B) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The changes made to the federal CWD rule will not preempt state or local laws and regulations that are more restrictive than APHIS' regulations with the exception that cervids that are eligible to move interstate may transit a state that bans or restricts the entry of such animals en route to another state.
- F) Agency contact person for information:

Dr. Mark Ernst  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, IL 62794-9281

217/557-4645  
fax: 217/558-6033

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: CWD is a fatal neurological disease of deer, elk and moose and is in the family of diseases known as transmissible spongiform encephalopathies.
- d) Part(s) (Heading and Code Citations): Illinois Dead Animal Disposal Act, 8 Ill. Adm. Code 90
- 1) Rulemaking:
- A) Description: This rulemaking provides for the disposal of equine, cervidae, other small animals, and cattle and cervidae offal by composting. Composting of poultry, fish, swine, cattle, sheep, and goats as well as sheep and goat offal is already allowed.
- B) Statutory Authority: Illinois Dead Animal Disposal Act [225 ILCS 610]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: No affect is anticipated.
- F) Agency contact person for information:
- Dr. Mark Ernst  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, IL 62794-9281
- 217/557-4645  
fax: 217/558-6033
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citations): Farmland Preservation Act, 8 Ill. Adm. Code 700

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

- 1) Rulemaking:
  - A) Description: The Farmland Preservation Act requires that state agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois' agricultural land base from unnecessary state agency farmland conversion impacts.
  - B) Statutory Authority: Farmland Preservation Act [505 ILCS 75/1]
  - C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
  - D) Date agency anticipates First Notice: March, 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
  - F) Agency contact person for information:

Steve Chard  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, Illinois 62794-9281  
steve.chard@illinois.gov

217/785-2661  
fax: 217/557-0993
  - G) Related rulemaking and other pertinent information: None
- f) Part(s) (Heading and Code Citations): Sustainable Agriculture, 8 Ill. Adm. Code 750
  - 1) Rulemaking:

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

- A) Description: The intent of the Sustainable Agriculture Act to provide funding for the developmental research program that serves production agriculture in Illinois. The purpose of this rulemaking is to update Section 750.40 Guidelines for Research, Demonstration and Education Projects.
- B) Statutory Authority: Sustainable Agriculture Act [505 ILCS 135/1-5]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Mike Rahe  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, Illinois 62794-9281  
mike.rahe@illinois.gov
- 217/785-5594  
fax: 217/557-0993
- G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citations): Groundwater Use Guidelines, 8 Ill. Adm. Code 675

1) Rulemaking:

- A) Description: The intent of the Water Use Act is for Illinois' citizens to effectively manage and conserve groundwater, to restrict withdrawals of groundwater in emergencies and to mitigate groundwater shortage

## ILLINOIS DEPARTMENT OF AGRICULTURE

## JANUARY 2014 REGULATORY AGENDA

conflicts. The purpose of this rulemaking is to update all sections of the administrative rules for the Act.

- B) Statutory Authority: Water Use Act [525 ILCS 45/1]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date agency anticipates First Notice: July, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:

Steve Chard  
Illinois Department of Agriculture  
P.O. Box 19281  
Springfield, Illinois 62794-9281  
steve.chard@illinois.gov

217/785-2661  
fax: 217/557-0993

- G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citations): Weights and Measures Act, 8 Ill. Adm. Code 600

1) Rulemaking:

- A) Description: The purpose of this rulemaking is to add the "shallow-type pit scale" to vehicle scale installations and establish criteria for their installation. The rulemaking will also set up procedures for the condemnation of scales found to be incorrect by the Bureau. The rulemaking will also establish an application requirement prior to the installation of a vehicle scale, and allow a variance from the rules' requirements if there are circumstances beyond the owner's control.

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- B) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:

Douglas Rathbun  
Illinois Department of Agriculture  
P. O. Box 19281  
Springfield, IL 62794-9281

217/785-8300  
fax: 217/524-7801

- G) Related rulemakings and other pertinent information: The Department has worked closely with the Illinois Grain & Feed Association, Illinois Fertilizer & Chemical Association, and the Illinois Aggregate Producers Association.
- i) Part(s) (Heading and Code Citations): Forever Green Illinois Program, 8 Ill. Adm. Code 241
- 1) Rulemaking:
    - A) Description: Section 205-103 of the Civil Administrative Code of Illinois (20 ILCS 205/205-103) creates within the Department of Agriculture the Forever Green Illinois Program. The program is to be administered by the Department of Agriculture as provided in the Code and the rules. The program is established to maintain and beautify greenery on property owned or controlled by the State or a unit of local government. The program will consist of a series of pilot projects wherein the Department

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will execute cooperative agreements with a limited number of municipalities to remove a specified number of trees negatively impacting public and/or private property infrastructure and replant with more appropriate trees and/or shrubs.

- B) Statutory Authority: Forever Green Illinois Program [20 ILCS 205/205-103]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date agency anticipates First Notice: January 15, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The program will provide a limited amount of work in program pilot areas for a few small businesses which engage in the removal and replanting of trees and shrubs. In addition, the program will provide tree removal and replanting activities to a limited number of municipalities that cooperate with the Department to conduct pilot projects under the program.
- F) Agency contact person for information:
- Warren D. Goetsch  
Illinois Department of Agriculture  
P. O. Box 19281  
Springfield, IL 62794-9281
- 217/785-2427  
fax: 217/524-4882
- G) Related rulemakings and other pertinent information: Not applicable.
- j) Part(s) (Heading and Code Citations): Compassionate Use of Medical Cannabis Pilot Program Act, 8 Ill. Adm. Code 1000
- 1) Rulemaking:

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- A) Description: The Department of Agriculture is charged with registering and regulating the cultivation centers allowed in the Compassionate Use of Medical Cannabis Pilot Program Act. This rulemaking sets forth the requirements and criteria that will apply to registering cultivation centers, including providing oversight of the production of medical cannabis and cannabis infused products, and preventing theft and diversion of those products.
- B) Statutory Authority: Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rules in the *Illinois Register*.
- D) Date agency anticipates First Notice: May 1, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: May provide revenue streams with work force needs and peripheral industries associated with the cultivation centers.
- F) Agency contact person for information:
- Gerald Kirbach  
Illinois Department of Agriculture  
P. O. Box 19281  
Springfield, IL 62794-9281
- 217/785-8212  
fax: 217/524-7801
- G) Related rulemakings and other pertinent information: These rules will interface with the rulemaking by Department of Financial and Professional Regulation and the Department of Public Health.
- k) Part(s) (Heading and Code Citations): General Operations of the State Fairs and Fairgrounds, 8 Ill. Adm. Code 270
- 1) Rulemaking:

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- A) Description: This rulemaking assists in the efficient running of the Illinois State Fair by establishing clear standards for applying, reapplying, and paying for space rentals. This rulemaking also establishes operational hours for buildings and concessionaires and addresses guidelines for percentage rental contracts.
- B) Statutory Authority: State Fair Act [20 ILCS 210]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date agency anticipates First Notice: April 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Amy Bliefnick  
Illinois State Fair  
P. O. Box 19281  
Springfield, IL 62794-9281
- 217/782-0770  
fax: 217/782-9115
- G) Related rulemakings and other pertinent information: None

## CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

## JANUARY 2014 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citations): Chief Procurement Officer for General Services Standard Procurement, 44 Ill. Adm. Code 1
- 1) Rulemaking:
- A) Description: The Chief Procurement Officer for General Services anticipates amendment to the standard procurement rules to further implement the changes made by P.A. 96-795, P.A. 97-307, and P.A. 97-895, and to address other legislative changes made by the 98<sup>th</sup> General Assembly.
- B) Statutory Authority: 30 ILCS 500
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals may affect small businesses that contract with the State of Illinois.
- F) Agency contact person for information:
- Margaret L. van Dijk  
Senior Policy Advisor  
Chief Procurement Office for General Services  
712 Stratton Office Building  
Springfield, IL 62706
- 217/558-2228
- G) Related rulemakings and other pertinent information: None

## CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION

## JANUARY 2014 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citations): Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement, 44 Ill. Adm. Code 4
- 1) Rulemaking:
- A) Description: The Chief Procurement Officer for Higher Education anticipates amendment to the standard procurement rules to further implement the changes made by P.A. 96-795, P.A. 97-307, and P.A. 97-895, as well as to address any other legislative changes made by the 97<sup>th</sup> General Assembly.
- B) Statutory Authority: 30 ILCS 500
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals may affect small businesses that contract with the State of Illinois.
- F) Agency contact person for information:
- Shirley Webb  
Deputy Chief Procurement Officer  
Chief Procurement Office for Public Institutions of Higher Education  
522 Stratton Office Building  
401 S. Spring St.  
Springfield, IL 62706
- 217/558-2247
- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- a) Part Heading and Code Citation: Reports of Child Abuse and Neglect (89 IAC 300)
- 1) Rulemaking:
- A) Description: The Department is statutorily required to promulgate rules establishing the criteria and standards for labeling in the State Central Register an unfounded report of child abuse and/or neglect as an intentional false report. The proposed changes will permit the reporter to submit a statement regarding the report unless the reporter has been convicted of knowingly transmitting a false report of child abuse and/or neglect to the Department.
- Establishes that a minor who is a victim named in a report of child abuse and/or neglect sought to be amended or removed from the State Central Register, has the right to be participate in the hearing thru the minor's attorney or guardian ad litem, if such minor is the subject of a pending action under Article II of the Juvenile Court Act of 1987, and the report was made while the minor had a guardian ad litem appointed.
- B) Statutory Authority: PA 98-453 [325 ILCS 5/7.7]
- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

Email: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

G) Related Rulemaking and other pertinent information: None

b) Part Heading and Code Citation: Reports of Child Abuse and Neglect (89 IAC 300)

1) Rulemaking:

A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that for children and youth for whom the Department shall encourage contact and visitation. “Contact between siblings” and “visitation” are also defined. In addition, the definition of “relative” is expanded to include additional statutory language in Section 7 of the C&FS Act. Adds a training requirement for investigative staff regarding the importance of maintaining sibling relationships/attachments.

B) Statutory Authority: PA 97-1076 and [325 ILCS 5]

C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.

D) Date agency anticipates First Notice: Spring 2014

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

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- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.
- c) Part Heading and Code Citation: Placement and Visitation Services (89 IAC 301)
- 1) Rulemaking:
- A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that the children and youth for whom the Department is legally responsible shall be encouraged to maintain contact and visitation. “Contact between siblings” and “visitation” are updated. “Relative” is expanded to include additional statutory language in Section 7 of the C&FS Act. Adds “preservation of sibling relationships” as a factor in substitute care placement decisions. Adds a training requirement for all DCFS and POS placement and permanency staff regarding the importance of maintaining sibling relationships/attachments. Relative placement and sibling visitation requirements are updated to comply with the Act. New language is added that requires the Department to encourage and offer to assist adoptive parents/legal guardians to develop a written visitation/contact agreement to enable continued contact among all of the siblings, and to support implementation and maintenance of the agreement. In addition, new language was added that when one or more (but not all) siblings are adults or emancipated youth, the Department is required to offer to develop a written visitation/contact agreement to enable continued contact among all of the siblings.
- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]

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- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498
- Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.
- d) Part Heading and Code Citation: Services Delivered by the Department of Children and Family Services (89 IAC 302)
- 1) Rulemaking:

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- A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). The definition of “relative” is expanded to include additional statutory language in Section 7 of the C&FS Act. “Sibling” is broadened to comport with sibling contact legislation. In addition, the proposed amendments emphasize the importance of encouraging, preserving and supporting sibling relationships. Adds a training requirement for all DCFS and POS direct service, ACR and clinical staff, as well as pre-service and in service training for foster and adoptive families regarding the importance of maintaining sibling relationships/attachments.
- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
- C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498  
  
Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally

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Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.

e) Part Heading and Code Citation: Access to and Eligibility for Child Welfare Services (89 IAC 304)

1) Rulemaking:

A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart. The definition of “relative” is expanded to include additional statutory language in Section 7 of the C&FS Act.

B) Statutory Authority: PA 97-1076 and [20 ILCS 505]

C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.

D) Date agency anticipates First Notice: Spring 2014

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 –

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Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.

f) Part Heading and Code Citation: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 IAC 309)

1) Rulemaking:

A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Section 309.20 – Definitions: Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that for children and youth for whom the Department shall encourage contact and visitation. “Contact between siblings” and “visitation” are also defined. In addition, the definition of “relative” is added. Adds a training requirement for investigative staff regarding the importance of maintaining sibling relationships/attachments.

Section 309.30 – Recruitment of Adopted Families: Emphasizes the need to recruit adoptive homes that will accept sibling groups for placement and encourage and support sibling contact. Requires training for prospective adoptive parents and private guardians regarding the importance of maintaining sibling relationships/attachments.

Section 309.35 (New) – Good Faith Effort to Locate Siblings in Adoption and Subsidized Guardianship Placements: Requires adoption workers to make a good faith effort to locate siblings previously placed by DCFS in adoptive homes and private guardianship when seeking a placement of an “add on” child.

Section 309.40 – Adoption Listing Services: updates references to the Adoption Listing Services.

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Section 309.100 – Preparation of Children for Adoption: Requires adoption workers to gather and assess information about all known siblings and why siblings were placed apart (when applicable) when preparing children for adoption, and to make a diligent effort to place siblings together when the current caregiver is not a viable adoptive resource for the child.

Section 309.110 – Preparation and Training of Adoptive Families: When preparing and training adoptive families, the Department shall emphasize the child's sense of attachment to and the importance of maintaining a relationship with his/her siblings. Requires the worker to encourage the adoptive parents to develop a Post Permanency Sibling Contact Agreement.

Section 309.130 – Placement Considerations: Requires the worker to assess the prospective family's willingness to help and support the child in developing a relationship with siblings. A placement that can accept an entire sibling group shall be given priority.

Section 309.135 (New) – Post Permanency Sibling Contact Agreement: Describes the requirements of the Post Permanency Sibling Contact Agreement.

Section 3089.140 – Placement of Children with Adoptive Families: Requires the adoption worker to inform adoptive parents (or guardians) that they may be contacted in the future regarding placement of or contact with siblings subsequently requiring placement or requesting contact with their adopted siblings.

- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
- C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities and not for profit corporations: None

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.g) Part Heading and Code Citation: Permanency Planning (89 IAC 315)1) Rulemaking:A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that for children and youth for whom the Department shall encourage contact and visitation. “Contact between siblings” and “visitation” are also defined. In addition, the definition of “relative” is expanded to include additional statutory language in Section 7 of the C&FS Act. Requires that when considering “best interests” workers comply with placement selection, visitation and contact requirements set out in 89 IAC 301 (Placement and Visitation Services) and when encouraging post permanency sibling contact. When placing a sibling group, priority shall be given to a placement that can accept all of the

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members of the sibling group. When possible, priority shall be given to placement with a sibling who is already in substitute care, an adoptive placement or private guardianship. Deciding whether children shall be placed apart from siblings who are also placed in substitute care is a critical decision. Visitation and contact plans are developed and updated by the Child and Family Team at Family Meetings. New language is added to state that when a child enters substitute care or requires a placement change, the Dept shall consider the development and preservation of sibling relationships. Visitation and contact plan requirements are spelled out.

- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
- C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities and not for profit corporations: None
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption

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Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.

- h) Part Heading and Code Citation: Administrative Case Reviews and Court Hearings (89 IAC 316)
- 1) Rulemaking:
- A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that for children and youth for whom the Department shall encourage contact and visitation. “Contact between siblings” and “visitation” are also defined. ACRs shall ensure siblings are being placed together whenever possible, when they must be placed separately efforts continue to locate a placement that will accept all children and visitation/contact is occurring as per the Visitation and Contact Plan. Requires training for ACR staff regarding the importance of maintaining sibling relationships/attachments. More frequent ACRs may be scheduled when there has been failure to establish or fully implement a Visitation and Contact Plan. At each ACR, the caseworker shall present a copy of the Visitation and Contact Plan (or Post Permanency Sibling Contact Plan) and report on efforts made to encourage and maintain sibling relationships. Sets out timeframe for filing the initial Visitation and Contact plan with the court. Requires DCFS/POS agency to report on whether sibling visitation and contact is occurring as per the Plan at permanency hearings. Requires the caseworker to present a recommendation regarding the Visitation and Contact Plan at permanency hearings.
- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
- C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- E) Affect on small business, small municipalities and not for profit corporations: None
- F) Agency contact person for information:
- Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498
- Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 337 – Service Appeal Process; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.
- i) Part Heading and Code Citation: Intercountry Adoption Services (89 IAC 333)
- 1) Rulemaking:
- A) Description: The Department is amending this Part to comply with recent changes in the Illinois Adoption Act. These changes give specific actions the Department’s Intercountry Adoption Coordinator is to take for approving or denying a proposed adoption of a child from a foreign country or by a prospective adoptive parent in a foreign country, and necessary items to be included in the annual report to the General

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Assembly on these adoptions. It also provides a prospective parent the opportunity to request a review by the Director of a denial of an adoption.

- B) Statutory Authority: PA 098-0455 [750 ILCS 50]
- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: No additional cost is anticipated.
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

- G) Related Rulemaking and other pertinent information: None

j) Part Heading and Code Citation: Service Appeal Process (89 IAC 337)

- 1) Rulemaking:
  - A) Description: Implements the Illinois Religious Freedom Protection and Civil Union Act [750 ILCS 75/]. The definition of “relative” is updated to add civil union language.
  - B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
  - C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities and not for profit corporations: None
- F) Agency contact person for information:  
  
Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498  
  
Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 359 – Authorized Child Care Payments; and 89 IAC 402 – Licensing Standards for Foster Family Homes.
- k) Part Heading and Code Citation: Authorized Child Care Payments (89 IAC 359)
- 1) Rulemaking:
- A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that for children and youth for whom the Department shall encourage contact and visitation. “Contact between

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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siblings” and “visitation” are also defined. In addition, the definition of “relative” is expanded to include additional statutory language in Section 7 of the C&FS Act.

- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
- C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities and not for profit corporations: None
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337 – Service Appeal Process; and 89 IAC 402 – Licensing Standards for Foster Family Homes.

- 1) Part Heading and Code Citation: Background Checks (89 IAC 385)

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- 1) Rulemaking:
  - A) Description: The Department is amending the list of convections in this Part to update changes to the Criminal Code.
  - B) Statutory Authority: 720 ILCS 5/12
  - C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
  - D) Date agency anticipates First Notice: Spring 2014
  - E) Affect on small business, small municipalities or not for profit corporations: No additional costs are anticipated.
  - F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
  - G) Related Rulemaking and other pertinent information: None
- m) Part Heading and Code Citation: Licensing Standards for Child Welfare Agencies (89 IAC 401)
  - 1) Rulemaking:
    - A) Description: Changes will reflect that records can also be maintained in electronic (digital) format.
    - B) Statutory Authority: 5 ILCS 160

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- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498  
Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
- G) Related Rulemaking and other pertinent information: The Department will make similar changes in 89 IAC 436 – Records Management.
- n) Part Heading and Code Citation: Licensing Standards for Foster Family Homes (89 IAC 402)
- 1) Rulemaking:
- A) Description: Implements Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency). Definitions of “adopted child”, “child placed in private guardianship” and “siblings” are clarified to reflect that for children and youth for whom the Department shall encourage contact and visitation. “Contact between siblings” and “visitation” are also defined. In addition, the definition of “relative” is expanded to include additional statutory language in Section 7 of the C&FS Act. Requires pre-licensure training for foster parents regarding the importance of maintaining sibling relationships over the child’s lifespan. Requires assessment of their understanding of and willingness to support the child’s family connections, and encourages

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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them to transport and supervise family visits whenever possible to become better acquainted with the child's siblings and family members. A placement that can accept an entire sibling group shall be given priority to a placement option that will accept only some of the group. Requires foster parents to make every effort to preserve family ties, and help and support children in developing a relationship with their siblings.

- B) Statutory Authority: PA 97-1076 and [20 ILCS 505]
- C) Scheduled meetings/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities and not for profit corporations: None
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

- G) Related Rulemaking and other pertinent information: This rulemaking is part of 10 rulemakings related to sibling placement. The other Parts include: 89 IAC 300 – Reports of Child Abuse and Neglect; 89 IAC 301 – Placement and Visitation Services; 89 IAC 302 – Services Delivered by the Department of Children and Family Services; 89 IAC 304 – Access and Eligibility for Child Welfare Services; 89 IAC 309 – Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible; 89 IAC 315 – Permanency Planning; 89 IAC 316 – Administrative Case Reviews and Court Hearings; 89 IAC 337

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– Service Appeal Process; and 89 IAC 359 – Authorized Child Care Payments.

o) Part Heading and Code Citation: Licensing Standards for Foster Family Homes (89 IAC 402)

1) Rulemaking:

A) Description: Implement changes to the Child Care Act of 1969 that were affected by PA 97-874, that provide changes in the evaluation of convictions that bar licensure as a foster family home.

B) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]

C) Scheduled meeting/hearing dates: The Department has schedule no meetings or hearings at this time for this rulemaking.

