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Honor James R. Thompson
CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: Capitol Development Board Energy Code

2) Code Citation: 71 Ill. Adm. Code 600

3) Section Numbers: Proposed Action:
   600.100      New Section
   600.110      New Section
   600.120      New Section
   600.130      New Section
   600.140      New Section
   600.150      New Section
   600.160      New Section
   600.170      New Section

4) Statutory Authority: [20 ILCS 3105/10.09-5] (Public Act 93-190)

5) A Complete Description of the Subjects and Issues Involved: The rules implement a statewide energy code for the construction or repair of State facilities, incorporating standards of the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc. (ASHRAE), to provide minimum requirements for energy-efficient design.

6) Will this/these proposed rules replace an emergency rule currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create a State mandate for units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

    Claire Gibson, Deputy Chief Counsel
    Capital Development Board
    3rd Floor William G. Stratton Bldg.
    Springfield, IL 62706
    Telephone: 217/782-1392
12) 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

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for rulemaking was not anticipated at that time.

14) Do these rules require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code[30 ILCS 500/5-25]? No

The full text of the Proposed Rules is identical to the Emergency Rules that begin on page 11355 of the Illinois Register:
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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1) **Heading of the Part:** Illinois Renewable Fuels Development Program

2) **Code Citation:** 32 Ill. Admin. Code 130

3) **Section Numbers:** Proposed Action:
   - 130.10 New Section
   - 130.20 New Section
   - 130.30 New Section
   - 130.40 New Section
   - 130.50 New Section
   - 130.60 New Section
   - 130.70 New Section
   - 130.80 New Section
   - 130.90 New Section
   - 130.100 New Section
   - 130.110 New Section
   - 130.120 New Section
   - 130.130 New Section
   - 130.APPENDIX A New Section
   - 130.APPENDIX B New Section
   - 130.APPENDIX C New Section

4) **Statutory Authority:** Implementing and authorized by the Illinois Renewable Fuels Development Program Act (P.A. 93-15, effective June 11, 2003).

5) **A Complete Description of the Subjects and Issues Involved:** The proposed rulemaking establishes the rules governing the Department’s administration of the Renewable Fuels Development Program. This rulemaking is required to facilitate the program.

6) **Will this proposed rulemaking replace an emergency rule currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this proposed rulemaking contain incorporations by reference?** No

9) **Are there any proposed amendments containing incorporations by reference?** No

10) **Statement of Statewide Policy Objectives:** The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act (30 ILCS 805).
NOTICE OF PROPOSED RULES

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

Jolene Clarke  
Department of Commerce and Economic Opportunity  
620 E. Adams Street  
Springfield, Illinois 62701  
217/557-1820

12) **Initial Regulatory Flexibility Analysis:**

A) Types of small businesses and small municipalities affected: None

B) Reporting, bookkeeping or other procedures required for compliance: 
Bookkeeping, financial management, program administration and reporting of approved grants.

C) Types of professional skills necessary for compliance: Grantees would already possess the skills necessary for compliance.

13) **Regulatory Agenda on which this rulemaking was summarized:** 
This rulemaking was not included on either of the two most recent regulatory agendas because: it was inadvertently omitted.

The full text of the Proposed Rules begins on the next page:
PART 130
ILLINOIS RENEWABLE FUELS DEVELOPMENT PROGRAM

Section
130.10 Purpose
130.20 Definitions
130.30 Allocation of Appropriations
130.40 Project Eligibility Requirements
130.50 Eligible Uses of Grant Funds
130.60 Project Labor Agreements
130.70 Form of Application
130.80 Application Submittal
130.90 Application Evaluation Procedures
130.100 Grant Award Evaluation Criteria and Funding Limitations
130.110 General Program Requirements
130.120 Grant Agreement
130.130 Administrative Requirements for Grants
130.APPENDIX A Renewable Fuels Development Program Application Cover Sheet
130.APPENDIX B Application Form For Renewable Fuels Development Program
130.APPENDIX C Projected Energy Use By Type Information Form

AUTHORITY: Implementing and authorized by the Illinois Renewable Fuels Development Program Act [20 ILCS 689].

SOURCE: Adopted by emergency rulemaking at 27 Ill. Reg. 17400, effective November 6, 2003, for a maximum of 150 days; emergency expired April 3, 2004; adopted at 28 Ill. Reg. ______, effective ____________.

Section 130.10 Purpose

The Department of Commerce and Economic Opportunity recognizes that renewable fuels produced from Illinois agricultural products will enhance the economy of Illinois, expand rural economic development, reduce the nation's dependence on foreign oil supplies, and improve the environment by reducing harmful emissions from vehicles. In 2003, factors such as the electric blackout in the northeastern United States, the electricity crisis affecting California and other western states, instability in the Middle East, and extraordinarily high gasoline prices have
created a situation in which renewable forms of energy must be utilized in order for both the Illinois economy and national economy to grow.

Reliable supplies of renewable fuels will be integral to the long term energy security of the United States [20 ILCS 689/5]. Illinois is the largest producer of soybeans in the United States and ranks second in annual corn production. Illinois is also the leading producer of ethanol and biodiesel in the nation, with an ethanol production capacity of approximately 800 million gallons per year. Accordingly, the Illinois Department of Commerce and Economic Opportunity administers the Illinois Renewable Fuels Development Program, which will offer grants to new and existing ethanol and biodiesel production facilities in Illinois. Implementation of the Program is intended to reduce costs for ethanol production facilities, stimulate the agricultural sector of Illinois' economy, encourage the use of renewable fuels as alternatives to the nation's reliance on fossil fuels, and reduce global warming emissions. New and expanded renewable fuel production facilities will expand local economies, create permanent jobs, generate revenue for the State of Illinois, and increase revenue for local grain farmers.