D) Date agency anticipates First Notice: Spring 2014

E) Affect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983

Fax: 217/557-0692

Email: cfpolicy@idcfs.state.il.us

G) Related Rulemaking and other pertinent information: None

p) Part Heading and Code Citation: Licensing Standards for Group Homes (89 IAC 403)

1) Rulemaking:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- A) Description: The Department is amending this Part providing Deemed Status to those group homes that are COA accredited and in good standing; similar to provisions in previously adopted in 89 IAC 404, Licensing Standards for Child Care Institutions and Maternity Centers.
- B) Statutory Authority: 225 ILCS 10
- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

- G) Related Rulemaking and other pertinent information: None

q) Part Heading and Code Citation: Licensing Standards for Day Care Homes (89 IAC 406)

1) Rulemaking:

- A) Description: Implements the requirements in the Child Care Act that requires those caregivers licensed to care for newborns and infants complete training every 3 years on Sudden Unexpected Infant Death (SUID); Sudden Infant Death Syndrome (SIDS); and safe sleep recommendations of the American Academy of Pediatrics.

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Previous amendments to these rules required some of the required training for all new applicants, now we are including all the training requirements not only to new applicants but to all those already licensed who care for newborns and infants.

- B) Statutory Authority: 225 ILCS 10/7
- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: Child Care Resources and Referral agencies will facilitate training.
- F) Agency contact person for information:  
  
Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498  
  
Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
- G) Related Rulemaking and other pertinent information: The Department is making the same changes in 89 IAC 408 – Licensing Standards for Group Day Care Homes.

r) Part Heading and Code Citation: Licensing Standards for Day Care Centers (89 IAC 407)

1) Rulemaking:

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- A) Description: The Department has undertaken a comprehensive review of this Part to ensure the current rules are accurate, up-to-date, and appropriate.
- B) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]
- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings have at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

- G) Related Rulemaking and other pertinent information: None

s) Part Heading and Code Citation: Licensing Standards for Group Day Care Homes (89 IAC 408)

1) Rulemaking:

- A) Description: Implements the requirements in the Child Care Act that requires those caregivers licensed to care for newborns and infants complete training every 3 years on Sudden Unexpected Infant Death (SUID); Sudden Infant Death Syndrome (SIDS); and safe sleep recommendations of the American Academy of Pediatrics.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Previous amendments to these rules required some of the required training for all new applicants, now we are including all the training requirements not only to new applicants but to all those already licensed who care for newborns and infants.

- B) Statutory Authority: 225 ILCS 10/7
- C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
- D) Date agency anticipates First Notice: Spring 2014
- E) Affect on small business, small municipalities or not for profit corporations: Child Care Resources and Referral agencies will facilitate training.
- F) Agency contact person for information:

Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us

- G) Related Rulemaking and other pertinent information: The Department is making the same changes in 89 IAC 406 – Licensing Standards for Day Care Homes.
- t) Part Heading and Code Citation: Department Advisory Groups (89 IAC 428)
- 1) Rulemaking:
    - A) Description: The list of advisory groups included in this Part need to be updated.

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- B) Statutory Authority: 20 ILCS 505/5
  - C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
  - D) Date agency anticipates First Notice: Spring 2014
  - E) Affect on small business, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:  
  
Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498  
  
Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: cfpolicy@idcfs.state.il.us
  - G) Related Rulemaking and other pertinent information: None
- u) Part Heading and Code Citation: Records Management (89 IAC 436)
- 1) Rulemaking:
    - A) Description: Changes will reflect that records can also be maintained in electronic (digital) format.
    - B) Statutory Authority: 5 ILCS 160
    - C) Scheduled meeting/hearing dates: The Department has scheduled no meetings or hearings at this time for this rulemaking.
    - D) Date agency anticipates First Notice: Spring 2014

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- E) Affect on small business, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Jeff Osowski  
Department of Children and Family Services  
Office of Child and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498
- Telephone: 217/524-1983  
Fax: 217/557-0692  
Email: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)
- G) Related Rulemaking and other pertinent information: The Department will make similar changes in 89 IAC 401 – Licensing Standards for Child Welfare Agencies.

## EXECUTIVE ETHICS COMMISSION

## JANUARY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Organization, Information, Rulemaking and Hearings, 2 Ill. Adm. Code 1620

1) Rulemaking:

A) Description: The amendments will incorporate the provisions of PA 96-1528 that added regional transit boards to the State Officials and Employees Ethics Act.

B) Statutory Authority: State Officials and Employees Ethics Act [5 ILCS 430]

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: The Commission anticipates filing the proposed rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Chad Fornoff  
Executive Director  
Executive Ethics Commission  
401 S. Spring St.  
513 William Stratton Building  
Springfield, IL 62706

217/558-1393

G) Related rulemakings and other pertinent information: None

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## JANUARY 2014 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Public Information, Rulemaking and Organization, 2 Ill. Adm. Code 1800
- 1) Rulemaking: Proposed Amendment
- A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.
- B) Statutory Authority: Implementing the Illinois Administrative Procedure Act (5 ILCS 100).
- C) Scheduled meeting/hearing dates: None Scheduled.
- D) Date agency anticipates First Notice: Spring 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.
- F) Agency contact person for information:
- Traci Burton  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, IL 62704
- Telephone: 217/524-0770  
Fax: 217/524-3698
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Public Information, Rulemaking and Organization, 2 Ill. Adm. Code 1075
- 1) Rulemaking: Proposed Repealer

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- A) Description: The Agency is proposing this rulemaking to repeal outdated regulations in light of the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.
- B) Statutory Authority: Implementing the Illinois Administrative Procedure Act (5 ILCS 100).
- C) Scheduled meeting/hearing dates: None Scheduled.
- D) Date agency anticipates First Notice: Spring 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.
- F) Agency contact person for information:

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

Telephone: 217/524-0770  
Fax: 217/524-3698

- G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Freedom of Information Procedures, 2 Ill. Adm. Code 1076

1) Rulemaking: Proposed Repealer

- A) Description: The Agency is proposing this rulemaking to repeal outdated regulations to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.
- B) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

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## JANUARY 2014 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: Spring 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.
- F) Agency contact person for information:

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

Telephone: 217/524-0770  
Fax: 217/524-3698

Related rulemakings and other pertinent information: None

- d) Part (Heading and Code Citation): Standards for Protection against Laser Radiation, 32 Ill. Adm. Code 315
  - 1) Rulemaking: Proposed Amendment
    - A) Description: The Agency is proposing this rulemaking to update outdated references.
    - B) Statutory Authority: Implementing and authorized by the Laser System Act of 1997 [420 ILCS 56].
    - C) Scheduled meeting/hearing dates: None scheduled
    - D) Date Agency anticipates First Notice: Spring 2014
    - E) Effect on small businesses, small municipalities or not for profit corporations: The Agency does not believe this rulemaking will affect small businesses, small municipalities, and not for profit corporations.

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

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

Telephone: 217/524-0770

Fax: 217/524-3698

G) Related rulemakings and other pertinent information: Nonee) Part (Heading and Code Citation): Fees for Calibration Services, 32 Ill. Adm. Code 3331) Rulemaking: Proposed Amendment

- A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety. All references to the “Department” will be changed to “Agency.” In addition, this proposed amendment will include a provision for the calibration of personal radiation detectors.
- B) Statutory Authority: Implementing and authorized by Section 25(g) of the Radiation Protection Act of 1990 (Ill. Rev. Stat. 1991, ch. 111½, par. 210-25(g)) [420 ILCS 40/25(g)].
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Spring 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The Agency does not usually get outside or commercial business, so there should be little to no impact on small businesses. Municipalities do not typically own radiation detection instruments except for the Personal Radiation Detectors issued to fire departments and law enforcement agencies under the Illinois Terrorism Task Force/Preventive Radiological and Nuclear Detection program, the cost of calibration (on a

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## JANUARY 2014 REGULATORY AGENDA

3 year cycle) for those will likely be covered by a homeland security grant. Therefore, there should be little or no impact, other than shipping costs, for small municipalities.

F) Agency contact person for information:

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

Telephone: 217/524-0770

Fax: 217/524-3698

G) Related rulemakings and other pertinent information: Nonef) Part (Heading and Code Citation): Fees for By-Product Material Licenses, 32 Ill. Adm. Code 3341) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety. All references to the "Department" will be changed to "Agency."

B) Statutory Authority: Implementing and authorized by the Uranium and Thorium Mill Tailings Control Act (see P.A. 88-638, effective September 9, 1994 [420 ILCS 42]).

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: Spring 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency contact person for information:

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## JANUARY 2014 REGULATORY AGENDA

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

Telephone: 217/524-0770  
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Certification and Operation of Radiochemistry Laboratories, 32 Ill. Adm. Code 406

1) Rulemaking: Proposed Repealer

A) Description: The Agency is proposing this rulemaking to repeal an outdated regulation.

B) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 5] and authorized by Sections 55.10 through 55.12 and Section 71 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12, and 20 ILCS 2005/71(D)].

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: Spring 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency contact person for information:

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

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## JANUARY 2014 REGULATORY AGENDA

Telephone: 217/524-0770

Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Access to Facilities for Treatment, Storage, or Disposal of Low-Level Radioactive Waste, 32 Ill. Adm. Code 609

1) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety. All references to the “Department” will be changed to “Agency.”

B) 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).

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: Spring 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency contact person for information:

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

Telephone: 217/524-0770

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## JANUARY 2014 REGULATORY AGENDA

Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Financial Assurance Requirements, 32 Ill. Adm. Code 326

1) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety; remove the option of Certificate of Deposit; update dollar values of parent company and self guarantees from 1980's to present day; and establish the trust requirements.

B) Statutory Authority: Radiation Protection Act of 1990 [420 ILCS 40]

C) Scheduled meeting/hearing dates: None Scheduled.

D) Date agency anticipates First Notice: Summer 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Removing the CD option will affect 6 licenses. It is anticipated these licensees will be able to obtain a Letter of Credit from the same banking institution by using the CD as collateral. Requiring a trust account to be established, in the case of bankruptcy, will put funds in a specific account to be used only for decommissioning.

F) Agency contact person for information:

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

Telephone: 217/524-0770  
Fax: 217/524-3698

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Political Subdivision Emergency Services and Disaster Agencies, 29 Ill. Adm. Code 301
- 1) Rulemaking: Proposed Amendment
- A) Description: This proposed rulemaking will include requirements for including provisions in emergency operations plans for functional needs populations and an amendment to satisfy P.A. 094-0733. In addition, language will be amended to reflect compliance with the National Incident Management System, changes to IEMA's grant program, and changes in EOP requirements.
- B) Statutory Authority: Implements the Illinois Emergency Management Agency Act [20 ILCS 3305].
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Summer 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking may affect small municipalities with special needs populations. Depending on the circumstances, small municipalities may have to adjust emergency operation plans to comply with this Part and the National Incident Management System.
- F) Agency contact person for information:
- Traci Burton  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, IL 62704
- Telephone: 217/524-0770  
Fax: 217/524-3698
- G) Related rulemakings and other pertinent information: None

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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- k) Part (Heading and Code Citation): Emergency and Written Notification of an Incident or Accident Involving a Reportable Hazardous Substance, 29 Ill. Adm. Code 430
- 1) Rulemaking: Proposed Amendment
- A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety and to update references to Federal regulations.
- B) Statutory Authority: Implementing "AN ACT to require labeling of equipment and facilities for the use, transportation, storage and manufacture of hazardous materials and to provide for a uniform response system to hazardous materials emergencies." Section 304 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11004) and authorized by the Illinois Emergency Management Agency Act [20 ILCS 3305].
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Summer 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.
- F) Agency contact person for information:
- Traci Burton  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, IL 62704
- Telephone: 217/524-0770  
Fax: 217/524-3698
- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): General Application, 56 Ill. Adm. Code 2712
- 1) Rulemaking:
- A) Description: The Department is considering rulemaking which would allow it to update a claimant's or an employer's mailing address based on information received from the U.S. Postal Service.
- The Department is considering rulemaking to allow certain notices to be provided electronically.
- B) Statutory Authority: Sections 802, 804, 1510, 1700, 1701 and 1900 of the Unemployment Insurance Act [820 ILCS 405/802, 804, 1510, 1700, 1701 and 1900].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals could save all businesses time by not making them wait for mail deliveries. The rulemaking to allow the Department to update an employer's mailing address based on information from the U.S. Postal Service would potentially affect all businesses.
- F) Agency contact person for information:
- Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603
- 312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Claims, Adjudication, Appeals And Hearings, 56 Ill. Adm. Code 2720

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

1) Rulemaking:

- A) Description: The Department is considering requiring that claimants seeking a dependent child allowance provide the social security number of their youngest child.

The Department is considering rulemaking to elaborate on the means by which individuals can claim benefits.

The Department is considering revising the rule regarding documentation/information required of a claimant.

The Department is considering revising the requirements for documenting a claimant's work search.

The Department is considering rulemaking which would allow it to update a claimant's or an employer's mailing address based on information received from the U.S. Postal Service.

The Department is considering rulemaking to allow certain notices to be provided electronically.

Pursuant to the authority granted to it by a recent amendment to Section 702 of the Act, the Department is considering rulemaking to require certain larger employers and some employer representatives to file their benefit claim protests electronically.

The Department is considering revisions regarding the grounds for reopening a benefit appeal hearing where a party has failed to appear, for granting a continuance of a benefit appeal hearing and for the Board of Review to remand a case in which the referee has defaulted a party.

- B) Statutory Authority: Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals would allow the Department to update any employer's mailing address based on information from the U.S. Postal Service, would give all employers an additional option for receiving certain notices, could require some smaller employer representatives to file claim protests electronically and could alter the benefit appeal process for all parties.
- F) Agency contact person for information:  
  
Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603  
  
312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Administrative Hearings and Appeals, 56 Ill. Adm. Code 2725
- 1) Rulemaking:
- A) Description: The Department is considering rulemaking to allow certain notices to be provided electronically.
- B) Statutory Authority: Sections 701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304 and 2305 of the Illinois Unemployment Insurance Act [820 ILCS 405/ 701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304 and 2305].

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals would give all employers an additional option for receiving certain notices.
- F) Agency contact person for information:
- Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603
- 312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Notices, Records, Reports, 56 Ill. Adm. Code 2760
- 1) Rulemaking:
- A) Description: The Department is considering providing that refunds of overpaid contributions only be made electronically.
- The Department is considering changing the period for which an employer would be required to submit wage reports electronically/monthly where the employer's headcount for a calendar year met the mandatory electronic reporting threshold. Currently, an employer is subject to mandatory electronic/monthly reporting for the immediately succeeding calendar year. Under the change being considered, the employer would be subject to mandatory electronic/monthly reporting for the period beginning July 1 of the immediately succeeding calendar year through June 30 of the second succeeding calendar year.

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

- B) Statutory Authority: Sections 204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals would save all businesses time by not making them wait for mail deliveries and allow for smoother transitions regarding employers who are either newly subject or no longer subject to the electronic/monthly reporting requirements based on their headcounts for a calendar year.
- F) Agency contact person for information:
- Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603
- 312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Payment Of Unemployment Contributions, Interest And Penalties, 56 Ill. Adm. Code 2765
- 1) Rulemaking:
- A) Description: The Department is considering rulemaking to construe a recent amendment to Section 706 of the Unemployment Insurance Act penalizing employers whose failure to provide timely information to the Department under certain circumstances results in benefit overpayments.

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

The Department is considering rulemaking to clarify the temporary waivers for certain employers required to submit monthly wage reports.

The Department is also considering a provision to waive the late filing penalty for an electronic wage report that does not post to the Department's system by the deadline, if the failure to post timely is not the fault of the employer.

- B) Statutory Authority: Sections 212, 302, 500, 601, 602, 603, 612, 701, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposals would clarify statutory provisions potentially affecting all businesses, as well as certain temporary waivers, and provide relief from late filing penalties under certain circumstances for employers that file their wage reports electronically.
- F) Agency contact person for information:
- Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603
- 312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Determination of Unemployment Contributions, 56 Ill. Adm. Code 2770

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

1) Rulemaking:

- A) Description: Effective for years subsequent to 2012, the Department will revise Section 2770.101(a)(2) to reflect the new version of the North American Industry Classification System Manual it will use to calculate average contribution rates by industrial classifications.
- B) Statutory Authority: Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed rulemaking would not be expected to have any impact on employers.
- F) Agency contact person for information:  
  
Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603  
  
312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None

g) Part(s) (Heading and Code Citation): Payment of Benefits, 56 Ill. Adm. Code 28301) Rulemaking:

- A) Description: The Department is considering revising the rules regarding the mailing of benefits checks given the advent of electronic payments.

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

- B) Statutory Authority: Sections 400, 401, 404, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/400, 401, 404, 1700 and 1701].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed rulemaking should have no impact on employers.
- F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603

312/793-4240  
Gregory.Ramel@illinois.gov

- G) Related rulemaking and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Claimant's Availability For Work, Ability To Work And Active Search For Work, 56 Ill. Adm. Code 2865
- 1) Rulemaking:
- A) Description: The Department is considering clarifying what constitutes registration with the Employment Service and also revising the requirements for documenting a claimant's work search.
- B) Statutory Authority: Sections 409. 500, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/409, 500, 1700 and 1701].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014

## DEPARTMENT OF EMPLOYMENT SECURITY

## JANUARY 2014 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed rulemaking should have no direct impact on employers.
- F) Agency contact person for information:
- Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street - 9th Floor  
Chicago, IL 60603
- 312/793-4240  
Gregory.Ramel@illinois.gov
- G) Related rulemaking and other pertinent information: None

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

**I. DIVISION OF BANKING**

a) Part(s) (Heading and Code Citation): Bank Branches and Subsidiaries (38 Ill. Adm. Code 305)

1) Rulemaking:

A) Description: Amendments to this Part will be initiated in order to implement PA 98-0044, which amended Section 5(12) of the Illinois Banking Act. The statutory revisions allow the Department to designate types of subsidiaries that are not subject to the notice requirement that Section 5(12) otherwise requires.

B) Statutory Authority: Illinois Banking Act [205 ILCS 5/5(12), 5(15) and 48(6)]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Calculation, Assessment of Collection of Periodic Fees (38 Ill. Adm. Code 375)

1) Rulemaking:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- A) Description: Pursuant to PA 96-1365, certain institutions or trust companies operating under either the authority of the Foreign Banking Office Act, or the Corporate Fiduciary Act will be subject to a periodic assessment which shall be collected to fund the receivership costs associated with the resolution of a non-insured institution. The assessment will be suspended once the balance in the fund reaches a statutorily designated amount, currently \$4,000,000. Should the fund be depleted below the designated amount, the assessment will be reinstated until the designated balance is reestablished.
- B) Statutory Authority: Illinois Banking Act [205 ILCS 5/48(3)], Foreign Banking Office Act [205 ILCS 645/17], Foreign Bank Representative Office Act [205 ILCS 650/4 and 8], Corporate Fiduciary Act [205 ILCS 620/5-10]
- C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
  
217/785-0813 Fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None

**II. DIVISION OF PROFESSIONAL REGULATION**

- a) Part(s) (Heading and Code Citation): Illinois Athletic Trainers Practice Act (68 Ill. Adm. Code 1160)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

- 1) Rulemaking:
  - A) Description: Technical clean-up changes may be made.
  - B) Statutory Authority: Illinois Athletic Trainers Practice Act [225 ILCS 5]
  - C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
  - D) Date agency anticipates First Notice: Unknown
  - E) Effect on small businesses, small municipalities or not for profit corporations: Licensed athletic trainers may be affected.
  - F) Agency contact person for information:

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

217/785-0813 Fax: 217/557-4451
  - G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 (68 Ill. Adm. Code 1175)
  - 1) Rulemaking:
    - A) Description: Public Act 98-238 now allows cosmetology schools to provide barber courses that had been only permitted to be taught at barber colleges. Additional technical updates and clean-up changes may also be made.
    - B) Statutory Authority: Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410]

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed barbers, cosmetologists, estheticians, hair braiders, and nail technicians may be affected.
- F) Agency contact person for information:

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

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

- G) Related rulemakings and other pertinent information: None

- c) Part(s) (Heading and Code Citation): Professional Counselor and Clinical Professional Counselor Licensing Act (68 Ill. Adm. Code 1375)

- 1) Rulemaking:

- A) Description: Various sections will be amended to address changes as a result of PA 97-706, the sunset reauthorization of the Act. Technical clean-up changes may also be made.
- B) Statutory Authority: Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]
- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed professional counselors may be affected.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: Noned) Part(s) (Heading and Code Citation): Environmental Health Practitioner Licensing Act (68 Ill. Adm. Code 1247)1) Rulemaking:

A) Description: Technical clean-up changes may be made.

B) Statutory Authority: Environmental Health Practitioner Licensing Act [225 ILCS 37]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Those licensees providing the services of environmental health practitioners may be affected.

F) Agency contact person for information:

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

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Professional Geologist Licensing Act (68 Ill. Adm. Code 1252)

1) Rulemaking:

A) Description: Technical clean up language including changes reflecting the consolidation of the Department of Financial and Professional Regulation will be needed.

B) Statutory Authority: Professional Geologist Licensing Act [225 ILCS 745]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: February 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed geologists may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Home Medical Equipment and Services Provider License Act (68 Ill. Adm. Code 1253)

1) Rulemaking:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

- A) Description: Technical clean up language including changes reflecting the consolidation of the Department of Financial and Professional Regulation will be needed.
- B) Statutory Authority: Home Medical Equipment and Services Provider License Act [225 ILCS 51]
- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed home medical equipment providers may be affected.
- F) Agency contact person for information:

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

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

- G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Humane Euthanasia in Animal Shelters Act (68 Ill. Adm. Code 1248)

1) Rulemaking:

- A) Description: Public Act 96-780 requires the Department to adopt rules defining "recognized methods for the humane euthanasia of companion animals".
- B) Statutory Authority: Humane Euthanasia in Animal Shelters Act [510 ILCS 72]

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- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: June 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Those licensed entities that operate within the scope of the Humane Euthanasia in Animal Shelters Act may be affected.
- F) Agency contact person for information:

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

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

- G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Medical Practice Act of 1987 (68 Ill. Adm. Code 1285)

1) Rulemaking:

- A) Description: A complete rewrite of the rules will be proposed mostly due to their age, but also due to several amendments to the Act over the last five years.
- B) Statutory Authority: Medical Practice Act of 1987 [225 ILCS 60]
- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: May 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Those licensed to practice medicine as well as entities conducting business within the medical field may be affected.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: Nonei) Part(s) (Heading and Code Citation): Naprapathic Practice Act (68 Ill. Adm. Code 1295)1) Rulemaking:

A) Description: Various sections may be amended to address changes as a result of PA 97-778, the sunset reauthorization of the Act. Also, technical clean up language including changes reflecting the consolidation of the Department of Financial and Professional Regulation.

B) Statutory Authority: Naprapathic Practice Act [225 ILCS 63]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed naprapaths may be affected.

F) Agency contact person for information:

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

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Nurse Practice Act (68 Ill Adm. Code 1300)

1) Rulemaking:

A) Description: Section 1300.30 will be amended to increase the application and renewal fees for RNs and LPNs. This increase is necessary to fully cover the costs of the Nurse Education Scholarships (currently about \$1.1 million a year) handed out by Department of Public Health (DPH), but is funded from DFPR's Nursing Fund. Without either a fee increase or a decrease in funding for the scholarship program, the Nursing Fund will begin running into the red in the next fiscal year or two.

B) Statutory Authority: Nurse Practice Act [225 ILCS 65]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: January 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Individuals applying for licensure or licensed under this Act may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

k) Part(s) (Heading and Code Citation): Nursing Home Administrators Licensing and Disciplinary Act (68 Ill. Adm. Code 1310)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

- 1) Rulemaking:
  - A) Description: Technical clean-up changes may be made, including changes reflecting the consolidation of the Department of Financial and Professional Regulation.
  - B) Statutory Authority: Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
  - C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
  - D) Date agency anticipates First Notice: May 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: Nursing home administrators may be affected.
  - F) Agency contact person for information:

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

217/785-0813 Fax: 217/557-4451
  - G) Related rulemakings and other pertinent information: None
- 1) Part(s) (Heading and Code Citation): Illinois Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320)
  - 1) Rulemaking:
    - A) Description: Technical clean-up changes may be made.
    - B) Statutory Authority: Illinois Optometric Practice Act of 1987 [225 ILCS 80]

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed optometrists may be affected.
- F) Agency contact person for information:

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

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

- G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Perfusionist Practice Act (68 Ill. Adm. Code 1335)

1) Rulemaking:

- A) Description: Various sections may be amended as a result of PA 96-682, the sunset reauthorization of the Act. Technical clean up language including changes reflecting the consolidation of the Department of Financial and Professional Regulation will also be made.
- B) Statutory Authority: Illinois Perfusionist Practice Act [225 ILCS 125]
- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed perfusionists may be affected.
- F) Agency contact person for information:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

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

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

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation): Illinois Physical Therapy Practice Act (68 Ill. Adm. Code 1340)

1) Rulemaking:

A) Description: The Continuing Education (CE) requirements for Physical Therapists (PTs) and Physical Therapist Assistants (PTAs) will in the future include at least 3 hours on the ethical practice of physical therapy, and may also include up to 5 hours of skills certification courses such as Basic Life Support or CPR. Additional clean up changes will be made and other changes made to reflect standard Department language and procedures.

B) Statutory Authority: Illinois Physical Therapy Practice Act [225 ILCS 90]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: January 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed physical therapists may be affected.

F) Agency contact person for information:

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

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

G) Related rulemakings and other pertinent information: Noneo) Part(s) (Heading and Code Citation): Clinical Psychologist Licensing Act (68 Ill. Adm. Code 1400)1) Rulemaking:A) Description: This Part will be amended to include provisions relating to sponsors and out-of-state continuing education. Technical clean-up changes may also be made.B) Statutory Authority: Clinical Psychologist Licensing Act [225 ILCS 15]C) Schedule meeting/hearing date: No hearings have been scheduled.D) Date agency anticipates First Notice: April 2014E) Effect on small businesses, small municipalities or not for profit corporations: Licensed clinical psychologists may be affected.F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: Nonep) Part(s) (Heading and Code Citation): Respiratory Care Practice Act (68 Ill. Adm. Code 1456)1) Rulemaking:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## JANUARY 2014 REGULATORY AGENDA

- A) Description: Clarification may be added pertaining to scope of practice; technical clean-up changes may also be made.
- B) Statutory Authority: Respiratory Care Practice Act [225 ILCS 106]
- C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Licensed respiratory care practitioners may be affected.
- F) Agency contact person for information:

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

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

- G) Related rulemakings and other pertinent information: None
- q) Part(s) (Heading and Code Citation): Illinois Speech-Language Pathology and Audiology Practice Act (68 Ill. Adm. Code 1465)
- 1) Rulemaking:
    - A) Description: Technical clean-up changes may be made.
    - B) Statutory Authority: Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]
    - C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.
    - D) Date agency anticipates First Notice: Unknown

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2014 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed speech-language pathologists, assistants, and audiologists may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

a) Part: Rights and Responsibilities (89 Ill. Adm. Code 102)1) Rulemaking:

- A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438)
- B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- b) Part: Practice in Administrative Hearings (89 Ill. Adm. Code 104)
- 1) Rulemaking:
- A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438)
- B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- c) Part: Medical Assistance Programs (89 Ill. Adm. Code 120)
- 1) Rulemaking:
- A) Description: Proposed amendments are anticipated to eliminate the requirement that a redetermination vendor make a preliminary determination of eligibility for long term care residents who were at or below the applicable financial eligibility standards at the time of their last eligibility review. Other amendments are anticipated to reflect various recent statutory changes related to eligibility for medical assistance.
- B) Statutory Authority: Authorized by 305 ILCS 5/11-5.3 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: Noned) Part: Covering All Kids Health Insurance Program (89 Ill. Adm. Code 123)1) Rulemaking:

A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438)

B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code.

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Affect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

Springfield, Illinois 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: Nonee) Part: Children's Health Insurance Program (89 Ill. Adm. Code 125)1) Rulemaking:

- A) Description: Proposed amendments are anticipated to reflect various recent statutory changes related to eligibility for All Kids Share and All Kids Premium Level 1 benefits.
- B) Statutory Authority: Authorized by 215 ILCS 106/15 and 305 ILCS 5/11-5.3 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Affect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

217/782-1233

G) Related rulemakings and other pertinent information: None1) Rulemaking:

- A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438)
- B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

217/782-1233

G) Related rulemakings and other pertinent information: Nonef) Part: Medical Payment (89 Ill. Adm. Code 140)1) Rulemaking:

- A) Description: Proposed amendments are anticipated that define what is considered a “dental emergency” for purposes of Medicaid reimbursement.
- B) Statutory Authority: Authorized by 305 ILCS 5/5-5f of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

1) Rulemaking:

- A) Description: Proposed amendments are anticipated to provide Medicaid coverage of comprehensive tobacco cessation services for pregnant women and children under the age of 21 without cost sharing.
- B) Statutory Authority: Authorized by section 4107 of the Patient Protection and Affordable Care Act, P.L. 111-148.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- 1) Rulemaking:
- A) Description: Proposed amendments are anticipated to allow a provider one year from date of service for claim payment when the provider is operated by a unit of local government with a population exceeding 3,000,000 and the local government funds finance federal participation for claims payment.
- B) Statutory Authority: Authorized by 305 ILCS 5/5-5 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Affect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None
- 1) Rulemaking:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- A) Description: Proposed amendments are anticipated to restructure the payment methodology for Medicaid inpatient and outpatient hospital rates.
- B) Statutory Authority: Authorized by 305 ILCS 5/14-11 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None
- 1) Rulemaking:
- A) Description: Proposed amendments are anticipated to make the co-payment regulations consistent with federal regulations implemented in the Fall 2013.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- B) Statutory Authority: Authorized by Section 12-13 of the Public Aid Code [305 ILCS 5/12-13].
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None

g) Part: Managed Care Community Networks (89 Ill. Adm. Code 143)

1) Rulemaking:

- A) Description: Proposed amendments are anticipated to exempt Cook County and the University of Illinois from some of the net worth requirements established for managed care community networks.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- B) Statutory Authority: Authorized by 305 ILCS 5/12-13 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None
- h) Part: Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)
- 1) Rulemaking:
- A) Description: Proposed amendments are anticipated to restructure the payment methodology for Medicaid inpatient and outpatient hospital rates.
- B) Statutory Authority: Authorized by 305 ILCS 5/14-11 of the Illinois Public Aid Code.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

- G) Related rulemakings and other pertinent information: None

- 1) Rulemaking:

- A) Description: For purposes of administrative hearings, proposed amendments are anticipated to correct outdated information and make changes for clarity.
- B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:  
Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
  
217/782-1233
- G) Related rulemakings and other pertinent information: None
- i) Part: Hospital Services (89 Ill. Adm. Code 148)
- 1) Rulemaking:
- A) Description: Proposed amendments are anticipated to make Medicaid enhancement payments to qualified academic medical centers meeting specified criteria outlined in 305 ILCS 5/5-5e.2, 305 ILCS 5/5-31 and 305 ILCS 5/5-32 of the Illinois Public Aid Code.
- B) Statutory Authority: Authorized by 305 ILCS 5/5-5e.2, 305 ILCS /5-31 and 305 ILCS 5/5-32 of the Illinois Public Aid Code.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

- G) Related rulemakings and other pertinent information: None

1) Rulemaking:

- A) Description: Proposed amendments are anticipated to restructure the payment methodology for Medicaid inpatient and outpatient hospital rates.
- B) Statutory Authority: Authorized by 305 ILCS 5/14-11 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None

1) Rulemaking:

- A) Description: Proposed amendments are anticipated to make the co-payment regulations consistent with federal regulations implemented in the Fall 2013.
- B) Statutory Authority: Authorized by Section 12-13 of the Public Aid Code [305 ILCS 5/12-13].
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None
- j) Part: Diagnosis Related Grouping (DRG) Prospective Payment System (89 Ill. Adm. Code 149)
- 1) Rulemaking:
- A) Description: Proposed amendments are anticipated to restructure the payment methodology for Medicaid inpatient and outpatient hospital rates.
- B) Statutory Authority: Authorized by 305 ILCS 5/14-11 of the Illinois Public Aid Code.
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

k) Part: Hospital Reimbursement Changes (89 Ill. Adm. Code 152)

1) Rulemaking:

A) Description: Proposed amendments are anticipated to restructure the payment methodology for Medicaid inpatient and outpatient hospital rates.

B) Statutory Authority: Authorized by 305 ILCS 5/14-11 of the Illinois Public Aid Code.

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: Nonel) Part: Child Support Services (89 Ill. Adm. Code 160)1) Rulemaking:

- A) Description: Public Act 97-0878 (HB 3960), amends rule to provide that in determining net income, the total of all income from all sources is not reduced by the total premiums for life insurance ordered by the court, to reasonably secure payment of support for non-minor children and educational expenses, terms agreed to by the parties or payment of maintenance.
- B) Statutory Authority: Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## JANUARY 2014 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
- Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002
- 217/782-1233
- G) Related rulemakings and other pertinent information: None
- 1) Rulemaking:
- A) Description: Amends rule to clarify that when a paternity is established by the Department via the administrative paternity order, that the information shall be placed on the Department of Public Health's Vital Records birth certificate.
- B) Statutory Authority: Illinois Public Aid Code [305 ILCS 5/10]
- C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JANUARY 2014 REGULATORY AGENDA

comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

## ILLINOIS HISTORIC PRESERVATION AGENCY

## JANUARY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): The Illinois Register of Historic Places (17 Ill. Adm. Code 4140)

1) Rulemaking:

A) Description: This Part proposed for repeal established the processes by which a place may be added to or removed from the Illinois Register of Historic Places. The Illinois Register of Historic Places program was repealed from the Illinois Historic Preservation Act by PA 97-785.

B) Statutory Authority: 20 ILCS 3410 and 20 ILCS 3420

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Sara Meek  
Legislative Director  
Illinois Historic Preservation Agency  
313 S. 6<sup>th</sup> Street  
Springfield, Illinois 62701

Telephone: 217/558-8942

FAX: 217/785-7937

E-Mail: sara.meek@illinois.gov

G) Related rulemakings and other pertinent information: This rulemaking is being filed in conjunction with the rulemaking to repeal Inclusion and Removal of Places from the Illinois Register of Historic Places (17 Ill. Adm. Code 4120).

b) Part(s) (Heading and Code Citations): Inclusion and Removal of Places from the Illinois Register of Historic Places (17 Ill. Adm. Code 4120)

## ILLINOIS HISTORIC PRESERVATION AGENCY

## JANUARY 2014 REGULATORY AGENDA

- 1) Rulemaking:
  - A) Description: This Part proposed for repeal established the processes by which a place may be added to or removed from the Illinois Register of Historic Places. The Illinois Register of Historic Places program was repealed from the Illinois Historic Preservation Act by PA 97-785.
  - B) Statutory Authority: 20 ILCS 3410 and 20 ILCS 3420
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: January 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:

Sara Meek  
Legislative Director  
Illinois Historic Preservation Agency  
313 S. 6<sup>th</sup> Street  
Springfield, Illinois 62701

Telephone: 217/558-8942  
FAX: 217/785-7937  
E-Mail: [sara.meek@illinois.gov](mailto:sara.meek@illinois.gov)
  - G) Related rulemakings and other pertinent information: This rulemaking is being filed in conjunction with the rulemaking to repeal The Illinois Register of Historic Places (17 Ill. Adm. Code 4140).
- c) Part(s) (Heading and Code Citations): Certification and Transfer of Local Share of Historic Preservation Fund Allocation to Local Governments (17 Ill. Adm. Code 4130)
  - 1) Rulemaking:
    - A) Description: The purpose of this rulemaking is to establish administrative rules to provide official guidance on the processes and procedures related

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to the Certified Local Government Program, which is a program that gives municipalities and counties the opportunity to participate as partners in state and federal preservation activities.

- B) Statutory Authority: 20 ILCS 860
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None. While this rulemaking relates to a program that impacts municipalities, it will simply codify existing practices.
- F) Agency contact person for information:

Catherine O'Connor  
Illinois Historic Preservation Agency  
1 Old State Capitol Plaza  
Springfield, Illinois 62701

Telephone: 217/785-5730

FAX: 217/785-7937

E-Mail: [Catherine.OConnor@illinois.gov](mailto:Catherine.OConnor@illinois.gov)

- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citations): Tax Incentives to Rehabilitate Owner-Occupied Historic Residences (17 Ill. Adm. Code 4150)

1) Rulemaking:

- A) Description: The purpose of this rulemaking is to establish administrative rules to provide official guidance on the processes and procedures related to the Property Tax Assessment Freeze Program, which is a program that provides a financial incentive to homeowners interested in rehabilitating an older home by freezing the assessed value of historic owner-occupied, principal residences.

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- B) Statutory Authority: 35 ILCS 200/Art. 10 Div. 4
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: March 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: None
  - F) Agency contact person for information:
    - Carol Dyson
    - Illinois Historic Preservation Agency
    - 1 Old State Capitol Plaza
    - Springfield, Illinois 62701
  
    - Telephone: 217/524-0276
    - FAX: 217/785-7937
    - E-Mail: carol.dyson@illinois.gov
  - G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citations): Freedom of Information Act (2 Ill. Adm. Code 1580)
- 1) Rulemaking:
    - A) Description: The purpose of this rulemaking is to implement the provisions of the Freedom of Information Act (5 ILCS 140) by establishing a procedure to be followed by the public when requesting public records of the Historic Preservation Agency and the procedures to be followed by the Agency in responding to requests for information.
    - B) Statutory Authority: 5 ILCS 140
    - C) Scheduled meeting/hearing dates: None
    - D) Date agency anticipates First Notice: May 2014

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- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Garth Madison  
Chief Legal Counsel  
Illinois Historic Preservation Agency  
313 S. 6<sup>th</sup> Street  
Springfield, Illinois 62701
- Telephone: 217/785-1511  
FAX: 217/785-7937  
E-Mail: garth.madison@illinois.gov
- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citations): Americans With Disabilities Grievance Procedures (2 Ill. Adm. Code 425)
- 1) Rulemaking:
- A) Description: The purpose of this rulemaking is to establish the grievance procedure required by 56 Fed. Reg. 35,718 (1991) (to be codified at 28 CFR 35.107) pursuant to Title II of the Americans With Disabilities Act of 1990 (ADA) (42 U.S.C.A. 12131 et seq. (Supp. 1991) for the purpose of resolving grievances asserted by qualified individuals with disabilities.
- B) Statutory Authority: The Americans With Disabilities Act of 1990, 42 USC 12101 et seq.
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: May 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None

ILLINOIS HISTORIC PRESERVATION AGENCY

JANUARY 2014 REGULATORY AGENDA

G) Agency contact person for information:

Garth Madison  
Chief Legal Counsel  
Illinois Historic Preservation Agency  
313 S. 6<sup>th</sup> Street  
Springfield, Illinois 62701  
Telephone: 217/785-1511  
FAX: 217/785-7937  
E-Mail: [garth.madison@illinois.gov](mailto:garth.madison@illinois.gov)

F) Related rulemakings and other pertinent information: None

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## JANUARY 2014 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Single Family Mortgage Purchase Program 47 Ill Adm. Code 220
- 1) Rulemaking:
- A) Description: Repeal the rule as such rule is no longer being used to run an active program at the Authority and a similar program is being run by a subsequent rule.
- B) Statutory Authority: Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) and authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Amanda Carone  
Illinois Housing Development Authority  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611
- 312/836-5214
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Single Family Mortgage Purchase Program II 47 Ill. Adm. Code 250
- 1) Rulemaking:
- A) Description: Repeal the rule as such rule is no longer being used to run an active program at the Authority and a similar program is being run by a subsequent rule.

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- B) Statutory Authority: Sections 7.19 and 7.23 of the Illinois Housing Development Act (Ill. Rev. Stat. 1981, ch. 67-1/2, pars. 307.19 and 307.23) [20 ILCS 3805/7.19 and 723].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Amanda Carone  
Illinois Housing Development Authority  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611  
  
312/836-5214
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Access to Public Records of the Illinois Housing Development Authority 2 Ill. Adm. Code 1976
- 1) Rulemaking:
- A) Description: Amend various sections to conform with the updated FOIA law.
- B) Statutory Authority: Section 3 of the Illinois Freedom of Information Act [5 ILCS 140/3]
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: June, 2014

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- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Amanda Carone  
Illinois Housing Development Authority  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611  
  
312/836-5214
- G) Related rulemakings and other pertinent information: Access to Public Records of the Illinois Housing Development Authority 2 Ill. Adm. Code 1976
- d) Part(s) (Heading and Code Citation): Rental Housing Support Program 47 Ill. Adm. Code 380
- 1) Rulemaking:
- A) Description: Amend various sections to conform with recently passed Legislation and other administrative changes.
- B) Statutory Authority: Rental Housing Support Act [310 ILCS 105] and Illinois Housing Development Act [20 ILCS 3805/12].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: June, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Amanda Carone  
Illinois Housing Development Authority  
401 N. Michigan Ave., Ste. 700

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## JANUARY 2014 REGULATORY AGENDA

Chicago, IL 60611

312/836-5214

- G) Related rulemakings and other pertinent information: Rental Housing Support Program 47 Ill. Adm. Code 380

- e) Part(s) (Heading and Code Citation): Foreclosure Prevention Program 47 Ill. Adm. Code 385

1) Rulemaking:

- A) Description: Amend various sections to conform with recently passed legislation.
- B) Statutory Authority: Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.30(a) of the Illinois Housing Development Act [20 ILCS 3805/7.30(a)].
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: June, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Amanda Carone  
Illinois Housing Development Authority  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611

312/836-5214

- G) Related rulemakings and other pertinent information: Foreclosure Prevention Program 47 Ill. Adm. Code 385

## DEPARTMENT OF HUMAN SERVICES

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- a) Part(s) (Heading and Code Citation): Treatment and Habilitation Services, 59 Ill. Adm. Code 112
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to implement P.A. 95-282 that describes the practice to combat multi-drug resistant organisms at its facilities.
- B) Statutory Authority: Implementing Sections 1-110.5, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704 and 4-709, of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-110.5, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704, and 4-709] and Sections 5.1 and 7 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5.1 and 7] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: June, 2014
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762
- 217/785-9772

## DEPARTMENT OF HUMAN SERVICES

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- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Standards and Licensure Requirements for Community-Integrated Living Arrangements, 59 Ill. Adm. Code 115
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to implement P.A. 97-0441 that will establish a process by which the determination to initiate a licensure review shall be made and specify criteria for determining the need for independent monitors and receiverships for Community-Integrated Living Arrangements (CILA) wherein the Department has identified systemic risks to individuals served.
- B) Statutory Authority: P.A. 97-0441.
- C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses that provide Community-Integrated Living Arrangement services.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None

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- c) Part(s) (Heading and Code Citation): Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities, 59 Ill. Adm. Code 120
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to update outdated and incorrect information, clarify the appeal process applicability, and to comply with Patient Protection and Affordable Care Act and corresponding federal regulations, 42 CFR 430, 431, 433, *et al* and 45 CFR 155.
- B) Statutory Authority: Implementing and authorized by Sections 5-10 (a)(i) and 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i) and 100/10-5] and by Sections 11-8 through 11-8.7 and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7 and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses and not for profit corporations that provide developmental disability services.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None

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- d) Part(s) (Heading and Code Citation): Medicaid Community Mental Health Services Program, 59 Ill. Adm. Code 132
- 1) Rulemaking:
- A) Description: This rulemaking is necessary due to the significant changes taking place in behavioral health services, integrated care and managed care. Services will be redesigned to better reflect current federal and State innovations and to change the method used for payment of services, continuing to be fee for services, but defined differently.
- B) Statutory Authority: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].
- C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses and not for profit corporations that provide Medicaid Community Mental Health services.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None

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- e) Part(s) (Heading and Code Citation): Individual Care Grants for Mentally Ill Children, 59 Ill. Adm. Code 135
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to clarify certain provisions that govern various services that are provided to mentally ill children.
- B) Statutory Authority: Implementing Section 7.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/7.1] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: June, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses or not for profit corporations that provide Medicaid Community Mental Health services.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Mental Health Reporting for Firearm Owner's Identification Card, 59 Ill. Adm. Code 150

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- 1) Rulemaking:
- A) Description: This rulemaking is necessary to establish procedures by which the Department shall furnish information to the Illinois State Polices so that they are able to determine eligibility or continued eligibility for a Firearm Owners Identification Card under Section 8 of the Firearm Owners Identification Card Act [430 ILCS 65/].
- B) Statutory Authority: Implementing and authorized by the Mental Health and Developmental Disabilities Code 405 ILCS 5, the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110], the Firearm Owners Identification Card Act [430 ILCS 65/] and P.A. 98-0063.
- C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None
- g) Part(s) (Heading and Code Citation): Sexually Violent Persons, 59 Ill. Adm. Code 299

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- 1) Rulemaking:
  - A) Description: This rulemaking will expand opportunities for the provision of services since the Sexually Violent Persons program has moved from Joliet to Rushville. An amendment is also necessary to seek reimbursement from residents for their care.
  - B) Statutory Authority: Implementing and authorized by the Sexually Violent Persons Commitment Act [725 ILCS 20].
  - C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
  - D) Date agency anticipates First Notice: June, 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
  - F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
  - G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Perinatal Mental Health Disorders Prevention & Treatment, 77 Ill. Adm. Code 636
  - 1) Rulemaking:

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- A) Description: This rulemaking is necessary to establish the provisions of the Perinatal Mental Health Disorders Prevention and Treatment Act [405 ILCS 95/1]. The purpose of this Act is to provide information to women and their families about perinatal mental health disorders; to develop procedures for assessing women for perinatal mental health disorders during prenatal and postnatal visits to licensed health care professionals; and to promote early detection of perinatal mental health disorders for care and treatment.
- B) Statutory Authority: Implementing and authorized by the Perinatal Mental Health Disorders Prevention and Treatment Act [405 ILCS 95/1].
- C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None
- i) Part(s) (Heading and Code Citation): Practice in Administrative Hearings, 89 Ill. Adm. Code 10
- 1) Rulemaking:

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- A) Description: This rulemaking is necessary to update the requirements for an appellant to receive notice, update the requirements for an appellant to request an appeal continuance, and to clarify the time frames for filing an appeal.
- B) Statutory Authority: Implementing and authorized by Sections 5-10 (a)(i) and 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i) and 100/10-5] and by Sections 11-8 through 11-8.7 and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7 and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None
- j) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to implement provisions of P.A. 98-0061. P.A. 98-0061 amends the Juvenile Court Act of 1987 by

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changing the definition of delinquent minor to include a person who was under 18 (rather than 17) years of age when he or she committed an offense classified as a felony. This bill also changes the age concerning confidentiality of juvenile records. In accordance, effective January 1, 2014, this rulemaking will establish that child care provider fingerprint-based criminal history record checks will only be conducted for those 18 (rather than 17) years of age or older.

- B) Statutory Authority: P.A. 98-0061.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses that provide child care services.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citation): Temporary Assistance for Needy Families, 89 Ill. Adm. Code 112
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to eliminate the restriction on medical backdating for an individual approved for a TANF presumptive

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eligibility (TANF-PE) case. Currently, medical assistance may not be backdated for a TANF-PE case and medical eligibility is authorized the same date that the financial assistance is authorized. With the new Affordable Card Act program, this rulemaking will establish that adults authorized on a TANF-PE basis will be eligible for medical assistance without TANF eligibility.

- B) Statutory Authority: Implementing Article IV authorized Sections 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None

1) Part(s) (Heading and Code Citation): Aid to the Aged, Blind or Disabled, 89 Ill. Adm. Code 113

1) Rulemaking:

- A) Description: In order to maintain the benefit levels, this rulemaking will increase the AABD Grant Adjustment Allowance and the Sheltered

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Care/Personal or Nursing Care Rates by the amount of the January 2014 SSA/SSI Cost of Living Adjustment (COLA).

- B) Statutory Authority: 20 CFR 416.2096.
  - C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
  - D) Date agency anticipates First Notice: March, 2014
  - E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses that provide sheltered care or nursing care services.
  - F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
  - G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citation): Appeals and Hearings, 89 Ill. Adm. Code 510
- 1) Rulemaking:
    - A) Description: This rulemaking will realign the Part to create Subparts for each program area under the Division of Rehabilitation Services. The Subparts will be Home Services Program Appeals, Vocational Rehabilitation Appeals, Vending Facility Program for the Blind Appeals and Community and Residential Services for the Blind and Visually Impaired Appeals.

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- B) Statutory Authority: Implementing and authorized by Sections 5-10 (a)(i) and 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i) and 100/10-5] and Section 3(a), (b), and (i) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (i)].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: 89 Ill. Adm. Code 521.
- n) Part(s) (Heading and Code Citation): Advisory Councils, 89 Ill. Adm. Code 515
- 1) Rulemaking:
- A) Description: This rulemaking will make changes regarding the State Rehabilitation Council. Statutory changes were made to the Disabled Persons Rehabilitation Act pertaining to the composition of the Council as well as other amendments. This process will require the cooperative effort of the State Rehabilitation Council.

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- B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]; and Sections 5-505 and 5-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-505 and 5-550]; and the Bureau for the Blind Act [20 ILCS 2410]; and Section 6 of the Head and Spinal Cord Injury Act [410 ILCS 515/6].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: April, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: None
- o) Part(s) (Heading and Code Citation): Program Definitions, 89 Ill. Adm. Code 521
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to update the definitions under the Vocational Rehabilitation Administrative Rules. Also, a revision to Standard Budget Allowance will be made to coincide with changes to 89 Ill. Adm. Code 562.
- B) Statutory Authority: Implementing and authorized by Sections 5-10 (a)(i) and 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/5-

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10(a)(i) and 100/10-5] and Section 3(a), (b), and (i) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (i)].

- C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: 89 Ill. Adm. Code 510 and 89 Ill. Adm. Code 562.
- p) Part(s) (Heading and Code Citation): Customer Financial Participation, 89 Ill. Adm. Code 562
- 1) Rulemaking:
- A) Description: This rulemaking, which pertains to the Vocational Rehabilitation Program, will be revised to amend the guidelines for customer financial participation.
- B) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].

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- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: April, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:  
Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
  
217/785-9772
- G) Related rulemakings and other pertinent information: 89 Ill. Adm. Code 521.

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- a) Part(s) (Heading and Code Citations): License, Documents Necessary to Engage in Activities and Examinations, 50 Ill. Adm. Code 752
- 1) Rulemaking:
- A) Description: This change needs to be made to bring Part 752 in compliance with 215 ILCS 5/123A-4(3). Public Act 93-32 increased the fee for filing an application as an advisory organization to \$50. Prior to this statutory change there was an application filing fee of \$25. Part 752 needs to be updated to reflect this increase of the application filing fee.
- B) Statutory Authority: 215 ILCS 5/123A-4(3) and 401 and PA 93-32
- C) Scheduled meeting/hearing dates: None currently scheduled.
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None expected
- F) Agency contact person for information:  
C.J. Metcalf  
Property and Casualty Compliance Unit  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, IL 62767-0001  
  
(217) 558-0853
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citations): Filing Policy and Endorsements Form, 50 Ill. Adm. Code 753
- 1) Rulemaking:
- A) Description: The Department is now using the System for Rate and Rule Form Filings (SERFF) for all filings. 215 ILCS 5/143(2) states that filings

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will be filed using SERFF so this revision is to bring the regulation in line with the Statute.

- B) Statutory Authority: 215 ILCS 5/143(2)
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None expected
- F) Agency contact person for information:  
John Gatlin, Assistant Deputy Director  
Property and Casualty Compliance Unit  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, IL 62767-0001  
  
(217) 782-1786
- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 754

c) Part(s) (Heading and Code Citations): Rules and Rate Filings, 50 Ill. Adm. Code 754

1) Rulemaking:

- A) Description: The Department is now using the System for Rate and Rule Form Filings (SERFF) for all filings. 215 ILCS 5/143(2) states that filings will be filed using SERFF so this revision is to bring the regulation in line with the Statute.
- B) Statutory Authority: 215 ILCS 5/401
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: January 2014

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- E) Effect on small businesses, small municipalities or not for profit corporations: None expected
- F) Agency contact person for information:  
John Gatlin, Assistant Deputy Director  
Property and Casualty Compliance Unit  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, IL 62767-0001  
  
(217) 782-1786
- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 753
- d) Part(s) (Heading and Code Citations): Acquisition of Control of a Domestic Company, 50 Ill. Adm. Code 851
- 1) Rulemaking:
- A) Description: Article VIII ½ of the Illinois Insurance Code (Insurance Holding Company Systems) is being amended with some sections becoming effective January 1, 2014. Rule amendments related to the statutory changes are now being proposed.
- B) Statutory Authority: 215 ILCS 5/131.1 through 5/131.30 and 5/408.3
- C) Scheduled meeting/hearing dates: None currently scheduled
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None expected
- F) Agency contact person for information:  
Eric Moser  
Regulatory Action Unit  
Illinois Department of Insurance  
320 West Washington Street, 4<sup>th</sup> Floor

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Springfield, IL 62767-0001

(217) 557-3759

- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 852, 853, 854, 855

e) Part(s) (Heading and Code Citations): Registration of Insurers, 50 Ill. Adm. Code 852

1) Rulemaking:

- A) Description: Article VIII ½ of the Illinois Insurance Code (Insurance Holding Company Systems) is being amended with some sections becoming effective January 1, 2014. Rule amendments related to the statutory changes are now being proposed.

- B) Statutory Authority: 215 ILCS 5/131.1 through 5/131.30 and 5/408.3

- C) Scheduled meeting/hearing dates: None currently scheduled

- D) Date agency anticipates First Notice: February 2014

- E) Effect on small businesses, small municipalities or not for profit corporations: None expected

- F) Agency contact person for information:

Eric Moser

Regulatory Action Unit

Illinois Department of Insurance

320 West Washington Street, 4<sup>th</sup> Floor

Springfield, IL 62767-0001

(217) 557-3759

- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 851, 853, 854, 855

f) Part(s) (Heading and Code Citations): Pre-Acquisition Notification, 50 Ill. Adm. Code 853

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- 1) Rulemaking:
  - A) Description: Article VIII ½ of the Illinois Insurance Code (Insurance Holding Company Systems) is being amended with some sections becoming effective January 1, 2014. Rule amendments related to the statutory changes are now being proposed.
  - B) Statutory Authority: 215 ILCS 5/131.1 through 5/131.30 and 5/408.3
  - C) Scheduled meeting/hearing dates: None currently scheduled
  - D) Date agency anticipates First Notice: February 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: None expected
  - F) Agency contact person for information:  
Eric Moser  
Regulatory Action Unit  
Illinois Department of Insurance  
320 West Washington Street, 4<sup>th</sup> Floor  
Springfield, IL 62767-0001  
  
(217) 557-3759
  - G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 851, 852, 854, 855
- g) Part(s) (Heading and Code Citations): Prior Notification of Transactions, 50 Ill. Adm. Code 854
  - 1) Rulemaking:
    - A) Description: Article VIII ½ of the Illinois Insurance Code (Insurance Holding Company Systems) is being amended with some sections becoming effective January 1, 2014. Rule amendments related to the statutory changes are now being proposed.

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- B) Statutory Authority: 215 ILCS 5/131.1 through 5/131.30 and 5/408.3
- C) Scheduled meeting/hearing dates: None currently scheduled
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None expected
- F) Agency contact person for information:  
Eric Moser  
Regulatory Action Unit  
Illinois Department of Insurance  
320 West Washington Street, 4<sup>th</sup> Floor  
Springfield, IL 62767-0001  
  
(217) 557-3759
- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 851, 852, 853, 855
- h) Part(s) (Heading and Code Citations): Prior Notification of Dividends on Common Stock and Other Distributions, 50 Ill. Adm. Code 855
- 1) Rulemaking:
- A) Description: Article VIII ½ of the Illinois Insurance Code (Insurance Holding Company Systems) is being amended with some sections becoming effective January 1, 2014. Rule amendments related to the statutory changes are now being proposed.
- B) Statutory Authority: 215 ILCS 5/131.1 through 5/131.30 and 5/408.3
- C) Scheduled meeting/hearing dates: None currently scheduled
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None expected

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- F) Agency contact person for information:  
Eric Moser  
Regulatory Action Unit  
Illinois Department of Insurance  
320 West Washington Street, 4<sup>th</sup> Floor  
Springfield, IL 62767-0001  
  
(217) 557-3759
- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code  
851, 852, 853, 854
- i) Part(s) (Heading and Code Citations): Required Procedure for Filing and Securing  
Approval of Policy Forms, 50 Ill. Adm. Code 916
- 1) Rulemaking:
- A) Description: The Department is removing language permitting filings to  
be submitted by compact disc and requiring all insurers to file by SERFF  
(System for Electronic Rate and Form Filing).
- B) Statutory Authority: 215 ILCS 5/143(1)
- C) Scheduled meeting/hearing dates: None currently scheduled
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit  
corporations: None expected
- F) Agency contact person for information:  
Cindy Colonius, Supervisor  
Compliance Section - LAH  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, Illinois 62767-0001  
  
(217) 782-4572

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- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 1405 and 2001
- j) Part(s) (Heading and Code Citations): Annual Financial Reporting, 50 Ill. Adm. Code 925
- 1) Rulemaking:
- A) Description: The Department is removing language that requires foreign HMOs and LHSOs to file a CPA audit. This will bring our rule into compliance with the NAIC Model CPA audit rule.
- B) Statutory Authority: 215 ILCS 5/136
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: January 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None expected
- F) Agency contact person for information:  
Sara Ross  
Supervisor, LAH Financial Analysis Unit  
Illinois Department of Insurance  
320 West Washington Street, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001  
  
(217) 782-9760
- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citations): Variable Contracts, 50 Ill. Adm. Code 1451
- 1) Rulemaking:

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- A) Description: The existing definition of Variable Contract is too restrictive. The amendments to the definition will allow a new product to be offered in Illinois.
- B) Statutory Authority: 215 ILCS 5/401 and 245.24
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: February 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Unknown
- F) Agency contact person for information:  
  
Susan Christy  
Actuarial LAH Unit  
Illinois Department of Insurance  
320 West Washington Street, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001  
  
(217) 782-1759
- G) Related rulemakings and other pertinent information: None.

l) Part(s) (Heading and Code Citations): Long-Term Care Insurance, 50 Ill. Adm. Code 2012

1) Rulemaking:

- A) Description: To update actuarial certification and policyholder rate increase notification requirements and to reflect changes recommended by the NAIC Senior Issues Task Force Model Bulletin to All Licensed Insurers Writing Long-Term Care Insurance (August 9, 2013)
- B) Statutory Authority: 215 ILCS 5/351A-11
- C) Scheduled meeting/hearing dates: None currently scheduled

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- D) Date agency anticipates First Notice: April 2014
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Eric Anderson, Actuarial Assistant  
Financial Regulatory/Life Actuarial Unit  
Illinois Department of Insurance  
320 West Washington St. 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001  
  
(217) 782-6284
- G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citations): Administrative Hearing Procedures, 50 Ill. Adm. Code 2402
- 1) Rulemaking:
- A) Description: The Department last amended this rule in 1979. It is being revised to bring it up to date. Also, a new section will be added that will allow the Department to offer an official interpretation in the form of a declaratory ruling at the request of any person or company.
- B) Statutory Authority: 215 ILCS 5 /401 - 403
- C) Scheduled meeting/hearing dates: None currently scheduled.
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Unknown.
- F) Agency contact person for information:  
  
Louis Butler

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Deputy General Counsel  
Illinois Department of Insurance  
122 South Michigan Ave. 19<sup>th</sup> Floor  
Chicago, IL 60603

312-814-5398

G) Related rulemakings and other pertinent information: None.

n) Part(s) (Heading and Code Citations): Workers' Compensation Electronic Claims (New Rule), 50 Ill. Adm. Code 2908

1) Rulemaking:

A) Description: Pursuant to Public Act 97-18, effective June 28, 2011, the focus of this proposed Rule is to provide a legal framework for electronic billing, processing, and payment of medical services and products provided to an injured employee.

B) Statutory Authority: 820 ILCS 305/8.2a

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: March 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:  
Jim Stephens, Deputy Director  
Property & Casualty Compliance Unit  
Illinois Department of Insurance  
320 W. Washington St., 5<sup>th</sup> Floor  
Springfield, IL 62767-0001

(217) 558-3952

G) Related rulemakings and other pertinent information: None

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o) Part(s) (Heading and Code Citations): Licensing of Public Adjusters, 50 Ill. Adm. Code 3118

1) Rulemaking:

A) Description: P.A. 96-1332 repealed the previous Public Adjuster Law and enacted its replacement, requiring changes to many of the provisions of 50 Ill. Adm. Code 3118.

B) Statutory Authority: 215 ILCS 5/1501 et seq.

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: March 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

David W. Murphy, Assistant Deputy Director  
Continuing Education Unit  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, IL 62767-0001

(217) 782-5415

John Gatlin, Assistant Deputy Director  
Property and Casualty Compliance Unit  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, IL 62767-0001

(217) 782-1786

G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF INSURANCE

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- p) Part(s) (Heading and Code Citations): Health Carrier External Review, 50 Ill. Adm. Code 5430
- 1) Rulemaking:
- A) Description: The Health Carrier External Review Act was significantly amended by P.A. 97-0574. This Act, which was effective 26, 2011, resulted in major changes to the process. The current rule is not consistent with the amended Act.
- B) Statutory Authority: 215 ILCS 180
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: Spring 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
Mary Petersen, Assistant Deputy Director  
Health Products Consumer Assistance Section  
Illinois Department of Insurance  
320 W. Washington Street 5<sup>th</sup> Floor  
Springfield, IL 62767  
  
(217) 782-5822
- G) Related rulemakings and other pertinent information:
- q) Part(s) (Heading and Code Citations): Viatical Settlement Provider Reporting Requirements, 50 Ill. Adm. Code 5701
- 1) Rulemaking:
- A) Description: The current 50 Ill. Adm. Code 5701 implemented provisions of the Viatical Settlements Act [215 ILCS 158/1]. This Act was repealed effective July 1, 2010. It is the Department's intention to implement the Viatical Settlements Act of 2009 [215 ILCS 5/159].

## DEPARTMENT OF INSURANCE

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- B) Statutory Authority: 215 ILCS 5/159/1
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
  
Cindy Colonius, Supervisor  
Compliance Section - LAH  
Illinois Department of Insurance  
320 West Washington Street, 5<sup>th</sup> Floor  
Springfield, Illinois 62767-0001  
  
(217) 782-4572
- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF NATURAL RESOURCES

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- a) Part(s) (Heading and Code Citation): General Hunting and Trapping on Department-Owned or –Managed Sites (17 Ill. Adm. Code 510)
- 1) Rulemaking:
- A) Description: This Part contains rules and regulations for hunting in Illinois. This Part will be updated to be consistent with the Department's hunting regulations for 2014-2015.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March, 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
George Sisk, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the rule for the 2014-2015 hunting season. Amendments include updating Statewide requirements, permit requirements and hunting regulations.

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- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
George Sisk, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Forestry Development Cost-Share Program (17 Ill. Adm. Code 1536)
- 1) Rulemaking:
- A) Description: These amendments are being proposed to modify regulations and documentation requirements; provide for additional cost-sharing opportunities to address control of invasive and exotic species; forestry best management practices; and increased costs of existing practices.
- B) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None

## DEPARTMENT OF NATURAL RESOURCES

## JANUARY 2014 REGULATORY AGENDA

- F) Agency contact person for information:  
Nick San Diego, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Forest Management Plan (17 Ill. Adm. Code 1537)
- 1) Rulemaking:
- A) Description: These amendments are being proposed to modify regulations and documentation requirements; provide for additional emphasis to be placed on soils, wetlands, threatened and endangered species, and special sites during the Forest Management Plan Development; and provide for an outlined criteria for plan review and decertification..
- B) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2014
- E) Affect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
Nick San Diego, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Allocation of Water From Lake Michigan (17 Ill. Adm. Code 3730)

## DEPARTMENT OF NATURAL RESOURCES

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- 1) Rulemaking:
  - A) Description: This rulemaking requires changes to regulations regarding water allocation conditions.
  - B) Statutory Authority: Implementing and authorized by the Level of Lake Michigan Act [615 ILCS 50].
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: January 2014
  - E) Effect on small businesses, small municipalities or not for profit corporations: Permittees will be required to comply with regulations.
  - F) Agency contact person for information:  
Robert Mool, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
217/782-1809
  - G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Revocation Procedures For Conservation Offenses (17 Ill. Adm. Code 2530)
  - 1) Rulemaking:
    - A) Description: This Part is being amended to clarify procedures for Department administrative hearings relative to conservation offenses. Additional provisions are being added to address guidelines and procedures for eviction and removal from Department lands. A fee schedule is added to the rule pursuant to the Department's sustainability legislation (P.A. 97-1136).
    - B) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the WildlifeCode [520 ILCS 5/1.4 and

## DEPARTMENT OF NATURAL RESOURCES

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3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Sections 5-625, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805/805-545 and 805-550].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: February 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:  
Shelly Knuppel, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
217/782-1809

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Incidental Taking of Endangered or Threatened Species (17 Ill. Adm. Code 1080)

1) Rulemaking:

A) Description: This Part is being amended for purposes of ensuring consistent mitigation standards in instances where an Incidental Take Authorization is implemented.

B) Statutory Authority: Implementing and authorized by Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: June 2014

## DEPARTMENT OF NATURAL RESOURCES

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- E) Affect on small businesses, small municipalities or not for profit corporations: This does not increase the instances when an Incidental Take Authorization would be recommended for a project or when mitigation would be required. The business would be ensured of more uniformity in the mitigation assessments on their projects.
- F) Agency contact person for information:  
Shelly Knuppel, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Illinois Coastal Grant Program (17 Ill. Adm. Code 3085)
- 1) Rulemaking:
- A) Description: The proposed rule will set out the requirements for the Illinois Coastal Grant Program, such as the eligibility criteria, the procedures for application and selection, project evaluation and program compliance.
- B) Statutory Authority: Implementing and authorized by Section 805-70 and 805-125 of the Civil Administrative Code [20 ILCS 805/805-70 and 20 ILCS 805/805-125]; Sections 16 and 19 of the Rivers, Lakes and Streams Act [615 ILCS 5/16 and 5/19] and Section 306 of the Coastal Zone Management Act of 1972 [16 U.S. C. 1455a].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: June 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The rules will provide clear guidance to grant applicants, which may include small businesses, small municipalities, or not for profit

DEPARTMENT OF NATURAL RESOURCES

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corporations, as to the procedure for applying for grant awards from the Illinois Coastal Grants Program.

- F) Agency contact person for information:  
Brendan Dailey, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
217/782-1809
  
- G) Related rulemakings and other pertinent information: None

## OFFICE OF THE STATE FIRE MARSHAL

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a) Part(s) (Heading and Code Citations): Policy and Procedures Manual for Fire Protection Personnel; 41 Ill. Adm. Code 141

1) Rulemaking:

- A) Description: This Part will be amended for updates, clarification and consolidation. The Office intends to clarify this Part by separating the regulatory requirements for course and training facility approval, state examinations, certifications, reimbursement and fees from non-regulatory provisions which constitute an internal policy and procedure manual. Those provisions which do not constitute regulatory requirements will be repealed.
- B) Statutory Authority: Implementing and authorized by Sections 8 and 11 of the Fire Protection Training Act [50 ILCS 740/8] and the Peace Officer Fire Investigation Act [20 ILCS 2910].
- C) Scheduled meeting/hearing dates: None Scheduled.
- D) Date agency anticipates First Notice: Winter or Spring 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may impact small municipalities that elect to participate in the Office of the State Fire Marshal's voluntary certification program and seek reimbursement for training expenditures from funds appropriated to the Office for these reimbursements. Streamlined procedural rules are expected to speed the curriculum approval time and decrease administrative burdens on participants.
- F) Agency contact person for information:

Mitzi Woodson  
Division of Personnel Standards and Education  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62603

217/785-1003

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G) Related rulemakings and other pertinent information: None.

b) Part(s) (Heading and Code Citations): Pyrotechnic Distributor and Operator Licensing Rules; 41 Ill. Adm. Code 230

1) Rulemaking:

A) Description: Update and revise Pyrotechnic Distributor and Operator Licensing Rules pursuant to Office of State Fire Marshal policy and practice.

B) Statutory Authority: Implemented and authorized by Section 30 of Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30].

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Unknown.

E) Effect on small businesses, small municipalities or not for profit corporations: None known.

F) Agency contact person for information:

Kevin Switzer  
Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62603

217/558-0639

G) Related rulemakings and other pertinent information: None.

c) Part(s) (Heading and Code Citations): Pyrotechnic and Consumer Display Permitting Rules; 41 Ill. Adm. Code 235

1) Rulemaking:

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- A) Description: Update and revise Pyrotechnic Distributor and Operator Licensing Rules pursuant to Office of State Fire Marshal policy and practice. The Agency also seeks to revise the licensure requirements for consumer distributors and retailers to require licensees to sign an affidavit acknowledging receipt and understanding of the applicable rules and regulations.
- B) Statutory Authority: Implementing and authorized by Section 4.1 of the Fireworks Use Act [425 ILCS 35/5].
- C) Scheduled meeting/hearing dates: None scheduled yet.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:  
  
Kevin Switzer  
Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62603  
  
217/558-0639
- G) Related rulemakings and other pertinent information: Proposed revisions to 41 Ill. Adm. Code 230's requirements for Flame Effect Licensure and Permit requirements.
- d) Part(s) (Heading and Code Citations): Petroleum Equipment Contractor Licensing; 41 Ill. Adm. Code 172, with conforming changes in Parts 175 and 176
- 1) Rulemaking:
- A) Description: Update certification and licensure rules for petroleum equipment contractors doing work on underground storage tanks.

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- B) Statutory Authority: Petroleum Equipment Contractor Licensing Act, 225 ILCS 729/25, 35(a)(4), and 35(b)(7).
- C) Scheduled meeting/hearing dates: None scheduled yet.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: Unknown but expected to be minimal.
- F) Agency contact person for information:
- Fred Schneller  
Division of Petroleum and Chemical Safety  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62603
- 217/557-3131
- G) Related rulemakings and other pertinent information: None.
- e) Part(s) (Heading and Code Citations): Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances; 41 Ill. Adm. Code 176
- 1) Rulemaking:
- A) Description: Clarify the proper use of the site assessment reporting form by requiring the licensed geologist or licensed professional engineer overseeing the site assessment work to attest that the site assessment was completed.
- B) Statutory Authority: Section 2 of the Gasoline Storage Act, 430 ILCS 15/2.
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: Unknown.

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- E) Effect on small businesses, small municipalities or not for profit corporations: No impact.
- F) Agency contact person for information:  
  
Fred Schneller  
Division of Petroleum and Chemical Safety  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62603  
  
217/557-3131
- G) Related rulemakings and other pertinent information: None.
- f) Part(s) (Heading and Code Citations): Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances, 41 Ill. Adm. Code 175; Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances; 41 Ill. Adm. Code 176
- 1) Rulemaking:
- A) Description: Update rule language to allow the electronic scheduling of permitted work on underground storage tanks. Updates website links to OSFM forms as cited in rules pertaining to underground storage tanks.
- B) Statutory Authority: Gasoline Storage Act, 430 ILCS 15/2.
- C) Scheduled meeting/hearing dates: None scheduled yet.
- D) Date agency anticipates First Notice: Spring 2013.
- E) Effect on small businesses, small municipalities or not for profit corporations: No impact.
- F) Agency contact person for information:

## OFFICE OF THE STATE FIRE MARSHAL

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Fred Schneller  
Division of Petroleum and Chemical Safety  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62603

217/557-3131

G) Related rulemakings and other pertinent information: None.

g) Part(s) (Heading and Code Citations): Boiler and Pressure Vessel Safety; 41 Ill. Adm. Code 120

1) Rulemaking: Amendments to Boiler and Pressure Vessel Safety regulations

A) Description: Incorporate nationally recognized safety codes published in 2013. By statute, the Boiler Board must adopt subsequent published amendments to those national safety codes cited in the Boiler and Pressure Vessel Safety statute, including those procedures and standards found in the National Board Inspection Code (NBIC), 2013 Edition.

B) Statutory Authority: Boiler and Pressure Vessel Safety Act, 430 ILCS 75/2.

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Prior to December 2013.

E) Effect on small businesses, small municipalities or not for profit corporations: No significant impact anticipated.

F) Agency contact person for information:

Clayton Novak  
Division of Boiler and Pressure Vessel Safety  
Office of the State Fire Marshal  
100 W. Randolph St., Suite 4-600  
Chicago, IL 60601

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312/814-2381  
217/785-1008

- G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citations): Fire Sprinkler Contractor Licensing Rules; 41 Ill. Adm. Code 109
- 1) Rulemaking:
- A) Description: This rulemaking will incorporate statutory provisions that require that only properly qualified and licensed sprinkler contractors are allowed to conduct inspections and testing of fire sprinkler systems. It will require that fire sprinkler contractors must submit copies of their sprinkler system inspection documentation to local fire departments or fire protection districts. It will require a copy of a driver's license or State identification for each certified person or responsible managing employee designated by the licensee. This rulemaking will also further define the terms "single family or multiple family residential dwellings up to and including 8 family units," as used in the Fire Sprinkler Contractor Licensing Act. Currently, the terms lack any definition, resulting in confusion as to those occupancies which require a license in order to install fire sprinklers.
- B) Statutory Authority: Implementing and authorized by Section 55 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317/55].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: Any small business that installs or repairs fire sprinkler systems.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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Kevin Switzer  
Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62704

217/558-0639

- G) Related rulemakings and other pertinent information: None.
- i) Part(s) (Heading and Code Citations): Race Track Rules for Fire Safety; 41 Ill. Adm. Code 150
- 1) Rulemaking:
- A) Description: Update the agency's current rules applicable to pari-mutuel horse racing tracks. Current rules date to 1976 and cite editions of NFPA standards for which updated editions are available.
- B) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: The rules are applicable only to facilities which are part of a race track complex where the complex is primarily utilized for the purpose of conducting a horse racing meet where pari-mutuel wagering is authorized.
- F) Agency contact person for information:

Kevin Switzer  
Division of Fire Prevention  
Office of the State Fire Marshal

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1035 Stevenson Drive  
Springfield, IL 62704

217/558-0639

G) Related rulemakings and other pertinent information: None.

j) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils: Rules and Regulations\ Relating to General Storage; 41 Ill. Adm. Code 160

1) Rulemaking:

- A) Description: Update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule sections: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 160 rules primarily address the use of aboveground storage tanks (ASTs) for flammable or combustible liquids used for bulk storage (storage for other than dispensing purposes). The primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs. The rule change may require associated changes in 41 Ill. Adm. Code 174 and 175.
- B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: The rules will Effect any small business, municipality or not-for-profit corporations that install or relocate an aboveground storage tank containing flammable or combustible liquids. The proposed rules are not anticipated to impose further restrictions upon ASTs that are already in-place.

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- F) Agency contact person for information:
- Ken Wood, P.E. EFO  
Fire Protection Engineer  
Director, Division of Technical Services  
Office of the State Fire Marshal  
100 W. Randolph St., Suite 4-600  
Chicago, IL 60601
- 312/814-2962
- G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 160 are similar to a certain extent to the proposed changes to 41 Ill. Adm. Code 180.
- k) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils; 41 Ill. Adm. Code 180
- 1) Rulemaking:
- A) Description: Update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule sections: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 180 rules primarily address the use of aboveground storage tanks (ASTs) for flammable or combustible liquids used to dispense fuel into vehicles or portable containers. The primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs. The rule change may require associated changes in 41 Ill. Adm. Code 174 and 175.
- B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

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- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: The rules will Effect any small business, municipality or not-for-profit corporations that install or relocate an aboveground storage tank containing flammable or combustible liquids. The proposed rules are not anticipated to impose further restrictions upon ASTs that are already in-place.
- F) Agency contact person for information:
- Ken Wood, P.E. EFO  
Fire Protection Engineer  
Director, Division of Technical Services  
Office of the State Fire Marshal  
100 W. Randolph St., Suite 4-600  
Chicago, IL 60601
- 312/814-2962
- G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 180 are similar to a certain extent to the proposed changes to 41 Ill. Adm. Code 160.
- 1) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Liquefied Petroleum Gas; 41 Ill. Adm. Code 200
- 1) Rulemaking:
- A) Description: Update the agency's rules applicable to LP-Gas tanks. The primary focus of the rules will be to update the reference to a national standard: NFPA 58 *Liquefied Petroleum Gas Code*. The rule currently references to the 2011 edition of NFPA 58 and the OSFM intends to update that reference to the latest published edition of NFPA 58 – the 2014 edition to remain current with industry practices. The statute requires that OSFM rules on this topic be in substantial conformity with the national codes published by the National Fire Protection Association (NFPA)

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- B) Statutory Authority: Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3].
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: The rules will Effect any small business, municipality or not-for-profit corporations that install or relocate a LP-Gas (including propane) storage tank. The proposed rules are not anticipated to impose further restrictions upon LP-Gas tanks that are already in-place.
- F) Agency contact person for information:  
  
Ken Wood, P.E. EFO  
Fire Protection Engineer  
Director, Division of Technical Services  
Office of the State Fire Marshal  
100 W. Randolph St., Suite 4-600  
Chicago, IL 60601  
  
312/814-2962
- G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citations): Furniture Fire Safety Regulations; 41 Ill. Adm. Code 300
- 1) Rulemaking:
- A) Description: As required by statute [425 ILCS 45], update referenced standards to the current “bulletins” (standards) of the State of California’s Department of Consumer Affairs: Bureau of Home Furnishings and Thermal Insulation for descriptions of the tests that are required to be performed on upholstered furniture components.
- B) Statutory Authority: Implementing and authorized by Section 15 of the Furniture Fire Safety Act [425 ILCS 45/15].

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- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: Any small business or not for profit corporation that manufactures upholstered seating furniture used in public occupancies or public assembly areas, or any small business, small municipality or not-for-profit that owns or maintains a public occupancy or public assembly area that contains stuffed or upholstered furniture for specified occupancies. These include assembly occupancies; day care center occupancies; health care occupancies; detention and correctional facilities; and public assembly areas of hotels and motels that contain seating for more than 10 (individual guest rooms are not included).
- F) Agency contact person for information:
- Kevin Switzer  
Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62704
- 217/558-0639
- G) Related rulemakings and other pertinent information: None.
- n) Part(s) (Heading and Code Citations): Fire Equipment Distributor and Employee Standards; 41 Ill. Adm. Code 251 and Fire Equipment Administrative Procedures; 41 Ill. Adm. Code 280.
- 1) Rulemaking:
- A) Description: Update the OSFM's rules applicable to fire equipment distributor and employee licensing and consider combining the Part 251 and Part 280 rules into one document to address procedures for administering the fire equipment contractor and employee licensing

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programs. Require a copy of a driver's license or State identification for each employee being licensed. Also, recognize that authority now results from an updated statute – the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217].

- B) Statutory Authority: Implementing and authorized by the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217].
- C) Scheduled meeting/hearing dates: The agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: Any small business, small municipality or not for profit corporation that may be licensed by the OSFM as a fire equipment distributor or may be involved in the servicing of portable fire extinguishers and/or fixed fire suppression systems other than water-based systems.
- F) Agency contact person for information:  
  
Kevin Switzer  
Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62704  
  
217/558-0639
- G) Related rulemakings and other pertinent information: None.

o) Part(s) (Heading and Code Citations): Hazardous Materials Emergency Response Reimbursement Standards; 41 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: Resolve audit findings which noted a discrepancy between reimbursement standards in the Hazardous Material Emergency Response

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Reimbursement Act [430 ILCS 55] and those contained in the Hazardous Materials Emergency Response Reimbursement Standards.

- B) Statutory Authority: Implemented and authorized by Section 5(c) of the Hazardous Material Emergency Response Reimbursement Act [430 ILCS 55/5(c)].
- C) Scheduled meeting/hearing dates: The Agency has not scheduled meetings or hearing on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:

Kevin Schott, Senior Policy Advisor  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62704

217/558-6846

- G) Related rulemakings and other pertinent information: None.

p) Part(s) (Heading and Code Citations): Fire Truck Revolving Loan Program; 41 Ill. Adm. Code 290

1) Rulemaking:

- A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administers a program to provide loans for the purchase of a fire truck or fire trucks by a unit of local government (fire department, fire protection district or township fire department) in Illinois that provides fire suppression within a geographical area. This rulemaking establishes criteria for review of loan applications and further defines the relationship between the OSFM and IFA. It defines a quorum for purposes of acting on a loan application. Also, it

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defines when a conflict of interest occurs as to a member of the committee processing a loan application and prohibits their participation in the decision making process.

B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act, Fire Truck Revolving Loan Program [20 ILCS 3501/825-80].

C) Scheduled meeting/hearing dates: None.

D) Date agency anticipates First Notice: Unknown.

E) Effect on small businesses, small municipalities or not for profit corporations: Loan awards are based on equipment need, financial need, and how recently the applicant has received a previous loan under this program. Recipients may be eligible for a loan up to \$250,000 with a 20-year repayment period for the purchase of a fire truck(s).

F) Agency contact person for information:

Ronny J. Wickenhauser, Chief Fiscal Officer  
Office of the Illinois State Fire Marshal  
1035 Stevenson Drive  
Springfield, Illinois 62703

Office: 217/558-0577  
Fax: 217/785-1002

G) Related rulemakings and other pertinent information: None.

q) Part(s) (Heading and Code Citations): Ambulance Revolving Loan Program; 41 Ill. Adm. Code 292

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administers a program to provide loans for the purchase of an ambulance or ambulances by a not-for-profit ambulance service or a unit of local government (fire department, fire

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protection district or township fire department) in Illinois that provides emergency medical service within a geographical area. This rulemaking clarifies repayment requirements upon recipients of the loans and further defines the relationship between the OSFM and IFA.

- B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act, Ambulance Revolving Loan Program [20 ILCS 3501/825-85].
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: Loan awards are based on equipment need, financial need, and how recently the applicant has received a previous loan under this program. Recipients may be eligible for a loan up to \$100,000 with a 10-year repayment period for the purchase of an ambulance(s).
- F) Agency contact person for information:

Ronny J. Wickenhauser, Chief Fiscal Officer  
Office of the Illinois State Fire Marshal  
1035 Stevenson Drive  
Springfield, Illinois 62703

Office: 217/558-0577  
Fax: 217/785-1002

- G) Related rulemakings and other pertinent information: None.
- r) Part(s) (Heading and Code Citations): Small Equipment Grant Program; 41 Ill. Adm. Code 291
- 1) Rulemaking:
- A) Description: The Office of the Illinois State Fire Marshal (OSFM) administers a program to provide grant funds for the purchase of small firefighting equipment to a unit of local government (fire department, fire

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protection district or township fire department) in Illinois that provides fire suppression within a geographical area. This rulemaking shall add fire protection districts and volunteer, non-profit, stand alone ambulance services to fire departments as being eligible for grants to purchase small fire-fighting and ambulance equipment.

B) Statutory Authority: Authorized by Section 2.7 of the State Fire Marshal Act [20 ILCS 2905/2.7].

C) Scheduled meeting/hearing dates: None.

D) Date agency anticipates First Notice: Unknown.

E) Effect on small businesses, small municipalities or not for profit corporations: Grant awards are based on equipment need, financial need, and how recently the applicant has received a previous grant under this program. Recipients may be eligible for a grant up to \$26,000 for the purchase of small firefighting equipment.

F) Agency contact person for information:

Ronny J. Wickenhauser, Chief Fiscal Officer  
Office of the Illinois State Fire Marshal  
1035 Stevenson Drive  
Springfield, Illinois 62703

Office: 217/558-0577  
Fax: 217/785-1002

G) Related rulemakings and other pertinent information: None.

s) Part(s) (Heading and Code Citations): Fire Station Revolving Loan Program; 41 Ill. Adm. Code 294

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administers a program to provide loans for the construction, rehabilitation, remodeling, or expansion of a

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fire station or the acquisition of land for the construction or expansion of a fire station by a fire department, fire protection district, or a township fire department. This rulemaking clarifies repayment requirements and the relationship between the OSFM and IFA.

- B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act, Ambulance Revolving Loan Program [20 ILCS 3501/825-81].
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: Loan awards are based on building need, financial need, and how recently the applicant has received a previous loan under this program. Recipients may be eligible for a loan up to \$2,000,000 with a maximum 25-year repayment period for the purposes stated in 1(A) above.
- F) Agency contact person for information:

Ronny J. Wickenhauser, Chief Fiscal Officer  
Office of the Illinois State Fire Marshal  
1035 Stevenson Drive  
Springfield, Illinois 62703

Office: 217/558-0577  
Fax: 217/785-1002

- G) Related rulemakings and other pertinent information: None.
- t) Part(s) (Heading and Code Citations): Outdoor Stages; 41 Ill. Adm. Code 107
- 1) Rulemaking:
- A) Description: Rules for Outdoor Stages. The rules would apply to outdoor stages greater than 1,500 square feet, require that such stages be designed by a professional engineer or architect and also require a designated responsible person to be onsite whenever a venue uses a stage.

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- B) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9].
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date agency anticipates First Notice: Winter or Spring 2014.
- E) Effect on small businesses, small municipalities or not for profit corporations: It is anticipated that the rules would Effect small businesses, small municipalities and not-for-profit corporations as the rules would apply to any outdoor stage above 1,500 square feet, require that such stages be designed by a professional engineer or architect and also require a designated responsible person to be onsite whenever a venue uses a stage.
- F) Agency contact person for information:
- Ken Wood, P.E. EFO  
Fire Protection Engineer  
Director, Division of Technical Services  
Office of the State Fire Marshal  
100 W. Randolph St., Suite 4-600  
Chicago, IL 60601
- 312/814-2962
- G) Related rulemakings and other pertinent information: None.
- v) Part(s) (Heading and Code Citations): Appeals and Enforcement Proceedings; 41 Ill. Adm. Code 210
- 1) Rulemaking:
- A) Description: This Part will be amended to delineate and clarify the appeal process utilized during OSFM administrative enforcement proceedings. Amendments will include, among other things, clarification concerning the duties of the respective parties, the initiation of contested hearings, pleadings, motions, discovery, the burden and standard of proof, the

## OFFICE OF THE STATE FIRE MARSHAL

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applicable rules of evidence, the consequences of failing to appear, and default procedures.

- B) Statutory Authority: Implemented and authorized by Section 10-5 of the Illinois Administrative Procedures Act [5 ILCS 100/10-5].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: None Anticipated.
- F) Agency contact person for information:

Alix E. Armstead  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62703

217/785-1519

- G) Related rulemakings and other pertinent information: None.

w) Part(s) (Heading and Code Citations): Illinois Elevator Safety Rules; 41 Ill. Adm. Code 1000

1) Rulemaking:

- A) Description: Provide a standard form to be completed during an elevator safety inspection.
- B) Statutory Authority: Authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: Unknown.

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- E) Effect on small businesses, small municipalities or not for profit corporations: Minimal. Will require all municipalities to use a standard form when they or their inspectors inspect an elevator.
- F) Agency contact person for information:
- Bob Capuani  
Elevator Safety Division  
Office of the Illinois State Fire Marshal  
James R. Thompson Center  
100 W. Randolph Street  
Suite 4-600  
Chicago, IL 60601
- Office: 312/814-8734  
Fax: 312/814-3459
- G) Related rulemakings and other pertinent information: None.
- x) Part(s) (Heading and Code Citations): Illinois Elevator Safety Rules; 41 Ill. Adm. Code 1000
- 1) Rulemaking:
- A) Description: Incorporate nationally recognized safety codes to be published in November of 2013. By statute, the Elevator Safety Board is given one year to adopt any new national safety code cited in the statute.
- B) Statutory Authority: Authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not for profit corporations: All new conveyances and conveyances being modernized will have to conform to the new codes. Municipalities would also have to

## OFFICE OF THE STATE FIRE MARSHAL

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enforce these new codes locally, per their municipal elevator agreements with OSFM.

F) Agency contact person for information:

Bob Capuani  
Elevator Safety Division  
Office of the Illinois State Fire Marshal  
James R. Thompson Center  
100 W. Randolph Street  
Suite 4-600  
Chicago, IL 60601

Office: 312/814-8734

Fax: 312/814-3459

G) Related rulemakings and other pertinent information: None.

y) Part(s) (Heading and Code Citations): Illinois Elevator Safety Rules; 41 Ill. Adm. Code 1000

1) Rulemaking:

A) Description: Implement anticipated statutory changes after the upcoming Spring 2014 legislative session.

B) Statutory Authority: Authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].

C) Scheduled meeting/hearing dates: None.

D) Date agency anticipates First Notice: Unknown.

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown. Rulemaking would be filed solely to implement any statutory changes.

F) Agency contact person for information:

OFFICE OF THE STATE FIRE MARSHAL

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Bob Capuani  
Elevator Safety Division  
Office of the Illinois State Fire Marshal  
James R. Thompson Center  
100 W. Randolph Street  
Suite 4-600  
Chicago, IL 60601

Office: 312/814-8734

Fax: 312/814-3459

- G) Related rulemakings and other pertinent information: None.

## ILLINOIS RACING BOARD

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- a) Part(s) (Heading and Code Citation): Board Meetings, 11 Ill. Adm. Code 206
- 1) Rulemaking:
- A) Description: Section 206.20 may be amended to update or eliminate references to the Dates Order.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mickey Ezzo  
Illinois Racing Board  
100 W. Randolph Street  
Suite 7-701  
Chicago, IL 60601
- 312/814-5017  
Fax: 312/814-5062  
[mickey.ezzo@illinois.gov](mailto:mickey.ezzo@illinois.gov)
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Medication, 11 Ill. Adm. Code 603
- 1) Rulemaking:

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- A) Description: Part 603 may periodically need updating because the Board actively addresses threshold levels of therapeutic drugs and other medication issues. Technical changes may also be made.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mickey Ezzo  
Illinois Racing Board  
100 W. Randolph Street  
Suite 7-701  
Chicago, IL 60601
- 312/814-5017  
Fax: 312/814-5062  
[mickey.ezzo@illinois.gov](mailto:mickey.ezzo@illinois.gov)
- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Horse Health, 11 Ill. Adm. Code 605

1) Rulemaking:

- A) Description: Sections 1312.310 and 1413.250 may be repealed and "Medical Reasons for Ineligibility" may be updated and moved to Horse Health, Part 605.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

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- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mickey Ezzo  
Illinois Racing Board  
100 W. Randolph Street  
Suite 7-701  
Chicago, IL 60601
- 312/814-5017  
Fax: 312/814-5062  
[mickey.ezzo@illinois.gov](mailto:mickey.ezzo@illinois.gov)
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Procedures For License Hearings, 11 Ill. Adm. Code 205
- 1) Rulemaking:
- A) Description: Various sections may be amended to address changes in the hearing process.
- B) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Illinois Racing Board in writing during the First Notice Period.
- D) Date agency anticipates First Notice: Undetermined

ILLINOIS RACING BOARD

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E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mickey Ezzo  
Illinois Racing Board  
100 W. Randolph Street  
Suite 7-701  
Chicago, IL 60601

312/814-5017  
Fax: 312/814-5062  
[mickey.ezzo@illinois.gov](mailto:mickey.ezzo@illinois.gov)

G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Income Tax, 86 Ill. Adm. Code 100

1) Rulemaking:

A) Description: New rules will be added to Part 100 concerning the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209); the reallocation of items under IITA Section 404; pass-through of investment credits from partnerships and Subchapter S corporations to their partners and shareholders; filing of refund claims and other collection matters, statutes of limitations, and interest computations.

Part 100 will be amended by adding rules and amending existing rules governing the computation of base income under Article 2 of the IITA, the allocation and apportionment of base income under Article 3 of the IITA, and the filing of returns and payment of taxes under Articles 5 and 6 of the IITA.

Part 100 will be amended to update the provisions defining unitary business groups and computing the combined tax liability of unitary business groups.

Part 100 will be amended by adding rules providing guidance on the addition and subtraction modifications allowed in IITA Section 203, on the credit for residential property taxes paid in IITA Section 208, on the acceptance of substitute W-2s, and rounding amounts on returns to the nearest dollar.

Part 100 will be amended to clarify definitions of terms in IITA Section 1501(a).

Part 100 will be amended to implement legislation enacted in 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012 and 2013, including the angel investment, historic preservation, small business jobs and hospital credits, the computation of the credit for taxes paid to other states, the repeal or sunset, and subsequent re-enactment, of the research and development, low-income housing and film credits, the credits and subtractions allowed with respect to enterprise zones, the allowance of Economic Development for a

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Growing Economy credits to be used against withholding obligations, credits for hiring veterans and ex-felons, bonus depreciation adjustments, withholding by employers, partnerships, Subchapter S corporations and trusts, changes to apportionment formulas and taxation of real estate investment trusts and their investors, tax-exempt bonds, recoveries of itemized deductions, repayments of claim-of-right amounts, special net loss rules for cooperatives and real estate mortgage investment companies, the computation of tax for partners in civil unions, the surcharge on registrants under the Compassionate Use of Medical Cannabis Pilot Program, and appeals to the Tax Tribunal.

Part 100 will be amended to provide additional guidance on nexus and on the Illinois income tax consequences of changes in federal income tax laws.

Part 100 will be amended to reflect amendments to the IITA in 2013 regarding composite returns and pass-through entity withholding.

Finally, the Department will continue the updating and correction of Part 100.

Proposed rules that have been submitted to first notice and that should be adopted in the near future include: None

- B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending Part 100 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

## DEPARTMENT OF REVENUE

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F) Agency contact person for information:

Paul Caselton  
Deputy General Counsel, Income Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/524-3951

G) Related rulemakings and other pertinent information: None.b) Part(s) (Heading and Code Citations): Property Tax Code, 86 Ill. Adm. Code 1101) Rulemaking:A) Description: Part 110 will be amended to implement the new Disabled Persons' Homestead Exemption under 35 ILCS 200/15-168.

Part 110 will be amended to adopt new rules to implement changes made to the Senior Citizens Assessment Freeze Homestead Exemption under 35 ILCS 200/15-172.

Part 110 will be amended with respect to 110.162 for Township and Multi-Township Assessor Qualifications. The amendment deals with the approved designation list from the Department of Revenue.

Part 110 will be amended with respect to 110.155 to update population changes in counties, which resulted in different requirements for those counties with respect to course and examination requirements for board of review members. The changes in the county populations will be reflected in the attached map accompanying Part 110.155, referred to as Illustration A. Part 110.155 will also be amended to correct typographical errors in subsections b) 3); b) 5); d); and e) 3).

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Part 110 may be amended to reflect the provisions of Public Act 97-0688, which made changes to property tax exemption law concerning hospitals.

- B) Statutory Authority: Implementing the Property Tax Code [35 ILCS 200] and authorized by Section 2505-625 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-625]; 35 ILCS 200/15-168; 35 ILCS 200/15-65; 35 ILCS 200/15-172; 35 ILCS 200/6; 35 ILCS 200/6-10; and 35 ILCS 200/6-32.
- C) Scheduled meeting/hearing dates: No schedule has been established.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 110 during the first six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Robin W. Gill  
Associate Counsel, Property Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/524-4886
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citations): Rental Housing Support Program, 86 Ill. Adm. Code 121
- 1) Rulemaking:
- A) Description: A new Part will be promulgated to implement the new Rental Housing Support Program.

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- B) Statutory Authority: 55 ILCS 5/3-5018.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings creating Part 121 during the first six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: De minimus. Small business and not for profit organizations are subject to the \$10 recording fee for real estate related documents. Units of local government are exempt under the statute.
- F) Agency contact person for information:
- Robin W. Gill  
Associate Counsel, Property Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/524-4886
- G) Related rulemakings and other pertinent information: None.
- d) Part(s) (Heading and Code Citations): Retailers' Occupation Tax, 86 Ill. Adm. Code 130
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments, decisional law and Department policies. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings. Some of the highlights of these changes include:

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1. Amendment of Section 130.415 (Transportation and Delivery Charges) and 130.410 (Cost of Doing Business Not Deductible), to provide clarity on the taxation of shipping and delivery charges, and to clarify what tax rate applies to taxable transportation and delivery charges for an order that contains both high tax rate and low tax rate items.
2. Amendment of 130.2080 to update the regulation governing sales to governmental bodies, foreign diplomats and consular personnel.
3. Amendment of Section 130 ILLUSTRATION A – to update examples of tax exemption cards.
4. Amendment of Section 130.2007 to explain the proper use by an exempt organization of its exemption identification number issued by the Department and consequences of an organization's failure to use ordinary care to ensure that the exemption identification number is not improperly utilized. Consequences include revocation of the exemption identification number.
5. Creation of a new section to provide guidance regarding the documentation requirements for sales by retailers to exempt organizations holding active exemption numbers issued by the Department.
6. Amendment of Section 130.450 regarding installation, alteration, and special service charges to provide further guidance through examples for retailers who sell items that are commonly installed into real estate, such as cabinets and counter tops.
7. Amendment of Section 130.340 regarding rolling stock to provide guidance through examples of items that qualify for the exemption but do not become a part of the vehicle and to clarify the types of registration numbers carriers

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need to provide to document that they are for hire carrier; amendments are also anticipated in response to P. A. 98-584 (new test for aircraft and watercraft used as rolling stock).

8. Amendment of Section 130.605 to add examples regarding the drive-away permit exemption described in subsection (b) of that Section and to provide additional guidance regarding the scope of the reciprocal drive-away exemption, and to change the period of use from “30 or more days” to “more than 30 days” that will trigger Use Tax liability for a vehicle that was purchased in this State under the drive-away permit exemption. This last change is being proposed to conform to the recent change by the Secretary of State’s Office to extend the time period for a drive-away permit for a vehicle for a maximum of 30 days.
9. New section to describe how “deal of the day” types of transactions are taxed and to provide examples regarding those transactions.
10. Amendment of Section 130.321 to reflect provision of P.A. 98-0422 which made changes to the exemption for fuel used in international flights.
11. Amendment of Section 130.120 to reflect changes made as a result of the enactment of P A. 98-0422 (changes made to the exemption for fuel used in international flights); P.A. 98-0534 (exemption for aircraft refurbishing); P.A. 98-0574 (exempts new types of vehicles sold for short-term auto leasing); P.A. 98-0456 (coal and aggregate exploration and mining exemptions); P.A. 98-0583 (tax does not apply to sales of (i) electricity delivered to customers by wire; and (ii) natural or artificial gas and water delivered to customers through pipes, pipelines, or mains).
12. Amendment of Sections 130.330, 130.101, 130.1951 to reflect the changes made as a result of the enactment of P.A. 98-0583 (sales of electricity are not subject to tax;

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manufacturing machinery and equipment exemption does not apply to equipment used to produce electricity; expanded manufacturing machinery and equipment exemption does not apply to tangible personal property used in the production of electricity).

13. Amendment of Sections 130.1951, 130.1952 and 130.1954 to reflect the provisions of P.A. 97-905, including reporting requirements for businesses receiving enterprise zone/high impact business/river edge incentives and new procedures for use in documenting the building materials exemption for these incentives. Additional changes are made in response to P.A. 98-109, which provides additional requirements for contractor reporting and authorizes rules for failure to properly report.
  14. Amendment of Sections 130.311 and Section 130-801 in response to enactment of P.A. 98-122, which taxes medical marijuana at the low rate of tax.
  15. Amendment of Sections 130.501 and 130.745 to reflect changes made as a result of P.A. 98-0496, which authorizes the Department to disallow the vendor's discount under certain circumstances.
  16. Amendment of Section 130.910 in response to enactment of P.A. 98-0352, which prohibits the sale, possession and use of automated sales suppression devices, or zappers.
  17. Amendment of Section 130.910 in response to enactment of P.A. 97-1074, which added the criminal offense of sales tax evasion.
- B) Statutory Authority: 35 ILCS 120/12.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

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- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations. Businesses that sell tangible personal property and have that property delivered to their customers, including sales made through the use of the Internet, mail order, telephone and television orders, will be impacted by the changes to Sections 130.410 and 130.415 regarding transportation and delivery charges. Retailers who sell counter tops and cabinets will be impacted by the changes to Section 130.450. Tax exempt organizations will be affected by the changes proposed to Section 130.2005, 130.2007, and the new section providing guidance on how to document exempt sales to those organizations. Persons purchasing aircraft and watercraft for use as rolling stock moving in interstate commerce will be affected by the changes to Section 130.340, as will sellers of such items.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales & Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: None.
- e) Part(s) (Heading and Code Citations): Service Occupation Tax, 86 Ill. Adm. Code 140
- 1) Rulemaking:

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- A) Description: Amendments will be made as part of a general update to clarify application of the Service Occupation Tax and to reflect recent decisional law, statutory changes and Department policy. Some of the highlights of these changes are revisions to Section 140.108 to add language to reinforce that de minimis servicemen cannot provide certificates of resale if those de minimis servicemen are registered with the Department only for the limited purpose of self-assessing and remitting their own use tax liability; and the addition of language prohibiting the sale, possession and use of automated sales suppression devices, or zappers in response to P.A. 98-0352
- B) Statutory Authority: 35 ILCS 115/12.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not-for-profit corporations: Servicemen transferring tangible personal property incident to service will be affected by these rules.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.
- f) Part(s) (Heading and Code Citations): Use Tax, 86 Ill. Adm. Code 150

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1) Rulemaking:

- A) Description: Amendments will be made to update the Use Tax regulations to reflect new statutory developments, decisional law and Department policies. Some of the highlights of these changes include:

Amendment to Section 150.310 to change the period of use from “30 or more days” to “more than 30 days” that will trigger Use Tax liability for a vehicle that was purchased in this State under the drive-away permit exemption. The change to Section 150.310 is being made in order to conform to the recent change by the Secretary of State’s Office to extend the time period for a drive-away permit for a maximum of 30 days.

Amendment to Section 150.401 to clarify when out-of-State retailers attending trade shows in this State are not considered to have a Use Tax collection on remote sales to Illinois customers and to provide guidance on other issues presented by retailer presence at trade shows in Illinois.

Add a new Section 150.1015 in response to P.A. 98-0352, which prohibits the sale, possession and use of automated sales suppression devices, or zappers, and amend Part 150, Subpart I, dealing with penalties and interest.

- B) Statutory Authority: 35 ILCS 105/12.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 150 during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Use Tax.

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

G) Related rulemakings and other pertinent information: None.g) Part(s) (Heading and Code Citations): Service Use Tax, 86 Ill. Adm. Code 1601) Rulemaking:A) Description: Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments, decisional law and Department policies. Some of the highlights of these changes include:

Add a new Section 160.166 in response to enactment of P.A. 98-0352, which prohibits the sale, possession of use of automated sales suppression devices, or zappers, and amend other sections of Part 160 dealing with penalties and interest.

B) Statutory Authority: 35 ILCS 110/12C) Scheduled meetings/hearing dates: No schedule has been established at this time.D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 160 during the next six months of this year.E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the

## DEPARTMENT OF REVENUE

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Service Use Tax, including persons required to collect Service Use Tax from Illinois purchasers.

F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
217/782-2844

G) Related rulemakings and other pertinent information: None.h) Part(s) (Heading and Code Citations): Automobile Renting Occupation Tax, 86 Ill. Adm. Code Part 1801) Rulemaking:

A) Description: Regulations will be amended in response to P.A. 98-0574, which expands the types of vehicles that are subject to the tax.

B) Statutory Authority: 35 ILCS 155/1 et seq.

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Small businesses may be included in the persons required to file returns, pay taxes and maintain books and records.

F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax

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## JANUARY 2014 REGULATORY AGENDA

Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

- G) Related rulemakings and other pertinent information: None.
- i) Part(s) (Heading and Code Citations): Practice and Procedure for Hearings before the Illinois Department of Revenue, 86 Ill. Adm. Code Part 200
- 1) Rulemaking:
- A) Description: Amendments are anticipated to the Department's administrative hearings practice and procedure regulations to reflect the changes to those regulations as the result of the creation of the Independent Tax Tribunal under the Independent Tax Tribunal Act of 2012, 35 ILCS 1010/1 et seq.
- B) Statutory Authority: 20 ILCS 2505/2505-10.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: All types of businesses, some municipalities and not for profit corporations may be impacted by these proposed changes regarding the creation of the Independent Tax Tribunal to hear certain administrative protests of tax matters.
- F) Agency contact person for information:
- Terry D. Charlton  
Chief Administrative Law Judge  
Illinois Department of Revenue  
Office of Administrative Hearings

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

101 West Jefferson Street – Level 5SW  
Springfield, Illinois 62702

217/782-6995

- G) Related rulemakings and other pertinent information: It is anticipated that the Chief Administrative Law Judge of the Independent Tax Tribunal will be appointed and will file administrative rulemakings for the Tribunal within the next six months.
- j) Part(s) (Heading and Code Citations): Business District Retailers' Occupation Tax, 86 Ill. Adm. Code 400
- 1) Rulemaking:
- A) Description: A new Part will be promulgated to set out specific procedures and requirements for the business district retailers' occupation tax authorized by P.A. 93-1053. On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property."
- B) Statutory Authority: 65 ILCS 5/11-74.3-6.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Municipalities are authorized to impose this tax within business districts established by those municipalities. All businesses that are engaged in making sales of tangible personal

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property at retail within a business district where this tax is imposed will be subject to tax.

F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

G) Related rulemakings and other pertinent information: None.k) Part(s) (Heading and Code Citations): Business District Service Occupation Tax, 86 Ill. Adm. Code 4051) Rulemaking:

- A) Description: A new Part will be promulgated to set out specific procedures and requirements for the service occupation tax authorized by P.A. 93-1053.
- B) Statutory Authority: 65 ILCS 5/11-74.3-6.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Municipalities are authorized to impose this tax within business districts established by those municipalities. All businesses that transfer tangible personal property incident to sales of service within a business district where this tax is imposed will be subject to tax.

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

G) Related rulemakings and other pertinent information: None.l) Part(s) (Heading and Code Citations): Liquor Control Act, 86 Ill. Adm. Code 4201) Rulemaking:

A) Description: Amendments will be made to Section 420.10 to reflect the provisions of P.A. 95-634, P.A. 96-34 and P.A. 96-38, which changed the gallonage tax rates on beer, wine, cider and spirits effective September 1, 2009 and added provisions regarding licensed winery shippers. In addition, administrative provisions will be added, including new sections for definitions, investigations and hearings, administrative review of Department decisions and confidentiality of tax information.

B) Statutory Authority: 235 ILCS 5/8-1 et seq.

C) Scheduled meeting/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Manufacturers and importing distributors of beer, wine, cider and spirits are affected due to the change in tax rates on those items.

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- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- m) Part(s) (Heading and Code Citations): Medical Cannabis Cultivation Privilege Tax Law, 86 Ill. Adm. Code 429
- 1) Rulemaking:
- A) Description: A new Part will be promulgated in response to P.A. 98-122, which enacts the Medical Cannabis Cultivation Privilege Tax.
- B) Statutory Authority: 410 ILCS 130/215.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses may be included in the persons required to file returns, pay taxes and maintain books and records.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue

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101 W. Jefferson, 5-500  
Springfield, IL 62794

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- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- n) Part(s) (Heading and Code Citations): Bingo License and Tax Act, 86 Ill. Adm. Code 430
- 1) Rulemaking:
- A) Description: Regulations will be updated to reflect the provisions of Public P.A. 93-742, which authorizes the Department to issue 3-year bingo licenses, including regular licenses, limited licenses or senior citizen restricted licenses, and the amendments in P.A. 95-228, dealing with licensing. The regulations will also be amended to clarify record keeping requirements and the documentation required for a license application.
- B) Statutory Authority: 230 ILCS 25/1.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for bingo licenses will be affected by this rulemaking.
- F) Agency contact person for information:
- Paul Caselton  
Deputy General Counsel, Income Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

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- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- o) Part(s) (Heading and Code Citations): Pull Tabs and Jar Games Act, 86 Ill. Adm. Code 432
- 1) Rulemaking:
- A) Description: Regulations will be amended to implement the amendments in P.A. 95-228 dealing with licensing and to clarify record keeping requirements and the documentation required for a license application.
- B) Statutory Authority: 230 ILCS 20/1.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for pull tabs and jar games licenses will be affected by this rulemaking.
- F) Agency contact person for information:
- Paul Caselton  
Deputy General Counsel, Income Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

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## DEPARTMENT OF REVENUE

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- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- p) Part(s) (Heading and Code Citations): Charitable Games Act, 86 Ill. Adm. Code 435
- 1) Rulemaking:
- A) Description: Regulations will be amended to implement the amendments in P.A. 95-228 dealing with licensing and to clarify record keeping requirements and the documentation required for a license application.
- B) Statutory Authority: 230 ILCS 30/1.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for a charitable games license will be affected by this rulemaking.
- F) Agency contact person for information:
- Paul Caselton  
Deputy General Counsel, Income Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/524-3951
- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- q) Part(s) (Heading and Code Citations): Cigarette Tax Act, 86 Ill. Adm. Code 440

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1) Rulemaking:

- A) Description: Amendments will be made to update the Cigarette Tax Act regulations to reflect new statutory developments, decisional law and Department policies. Among those amendments, the Department anticipates amendments to reflect provisions of P.L. 111-154, the federal “Prevent All Cigarette Trafficking Act of 2009;” P.A. 95-1053 (new definitions; penalties); P.A. 96-782 (technical clean-up and penalties); P.A. 97-587 (manufacturer representatives authorized); P.A. 96-1027 (secondary distributors authorized); and P.A. 97-688 (increased tax rate). Changes will also be made to reflect provisions of P.A. 98-273 (definitional changes made in conjunction with the taxation of little cigars under the Tobacco Products Tax Act). Rulemakings will also be promulgated as part of the Department’s continuing effort to codify policies contained in various letter rulings.
- B) Statutory Authority: 20 ILCS 3505/205-30; 35 ILCS 130/1 et seq.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Minimal, depending upon what legislation may be enacted.
- F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

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- G) Related rulemakings and other pertinent information: None.
- r) Part(s) (Heading and Code Citations): Cigarette Use Tax Act, 86 Ill. Adm. Code 450
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Cigarette Use Tax Act regulations to reflect new statutory developments, decisional law and Department policies. Among these amendments, the Department anticipates amendments to these rules to incorporate the changes P.A. 95-1053 (new definitions; penalties); P.A. 96-782 (technical clean-up and penalties); P.A. 97-587 (manufacturer representatives authorized); P.A. 96-1027 (secondary distributors authorized); and P.A. 97-688 (increased tax rate). Changes will also be made to reflect provisions of P.A. 98-273 (definitional changes made in conjunction with the taxation of little cigars under the Tobacco Products tax Act). Rulemakings will also be promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings.
- B) Statutory Authority: 20 ILCS 2505/2505-80; 35 ILCS 135/1 et seq.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Minimal, depending upon what specific legislation may be enacted.
- F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax

## DEPARTMENT OF REVENUE

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101 W. Jefferson, 5-500  
Springfield, IL 62794

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G) Related rulemakings and other pertinent information: None.

s) Part(s) (Heading and Code Citations): Hydraulic Fracturing Tax, 86 Ill. Adm. Code 475

1) Rulemaking:

- A) Description: A new Part will be promulgated in response to enactment of P.A. 98-0022 and P.A. 98-0023 (Hydraulic Fracturing Regulatory Act, including the Illinois Hydraulic Fracturing Tax).
- B) Statutory Authority: 35 ILCS 450/2-65.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses may be included in the persons required to file returns, pay taxes and maintain books and records.
- F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

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- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- t) Part(s) (Heading and Code Citations): Hotel Operators' Occupation Tax Act, 86 Ill. Adm. Code 480
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Hotel Operators' Occupation Tax Act regulations to reflect new statutory developments, decisional law and Department policies. Included will be an amendment to Section 480.101 to clarify the types of diplomatic exemption cards used to document the exemption from the tax for those transactions when the hotel operator is prohibited from obtaining a reimbursement of tax from the customer by a federal treaty. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings.
- B) Statutory Authority: 20 ILCS 2505/2505-85; 35 ILCS 145/1 et seq.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Affect on small business, small municipalities or not for profit corporations: Minimal, depending upon what legislation may be enacted.
- F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

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G) Related rulemakings and other pertinent information: None.u) Part(s) (Heading and Code Citations): Telecommunications Excise Tax, 86 Ill. Adm. Code 4951) Rulemaking:A) Description: Regulations will be updated to reflect new statutory provisions, decisional law and Department policy. Examples include:

Regulations that explain the manner in which DSL services are taxed.

Regulations that explain the telecommunications tax liabilities involved when multiple parties are joined together in different conference calling arrangements.

Amendment of Section 495.100 to clarify the ending date for using alternate apportionment methods for imposing tax on portions of the interstate inter-office channels for private lines.

B) Statutory Authority: 35 ILCS 630.C) Scheduled meetings/hearing dates: No schedule has been established at this time.D) Date agency anticipates First Notice: We anticipate filing rulemakings to Part 495 during the next six months of this year.E) Effect on small business, small municipalities or not for profit corporations: Retailers of telecommunications and their telecommunications customers will be affected by these regulations.F) Agency contact person for information:

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- v) Part(s) (Heading and Code Citations): Motor Fuel Tax, 86 Ill. Adm. Code 500
- 1) Rulemaking:
- A) Description: Regulations will be updated to reflect new statutory provisions, new provisions and procedures under the International Fuel Tax Agreement, decisional law, Department policy and procedures, and include provisions establishing a conversion factor for use in calculating motor fuel tax due on sales of compressed natural gas, rules applicable to distributors who are also retailers of motor fuel, and regulations requiring electronic filing and payment by licensees.
- B) Statutory Authority: 35 ILCS 505/14.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings to Part 500 during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Motor fuel distributors, suppliers and receivers, as well as persons licensed under the International Fuel Tax Agreement, will be affected by these regulations.
- F) Agency contact person for information:

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- w) Part(s) (Heading and Code Citations): The Public Utilities Revenue Act, 86 Ill. Adm. Code 510
- 1) Rulemaking:
- A) Description: Update the regulations concerning the Public Utilities Revenue Act to reflect new statutory developments, decisional law and Department policies. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings.
- B) Statutory Authority: 20 ILCS 2505/2505-35; 35 ILCS 620/1 et seq.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small utilities and other distributors of electricity, including electric cooperatives, will be better able to comply with provisions of the Public Utilities Revenue Act.
- F) Agency contact person for information:

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## JANUARY 2014 REGULATORY AGENDA

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- x) Part(s) (Heading and Code Citations): County School Facility Retailers' Occupation Tax, 86 Ill. Adm. Code 600
- 1) Rulemaking:
- A) Description: A new Part will be promulgated to implement the provisions of P.A. 95-675 imposing a County School Facility Retailers' Occupation Tax. Regulations are also anticipated in response to P.A. 98-584 which changes the date for ordinance submission to the Department for local taxes approved by referenda. On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”
- B) Statutory Authority: 55 ILCS 5/5-1006.7.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

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- E) Effect on small business, small municipalities or not for profit corporations: Counties imposing this tax and retailers located in such jurisdictions will be affected by this rulemaking.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: New Part 605 implementing a County School Facility Service Occupation Tax is related.
- y) Part(s) (Heading and Code Citations): County School Facility Service Occupation Tax, 86 Ill. Adm. Code 605
- 1) Rulemaking:
- A) Description: A new Part will be promulgated to implement the provisions of P.A. 95-675 imposing a County School Facility Service Occupation Tax. Regulations are also anticipated in response to P.A. 98-584, which changes the date for ordinance submission to the Department for local taxes approved by referenda.
- B) Statutory Authority: 55 ILCS 5/5-1006.7.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

- E) Effect on small business, small municipalities or not for profit corporations: Businesses making sales of service in counties imposing the tax will be minimally affected.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: New Part 600 implementing a County School Facility Retailers' Occupation Tax is related.
- z) Part(s) (Heading and Code Citations): Tobacco Products Tax Act of 1995, 86 Ill. Adm. Code 660
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Tobacco Products Tax Act regulations to reflect new statutory developments, decisional law and Department policies. These amendments will include changes made by P.A. 97-688 increasing the tax rate for tobacco products and imposing a new weight-based tax rate on moist snuff. Provisions will also be added in response to reflect provision of P.A. 98-273, which adds a definition of little cigars, taxes these items under the Tobacco Products Tax Act at the rate established for cigarettes, and establishes specific provisions governing their distribution and reporting. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings.
- B) Statutory Authority: 35 ILCS 143/10-1 et seq.

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- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Minimal, depending upon what legislation may be enacted.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: None.
- aa) Part(s) (Heading and Code Citations): Special County Retailers' Occupation Tax for Public Safety, 86 Ill. Adm. Code 670
- 1) Rulemaking:
- A) Description: Amendments will be made to update the Special County Retailers' Occupation Tax for Public Safety regulations to reflect new statutory developments, decisional law and Department policies. The rules will also be amended in response to P.A. 98-584, which changes the date for ordinance submission to the Department for local taxes approved by referenda. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings. On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will

## DEPARTMENT OF REVENUE

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provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 55 ILCS 5/5-1006.5.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: If imposed by a county after referendum, retailers would be required to pay this tax on sales of tangible personal property.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

bb) Part(s) (Heading and Code Citations): Special County Service Occupation Tax for Public Safety, 86 Ill. Adm. Code 680

- 1) Rulemaking:
  - A) Description: Amendments will be made to update the Special County Service Occupation Tax for Public Safety regulations to reflect new statutory developments, decisional law and Department policies. The rules will also be amended in response to P.A. 98-584, which changes the date for ordinance submission to the

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

Department for local taxes approved by referenda. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings.

- B) Statutory Authority: 55 ILCS 5/5-1006.5.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: If imposed by a county after referendum, servicepersons would be required to pay this tax on tangible personal property transferred incident to a sale of service.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

cc) Part(s) (Heading and Code Citations): Non-Home Rule Municipal Retailers' Occupation Tax, 86 Ill. Adm. Code 693

- 1) Rulemaking:
  - A) Description: Regulations will be promulgated to provide for the administration of the tax, including regulations proposed response to P.A. 98-584, which changes the date for ordinance submission to the Department for local taxes approved by referenda. Rulemakings are also promulgated as part of the Department's

## DEPARTMENT OF REVENUE

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continuing effort to codify policies contained in various letter rulings. On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 65 ILCS 5/8-11-1.3.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Municipalities imposing this tax and retailers located in such jurisdictions will be affected by this rulemaking.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

dd) Part(s) (Heading and Code Citations): Non-Home Rule Municipal Service Occupation Tax, 86 Ill. Adm. Code 694

- 1) Rulemaking:

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

- A) Description: Regulations will be promulgated to provide for the administration of the tax, including regulations proposed response to P.A. 98-584, which changes the date for ordinance submission to the Department for local taxes approved by referenda. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings.
- B) Statutory Authority: 65 ILCS 5/8-11-1.4.
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Municipalities imposing this tax and servicemen located in these jurisdictions will be affected by this rulemaking.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: None.
- ee) Part(s) (Heading and Code Citations): Uniform Penalty and Interest Act, 86 Ill. Adm. Code 700
- 1) Rulemaking:

## DEPARTMENT OF REVENUE

## JANUARY 2014 REGULATORY AGENDA

- A) Description: The Department will amend the regulations in Part 700 to reflect recent amendments to the Uniform Penalty and Interest Act and Department policies.
- B) Statutory Authority: 20 ILCS 2505/2505-795.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filings during the next six months of this year.
- E) Affect on small business, small municipalities and not for profit corporations: These rulemakings will provide guidance for any business or not for profit corporation that incurs tax liabilities potentially subject to penalty or interest obligations under the Uniform Penalty and Interest Act.
- F) Agency contact person for information:
- Paul Caselton  
Deputy General Counsel, Income Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/524-3951
- G) Related rulemakings and other pertinent information: None.
- ff) Part(s) (Heading and Code Citations): General Rules for All Taxes, 86 Ill. Adm. Code 800
- 1) Rulemaking:
- A) Description: Rules will be proposed in either a new Part Governing Payment of Taxes by Credit Cards, 86 Ill. Adm. Code 780 or in Part 800 in response to P.A. 98-425, which authorizes the

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Department to promulgate rules allowing payment of taxes by credit cards.

- B) Statutory Authority: P.A. 98-425 and applicable provisions of 20 ILCS 2505/1 et seq. (rulemaking authority for various taxes).
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses, small municipalities or not for profit corporation may be affected positively by these rules, since they offer an alternative method of tax payment.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

gg) Part(s) (Heading and Code Citations): Home Rule Municipal Retailers' Occupation Tax 86 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to

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determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 65 ILCS 5/8-11-1 and authorized by 20 ILCS 2505/2505-15.
  - C) Scheduled meeting/hearing dates: No schedule has been established at this time.
  - D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 270 on a regular basis during the next six months of this year.
  - E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
  - F) Agency contact person for information:  
  
Jerilyn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
  - G) Related rulemakings and other pertinent information: None.
- hh) Part(s) Heading and Code Citations: Regional Transportation Authority ROT, 86 Ill. Adm. Code 320
- 1) Rulemaking:
    - A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to

## DEPARTMENT OF REVENUE

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pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 70 ILCS 3615/4.03.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 320 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
- F) Agency contact person for information:  
  
Jerilyn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

ii) Part(s) (Heading and Code Citations): Home Rule County Retailers’ Occupation Tax, 86 Ill. Adm. Code 220

- 1) Rulemaking:
  - A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to

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pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

B) Statutory Authority: 55 ILCS 5/5-1006 and authorized by 20 ILCS 2505/2505-95.

C) Scheduled meeting/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 220 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.

F) Agency contact person for information:

Jerilyn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

G) Related rulemakings and other pertinent information: None.

jj) Part(s) (Heading and Code Citations): Metro East Mass Transit District ROT, 86 Ill. Adm. Code 370

1) Rulemaking:

A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to

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determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 70 ILCS 3610/5.01.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 370 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

kk) Part(s) (Heading and Code Citations): Metro-East Park and Recreation District Retailers’ Occupation Tax, 86 Ill. Adm. Code 395

- 1) Rulemaking:
  - A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated Department rules that retailers had long relied on upon to

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determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 70 ILCS 1605/30 and 20 ILCS 2505/2505-795.
  - C) Scheduled meeting/hearing dates: No schedule has been established at this time.
  - D) Date agency anticipates First Notice: We anticipate filing amending Part 395 on a regular basis during the next six months of this year.
  - E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
  - F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
  - G) Related rulemakings and other pertinent information: None.
- II) Part(s) (Heading and Code Citations): County Water Commission Retailers’ Occupation Tax, 86 Ill. Adm. Code 630
- 1) Rulemaking:
    - A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated

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Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 70 ILCS 3720/4 and 20 ILCS 2505/2505-25.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 630 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.

mm) Part(s) (Heading and Code Citations): Salem Civic Center Retailers’ Occupation Tax, 86 Ill. Adm. Code 690

1) Rulemaking:

- A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated

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Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 70 ILCS 200/245-12 and 20 ILCS 2505/2505-95.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 690 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
- F) Agency contact person for information:  
  
Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
  
217/782-2844
- G) Related rulemakings and other pertinent information: None.
- nn) Part(s) (Heading and Code Citations): County Motor Fuel Tax, 86 Ill. Adm. Code 695
  - 1) Rulemaking:
    - A) Description: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, invalidated

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Department rules that retailers had long relied on upon to determine which locally-imposed sales taxes they were required to pay. Proposed rules will provide guidance for retailers to determine what local taxes they incur based on the location where they are “engaged in the business of selling tangible personal property.”

- B) Statutory Authority: 55 ILCS 5/5-1035.1 and 20 ILCS 2505/2505-95.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 695 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs local tax obligations.
- F) Agency contact person for information:

Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794

217/782-2844

- G) Related rulemakings and other pertinent information: None.
- oo) Part(s) (Heading and Code Citations): Coin-Operated Amusement Device and Redemption Machine Tax, 86 Ill. Adm. Code 460.
- 1) Rulemaking:

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- A) Description: The rules will be amended in response to P.A. 97-1126, which changed the definition of “redemption machine.” The regulations will also be updated to reflect new statutory developments, decisional law and Department policies.
- B) Statutory Authority: 35 ILCS 510; 20 ILCS 2505/2505-105.
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Businesses offering redemption machines will be affected by this rulemaking.
- F) Agency contact person for information:
- Jerilynn Gorden  
Deputy General Counsel, Sales and Excise Tax  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794
- 217/782-2844
- G) Related rulemakings and other pertinent information: None.

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- a) Part(s) (Heading and Code Citations): State Records Commission. 44 Ill. Adm. Code 4400
- 1) Rulemaking:
- A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.
- B) Statutory Authority: State Records Act (5 ILCS 160)
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The rule applies only to state agencies.
- F) Agency contact person for information:
- David A. Joens, Director  
Illinois State Archives  
2 W Norton Building  
Springfield, IL 62756  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citations): Local Records Commission. 44 Ill. Adm. Code 4000
- 1) Rulemaking:
- A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.
- B) Statutory Authority: Local Records Act (50 ILCS 205)
- C) Scheduled meeting/hearing dates: None

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- D) Date agency anticipates First Notice: May 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments apply to local units of government, including municipalities. There will be no fiscal impact on the municipalities. The amendments seek to update existing procedures.
- F) Agency contact person for information:

David A. Joens, Director  
Illinois State Archives  
2 W Norton Building  
Springfield, IL 62756  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net

- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citations): Local Records Commission of Cook County. 44 Ill. Adm. Code 4500

- 1) Rulemaking:
- A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.
- B) Statutory Authority: Local Records Act (50 ILCS 205)
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: May 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: These amendments apply to local units of government, including municipalities. There will be no fiscal impact on the municipalities. The amendments seek to update existing procedures.

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## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

David A. Joens, Director  
Illinois State Archives  
2 W Norton Building  
Springfield, IL 62756  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net

G) Related rulemaking or other pertinent information: Noned) Part(s) (Heading and Code Citations): Illinois State Library, Acquisition Division, Illinois Documents Section. 23 Ill. Adm. Code 30101) Rulemaking:

- A) Description: 23 Ill. Adm. Code 3010 Exhibit E will be updated with the revision of the Interlibrary Loan Code, and any changes necessitated by the new Part, the Illinois Library System Act (23 Ill. Adm. Code 3030).
- B) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act (15 ILCS 320/2 and 21).
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: The rule applies only to state agencies.
- F) Agency contact person for information:

Joseph Natale  
Rules Coordinator  
Illinois State Library  
Gwendolyn Brooks Building  
300 South Second Street  
Springfield, IL 62701-1796

## SECRETARY OF STATE

## JANUARY 2014 REGULATORY AGENDA

Telephone: 217/782-3492

Fax: 217/524-3930

djoens@ilsos.net

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citations): Illinois State Library, Acquisition Division, Illinois Documents Section. 23 Ill. Adm. Code 3020

1) Rulemaking:

A) Description: Make any changes to this Part if necessary due to changes in revisions to the Illinois Library System Act (23 Ill. Adm. Code 3030).

B) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act (15 ILCS 320/2 and 21).

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: March 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Joseph Natale  
Rules coordinator  
Illinois State Library  
Gwendolyn Brooks Building  
300 South Second Street  
Springfield, IL 62701-1796  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net

G) Related rulemakings and other pertinent information: None

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- f) Part(s) (Heading and Code Citations): Illinois State Library System Act. 23 Ill. Adm. Code 3030
- 1) Rulemaking:
- A) Description: The existing rules will be repealed and a new Part will be filed in response to the reduction in the number of library systems from nine to three.
- B) Statutory Authority: Implementing and authorized by the Illinois Library System Act (75 ILCS 10).
- C) Schedule meeting/hearing date: None
- D) Date agency anticipates First Notice: March 2014.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Joseph Natale  
Rules Coordinator  
Illinois State Library  
Gwendolyn Brooks Building  
300 South Second Street  
Springfield, IL 62701-1796  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net
- G) Related information: None
- g) Part(s) (Heading and Code Citations): The Illinois State Library Grant Programs. 23 Ill. Adm. Code 3035
- 1) Rulemaking:

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- A) Description: Changes in the grant programs necessitated by the new Part. The Illinois Library System Act (23 Ill. Adm. Code 3030).
- B) Statutory authority: Implementing and authorized by the Illinois State Library Act 15 ILCS 320/18
- C) Schedule meeting/hearing date: None
- D) Date agency anticipates First Notice: March 2014.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Joseph Natale  
Rules Coordinator  
Illinois State Library  
Gwendolyn Brooks Building  
300 South Second Street  
Springfield, IL 62701-1796  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net

- G) Related information: None
- h) Part(s) (Heading and Code Citations): Public Library Non-Resident Services. 23 Ill. Adm. Code 3050
- 1) Rulemaking:
- A) Description: Changes in the grant programs necessitated by the new Part, The Illinois Library System Act (23 Ill. Adm. Code 3030)
- B) Statutory Authority: Implementing and authorized by Section 4-7 of the Illinois Local Library Act (75 ILCS 5/4-7), and authorized by Section 30-55.60 of the Public Library district Act of 1991 (75 ILCS 16/30-55.600 and Section 8.25 of the State Mandates Act (30 ILCS 805/8.25).

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- C) Schedule meeting/hearing date: None
- D) Date agency anticipates First Notice: March 2014.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Joseph Natale  
Rules Coordinator  
Illinois State Library  
Gwendolyn Brooks Building  
300 South Second Street  
Springfield, IL 62701-1796  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net

- G) Related information: None
- i) Part(s) (Heading and Code Citations): Commercial Driver Training School. 92 Ill. Adm. Code 1060, and Online Only Adult Driver Education Course Provider Certification (NEW). 92 Ill. Adm. Code 1066
- 1) Rulemaking:
    - A) Description: This rulemaking will implement P.A. 98-167, effective July 1, 2014 that requires driver's license applicants 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. Additionally, as the P.A. allows for the Secretary to approve online education course providers, this rulemaking sets forth the standards and to become an online provider.
    - B) Statutory Authority: 625 ILCS 5/6-107.5
    - C) Schedule meeting/hearing date: None

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- D) Date agency anticipates First Notice: February or March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: Existing commercial driver training schools may be certified to teach the adult driver education course with the submission of the required course content for the six hour course. Among other things, new applicants will need to complete an application, pay required fees, and submit their course content to ensure it complies with the rule.
- F) Agency contact person for information:  
Tom Wekony, Manager  
Illinois Secretary of State  
Driver Services  
Commercial Driver Training School Section  
650 Roppollo Drive  
Elk Grove, IL 60007  
Telephone: 217/782-3492  
Fax: 217/524-3930  
djoens@ilsos.net
- G) Related information: None
- j) Part(s) (Heading and Code Citations): Regulations Under the Illinois Business Brokers Act of 1995. 14 Ill. Adm. Code 140
- 1) Rulemaking:
- A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Business Broker Act of 1995, 815 ILCS 307/10-1.
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown

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- E) Effect on small businesses, small municipalities or not for profit corporations: Unknown
- F) Agency contact person for information:
- Tanya Solov  
Illinois Securities Department  
69 W. Washington Street, Suite 1220  
Chicago, IL 60602  
Telephone: 312/793-3384  
Fax: 312/793-1202  
tsolov@ilsos.net
- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citations): Regulations Under the Illinois Securities Law of 1953. 14 Ill. Adm. Code 130
- 1) Rulemaking:
- A) Description: Amend rules to conform regulations to state and federal legislative enactments and rules of the US Securities and Exchange to adopt electronic filing and use of Form ADV Part 2 for investment advisers and investment adviser representatives. Amend portions of procedures for administrative hearings.
- B) Statutory Authority: Illinois Securities Law of 1953 (815 ILCS 5/1)
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Unknown
- F) Agency contact person for information:
- Tanya Solov  
Illinois Securities Department

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## JANUARY 2014 REGULATORY AGENDA

69 W. Washington Street, Suite 1220  
Chicago, IL 60602  
Telephone: 312/793-3384  
Fax: 312/793-1202  
tsolov@ilsos.net

G) Related rulemakings and other pertinent information: None

1) Part(s) (Heading and Code Citations): Regulations Under the Illinois Business Opportunity Sales Law of 1955. 14 Ill. Adm. Code 135

1) Rulemaking:

A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.

B) Statutory Authority: Illinois Business Opportunity Sales Law of 1995(815 ILCS 602/5-1)

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

Tanya Solov  
Illinois Securities Department  
69 W. Washington Street, Suite 1220  
Chicago, IL 60602  
Telephone: 312/793-3384  
Fax: 312/793-1202  
tsolov@ilsos.net

G) Related rulemakings and other pertinent information: None

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- m) Part(s) (Heading and Code Citations): Regulations Under the Illinois Loan Brokers Act Act of 1995. 14 Ill. Adm. Code 145
- 1) Rulemaking:
- A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Loan Broker Act of 1995 (815 ILCS 175/15-1)
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: Unknown
- F) Agency contact person for information:
- Tanya Solov  
Illinois Securities Department  
69 W. Washington Street, Suite 1220  
Chicago, IL 60602  
Telephone: 312/793-3384  
Fax: 312/793-1202  
tsolov@ilsos.net
- G) Related rulemakings and other pertinent information: None
- n) Part(s) (Heading and Code Citations): Procedures and Standards. 92 Ill. Adm. Code Part 1001
- 1) Rulemaking:
- A) Description: We will file a rulemaking to revise our non-resident offender/out-of/state program. This will involve revisions to Subparts A, C, and D of 92 IAC Part 1001. The out-of-state/mail-in hearing program was established several years ago to provide relief to out-of-state offenders

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whose driving privileges were revoked in Illinois. These include offenders who committed the offense in Illinois, then moved to other states without first applying for reinstatement of their Illinois driving privileges and who now are being denied a driver's license in their new state of residence, and offenders who resided in another state when they committed the offense in Illinois and who never before attempted to have their Illinois driving privileges reinstated. Their home state is now also refusing to renew their driving privileges/driver's license until their Illinois driving privileges are reinstated. These offenders are now coming into our system due to the enhanced and improved security required by the federal government related to driver's licenses and other forms of identification. As a result of these measures, the caseload of the Out-of-state Unit has increased dramatically in recent years. Our rulemaking will attempt to provide more efficient procedures for the processing of these petitions, and discourage the filing of petitions by petitioners who are unprepared to satisfy our requirements;

We have conducted an internal survey to determine whether our staff believes that revisions should be made to Part 1001 to improve and facilitate the hearing process, based upon our day-to-day experience with the current rules. As a result, extensive revisions will be made in Subparts A, C, and D.

Extensive revision and reorganization of §1001.460 in an attempt to clarify their substantive content. "Modification" defined; disqualifying factors recited and factors to be considered by hearing officer in considering modification recited; new subsection implements recent amendment to Section 6-206 of the IVC (new subsection (a16)) made by P.A. 96-1305 (HB 4580, effective 1 January 2011). The case of *Webb v. White* (4<sup>th</sup> Dist., 2006), 364 Ill. App. 3d 650, 850 N.E.2<sup>nd</sup> 233, which criticized us for upholding a suspension based upon a Liquor Control Act violation, compels us to re-examine this rule. Further, the reorganization of §6-20 of the LCA in Public Act 95-355 (HB 624, effective 1, January 2008), will enable us to more effectively respond to the court's concerns;

There will also be revisions made to the rules on the Breath Alcohol Ignition Interlock Device program, so that it is consistent with revisions made to the Monitoring Device Driving Permit program, to respond to issues which have come to light since the inception of the program, and to

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respond to Public Act 96-1526, which removed the authority of circuit courts to order the Secretary of State to issue a monitoring device permit (MDDP) to an eligible first-time DUI offender, and instead, provides for the automatic issuance of a MDDP by the secretary to an eligible first-time DUI offender. See §§ 1001.441, 442, and 444. Revisions will be made to the employment exemption, for example;

Our rules on safety responsibility hearings, at 92 IAC Subpart b, will be updated.

Our rules on restricted driving permits, at 92 IAC §1001.420 must be amended to implement the new daycare and educational permits, authorized by Public Act 95-848, and elderly and disabled person permits, authorized by P.A. 96-1180 (HB 4859);

Our rules on hearings for zero tolerance suspensions, at 92 IAC Subpart F, will be updated to require greater accountability for those offenders with multiple ZT suspensions;

It is not yet clear whether the rules on hearings will require revision in order to implement P.A. 1157, which authorizes the Secretary of State to issue temporary visitor driver's licenses to illegal immigrants. The Department of driver services, which is implementing the legislation, recently adopted their rules on this legislation. See 37 Ill. Reg. 19342, effective November 28, 2013.

Respond to and implement the Compassionate Use of Medical Cannabis Pilot Program Act, P.A. 98-122. We will also provide for the issuance of driving privileges to petitions who are involved in methadone and opiate maintenance programs.

- B) Statutory Authority: 625 ILCS 5/2-104
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: March 2014
- E) Effect on small businesses, small municipalities or not for profit corporations: None

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F) Agency contact person for information:

Marc Christopher Loro, Senior Legal Advisor  
Administrative Hearings  
Michael J. Howlett Building  
Room 200  
Springfield, IL 62756  
Telephone: 217/785-8245  
Fax: 217/782-2192  
mloro@ilsos.net  
Tanya Solov

G) Related rulemakings and other pertinent information: At this time, the Department is not aware of any further information which may serve the public interest. The public will have an opportunity to comment on any proposed rulemaking during the first notice period.

## STATE UNIVERSITIES RETIREMENT SYSTEM

## JANUARY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Universities Retirement (80 Ill. Adm. Code 1600)

1) Rulemaking:

A) Description: The System anticipates rulemaking affecting the following:

Revise the current rule on Effective Beneficiary Designations to clarify whether SURS will accept a beneficiary designation signed by an agent, who names himself or herself as the beneficiary.

Revise the current rule on Making Preliminary Estimated Payments to include procedures for holding payments when the member has not responded to informational requests, and to terminate the benefit after a period of non-compliance with the request.

Tier II - Promulgate rules for implementation of P.A. 96-889 and 97-609. Revise the current procurement rule to modify existing procedures and to address the retention of fiduciary counsel to the Board of Trustees and other specialized legal services.

Return to Work – Promulgate rules for implementation of P.A. 97-0968.

Revise the current rule pertaining to compliance with the Illinois Freedom of Information Act to reflect legislative changes to the Act since 2008.

Revise the current rule pertaining to compensation subject to SURS withholding to clarify the treatment of severance payments.

Revise the current rule concerning disability benefits to clarify the treatment of vacation pay with respect to initial eligibility for benefit payments.

Revise the current rule pertaining to sick leave accruals to clarify the definition of "sick leave".

B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.

## STATE UNIVERSITIES RETIREMENT SYSTEM

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C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearings are anticipated.

D) Date agency anticipates First Notice: Spring 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

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

217/378-8825  
email: mweinstein@surs.org  
fax: 217/378-9801

G) Related rulemakings and other pertinent information: Other Amendments may be necessary based on emergent issues.

## DEPARTMENT OF TRANSPORTATION

## JULY 2013 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration, 44 Ill. Adm. Code 650
- 1) Rulemaking:
- A) Description: The Department is amending this Part to clarify and update provisions. The following changes, among others, will be made to the Part: the Department is clarifying that a determination of prequalification, and not the certificate of eligibility, permits a contractor to make application for authorization to bid on contracts; the Department is removing the timeframe for a determination of a prequalification rating to allow the Department to issue the rating at any time prior to the letting date; and, the Department is clarifying that bids can be solicited from anyone, however, those subcontractors chosen by the Department's contractors must be registered in accordance with Subpart C of this Part before they can be approved to work on Department projects.
- B) Statutory Authority: Implementing Section 4-103 of the Illinois Highway Code [605 ILCS 5/4-103] and Section 2705-595 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-595] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1]
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses will not be impacted by the changes to this Part.
- F) Agency contact person for information:
- Sannaz Etemadi, Assistant Chief Counsel  
Illinois Department of Transportation  
Office of Chief Counsel, Room 313  
2300 South Dirksen Parkway  
Springfield, IL 62764
- 217/524-7763

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G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Diversity in Engineering Scholarship Program, 23 Ill. Adm. Code 2000

1) Rulemaking:

A) Description: This new Part will implement and administer the Diversity in Engineering Scholarship Program to assist in increasing the representation of targeted group members within civil engineering job classifications in which targeted group members are underutilized by the Department.

B) Statutory Authority: 20 ILCS 2705/2705-587

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not-for-profit corporations: No impact

F) Agency contact person for information:

Sannaz Etemadi, Assistant Chief Counsel  
Illinois Department of Transportation  
Office of Chief Counsel, Room 313  
2300 South Dirksen Parkway  
Springfield, IL 62764

217/524-7763

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Rates to be Charged by Official Testing Stations for Vehicles Other Than School Buses; 92 Ill. Adm. Code 454

1) Rulemaking:

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- A) Description: The Department will be adding a new schedule of rates or charges that Official Testing Stations will be able to charge to perform a safety test for interstate vehicles.
- B) Statutory Authority: 625 ILCS 5/6-410, 13-106, 18b-102(d), 18b-105(a), 18b-106, and 18b-109; 20 ILCS 5/5-625 and 2705/2705-125; and 5 ILCS 10/5-25
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact small businesses and not-for-profits that own or operate commercial motor vehicles used in interstate commerce that are inspected at Illinois Official Testing Stations.
- F) Agency contact person for information:  
  
Sannaz Etemadi, Assistant Chief Counsel  
Illinois Department of Transportation  
Office of Chief Counsel, Room 313  
2300 South Dirksen Parkway  
Springfield, IL 62764  
  
217/524-7763
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): School Bus Driver's Pretrip Inspection Requirements, 92 Ill. Adm. Code 458
- 1) Rulemaking:
- A) Description: This Part will be amended to prescribe that an electronic pretrip inspection system cannot replace the completion of a hard copy of the School Bus Driver's Pretrip Inspection Form (Form) by the driver. The Department has determined that the pretrip inspection system can only be used as additional equipment and must not replace the completion

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of a hard copy of the Form by the driver. Additionally, the Form will be amended to make non-substantive corrections. Finally, the Department will clarify that “business” days are applicable with respect to Form retention requirements.

- B) Statutory Authority: 625 ILCS 5/13-115
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses that own or operate school buses will be affected.
- F) Agency contact person for information:

Sannaz Etemadi, Assistant Chief Counsel  
Illinois Department of Transportation  
Office of Chief Counsel, Room 313  
2300 South Dirksen Parkway  
Springfield, IL 62764

217/524-7763

- G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Aviation Safety, 92 Ill. Adm. Code 14

1) Rulemaking:

- A) Description: The Department is amending this Part to clarify and update provisions. The following changes, among others, will be made to the Part:

The Department is removing reference to the approximate time for FAA approval (in approximately 30-60 days). The FAA currently takes 3-12 months for an airspace determination. The State has no control over this timeframe, so no timeframe should be given in the Department's rules.

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Otherwise, proponents read the Department's rules and expect a quick turnaround from the FAA.

To be consistent with wording used in Section 14.500 Airport Classification, the Department is changing this language to say that the “word RLA includes Ultralight/STOL RLAs.” Current rules refer to an Ultralight/STOL Restricted Landing Area, yet minimal dimensional standards are omitted. The Department is, thus, adding the minimal dimensional standards as shown in Section 14.Appendix E, Illustrations C and D.

The current rules refer to Ultralight/STOL Restricted Landing Areas in the classification and in Illustration A showing Restrictions on Use, yet the design and layout, and obstruction clearances, are not defined. In their current form, the design and layout, and obstruction clearance requirements for an Ultralight/STOL Restricted Landing Area would be greater than the requirements for a Public or Private Use Ultralight/STOL airport.

- B) Statutory Authority: Implementing and authorized by the Illinois Aeronautics Act [620 ILCS 5].
- C) Scheduled meeting/hearing date: None scheduled
- D) Date agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities or not-for-profit corporations: No effect.
- F) Agency contact person for information:

Sannaz Etemadi, Assistant Chief Counsel  
Illinois Department of Transportation  
Office of Chief Counsel, Room 313  
2300 South Dirksen Parkway  
Springfield, IL 62764

217/524-7763

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- G) Related rulemakings and other pertinent information: None

## ILLINOIS WORKERS' COMPENSATION COMMISSION

## JANUARY 2014 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Insurance Regulations (50 Ill. Adm. Code 7100).
- 1) Rulemaking:
- A) Description: The Commission anticipates changes to two sections of Part 7100 of its rules. Section 7100.100 sets forth the procedure for the enforcement of the insurance compliance provisions of Section 4 of the Workers' Compensation Act. This rule has not been updated since 1990 and there have been several significant amendments to Section 4 since that time, including the ability of the Commission to issue a work-stop order for an employer who has knowingly failed to provide workers' compensation insurance. In addition, Section 7100.100 does not include the minimum \$10,000 fine for the knowing and willful failure or refusal to obtain workers' compensation insurance set forth in Section 4(d) of the Workers' Compensation Act and the applicability of such fine to corporate officers and directors, which is also set forth in Section 4(d) of the Act.
- Section 7100.70 sets forth the qualifications required to be approved as a self-insurer in Illinois, as well as the procedural aspects of the application process. This rule has not been updated since 1996. The rule will be updated in order ensure the integrity of the self-insurance program.
- B) Statutory Authority: Sections 4, 4a-4, and 16 of the Workers' Compensation Act [820 ILCS 305/4; 820 ILCS 305/4a-4; 820 ILCS 305/16].
- C) Scheduled meeting/hearing dates: None scheduled at this time.
- D) Date agency anticipates First Notice: Undetermined.
- E) Effect on small businesses, small municipalities or not for profit corporations: The changes to Section 7100.100 affect those businesses appearing before the Illinois Workers' Compensation Commission for insurance compliance actions relating to the failure to obtain workers' compensation insurance or the failure to obtain sufficient workers' compensation insurance. The changes to Section 7100.70 affect those parties applying to be a self-insurer for workers' compensation coverage in Illinois.

## ILLINOIS WORKERS' COMPENSATION COMMISSION

## JANUARY 2014 REGULATORY AGENDA

F) Agency contact person for information:

Kimberly B. Janas  
Secretary of the Commission  
Illinois Workers' Compensation Commission  
100 W. Randolph Street Suite 8-200  
Chicago, IL 60601

312/814-6559  
kimberly.janas@illinois.gov  
Fax: 312/814-3520

G) Related rulemakings and other pertinent information: None.b) Part(s) (Heading and Code Citation): Accident Reporting (50 Ill. Adm. Code 7010).1) Rulemaking:

A) Description: The Commission is currently pursuing an update of its electronic system which receives the First Report of Injury that must be submitted by employers to the Commission pursuant to Section 6(b) of the Workers' Compensation Act. Section 6(b) provides that these reports shall be made in the manner as prescribed by the Commission. The proposed rule change would mandate the electronic submission of this report in order to facilitate the compilation of aggregate statistics of the information contained in these submissions, which is also required by Section 6(b) of the Act. This update of the Commission's electronic system ensures that Illinois maintains the same electronic system used by employers and insurance carriers to submit information for their workers' compensation reporting requirements throughout the entire United States.

B) Statutory Authority: Sections 6 and 16 of the Workers' Compensation Act [820 ILCS 305/6; 820 ILCS 305/16].

C) Scheduled meeting/hearing dates: None scheduled at this time.

D) Date agency anticipates First Notice: Undetermined.

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- E) Effect on small businesses, small municipalities or not for profit corporations: The rule change will require small businesses, small municipalities, or not for profit corporations to submit any First Report of Injury in an electronic format. The submission of these reports is most likely performed by a workers' compensation insurance carrier retained by a small business, small municipality, or not for profit corporation.
- F) Agency contact person for information:
- Kimberly B. Janas  
Secretary of the Commission  
Illinois Workers' Compensation Commission  
100 W. Randolph Street Suite 8-200  
Chicago, IL 60601
- 312/814-6559  
kimberly.janas@illinois.gov  
Fax: 312/814-3520
- G) Related rulemakings and other pertinent information: None.
- c) Part(s) (Heading and Code Citation): Miscellaneous (50 Ill. Adm. Code 7110).
- 1) Rulemaking:
- A) Description: Section 7110.60 of the Commission's rules sets forth the guidelines for the distribution of the Commission's informational handbook. This Section does not reflect the requirement set forth in Section 15a of the Workers' Compensation Act, which requires that the Commission ensure that a copy of its handbook be distributed to an employee who is subject to a First Report of Injury or his or her beneficiary. In addition, House Bill 3390 was passed by the General Assembly on May 31, 2013. The bill deletes the requirement that the Commission send out the informational handbook and instead requires that the handbook be posted on its Internet website. If this legislation becomes law, then Section 7110.60 must also be changed to reflect the requirements of Section 15a.

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- B) Statutory Authority: Sections 15a and 16 of the Workers' Compensation Act [820 ILCS 305/15a; 820 ILCS 305/16].
- C) Scheduled meeting/hearing dates: None scheduled at this time.
- D) Date agency anticipates First Notice: Undetermined.
- E) Effect on small businesses, small municipalities or not for profit corporations: The Commission does not anticipate any affect on small businesses, small municipalities, or not for profit corporations from this rule change.
- F) Agency contact person for information:
- Kimberly B. Janas  
Secretary of the Commission  
Illinois Workers' Compensation Commission  
100 W. Randolph Street Suite 8-200  
Chicago, IL 60601
- 312/814-6559  
kimberly.janas@illinois.gov  
Fax: 312/814-3520
- G) Related rulemakings and other pertinent information: None.

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

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