When awarding public funds for public works projects, the State of Illinois has a compelling interest in ensuring that the highest standards of quality and efficiency are applied to the project. Project labor agreements provide the State of Illinois with a guarantee that specific public works projects will be completed with highly skilled workers, and also functions as a means to provide for peaceful, orderly and mutually binding procedures for resolving labor issues. Accordingly, recipients of renewable fuel development grants will be required to enter into project labor agreements establishing wages, benefits and other provisions pertaining to labor organization employees. This requirement does not prohibit the construction of renewable fuel production facilities in Illinois that are undertaken without a project labor agreement.

Section 130.20  Definitions

The following definitions are applicable to this Part:

"Act" means the Illinois Renewable Fuels Development Program Act [20 ILCS 689].

"Award Value Criteria" means the criteria established by the Department in Section 130.90 in order to determine appropriate grant award levels.

"Biodiesel" means a renewable diesel fuel derived from biomass that is intended for use in diesel engines (Section 10 of the Act).
"Biodiesel blend" means a blend of biodiesel with petroleum-based diesel fuel in which the resultant product contains no less than 1% and no more than 99% biodiesel (Section 10 of the Act).

"Biofuels" means either ethanol or biodiesel.

"Biomass" means non-fossil organic materials that have an intrinsic energy content. "Biomass" includes, but is not limited to, soybean oil, vegetable oils, and ethanol. (Section 10 of the Act)

"Cooperative" means a business that is established, financed, operated and owned by individuals for the purpose of providing additional value to their agricultural products.

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

"Diesel Fuel" means any product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark (Section 10 of the Act).

"Director" means the Director of the Department.

"Ethanol" means a product produced from agricultural commodities or by-products used as a fuel or to be blended with other fuels for use in motor vehicles (Section 10 of the Act).

"Fuel" means fuel as defined in Section 1.19 of the Motor Fuel Tax Law [35 ILCS 505/1.19] (Section 10 of the Act).

"Gasohol" means motor fuel that is no more than 90% gasoline and at least 10% denatured ethanol that contains no more than 1.25% water by weight (Section 10 of the Act).

"Gasoline" means all products commonly or commercially known or sold as gasoline (including casing head and absorption or natural gasoline) (Section 10 of the Act).
NOTICE OF PROPOSED RULES

"Illinois Agricultural Product" means any agricultural commodity grown in Illinois that is used by a production facility to produce renewable fuel in Illinois, including, but not limited to, corn, barley, and soybeans (Section 10 of the Act).

"Labor Organization" means any organization or regional body or group of local unions:

- in which building and construction industry trades, crafts, or labor employees, or all or any of these, participate; and

- that represents building and construction industry trades, crafts, or labor employees, or any or all of these; and

- that exists for the purpose, in whole or in part, of negotiating with the employers of building and construction industry trades, crafts, or labor employees, or any or all of these, terms and conditions of employment, including, but not limited to: wages, hours of work, overtime provisions, fringe benefits, and the settlement of grievances; and

- that participate in apprenticeship and training approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training, in the State of Illinois. (Section 10 of the Act)

"Majority Blended Ethanol Fuel" means motor fuel that contains no less than 70% and no more than 90% denatured ethanol and no less than 10% and no more than 30% gasoline (Section 10 of the Act).

"Motor Vehicles" means motor vehicles as defined in the Illinois Vehicle Code [625 ILCS 5] and watercraft propelled by an internal combustion engine (Section 10 of the Act).

"Owner" means any individual, sole proprietorship, limited partnership, copartnership, joint venture, corporation, cooperative, or other legal entity that operates or will operate a plant located within the State of Illinois (Section 10 of the Act).

"Permanent Job" means a job in which a new employee works for the owner at the project at a rate of at least 35 hours per week and does not include construction jobs.
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"Plant" means a production facility that produces a renewable fuel. "Plant" includes land, any building or other improvement on or to land, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in the processing of fuel from agricultural commodities or by-products. (Section 10 of the Act)

"Plant Construction" means any new construction of a renewable fuels production plant with a minimum annual production capacity of 30 million gallons.

"Plant Expansion" means any modification, alteration or retrofitting of an existing plant, with a minimum annual renewable fuels production capacity of 30 million gallons, that will result in an increased renewable fuels production capacity, yield or efficiency.

"Project" means a plant construction or plant expansion project that is funded under the program. Over a period of time, separated by a reasonable period, multiple "projects" could occur at one facility; for instance, an initial plant construction project followed by a plant expansion project at the same facility.

"Program" means the Renewable Fuels Development Program.

"Renewable fuel" means ethanol, gasohol, majority blended ethanol fuel, biodiesel blend fuel, and biodiesel (Section 10 of the Act).

"Rural County" means a county in the State of Illinois designated as a non-Metropolitan Statistical Area by the United States Office of Management and Budget. A rural county has a population of less than 50,000.

"State" means the State of Illinois.

Section 130.30 Allocation of Appropriations

Subject to appropriation from the Build Illinois Bond Fund, the Director is authorized to award grants for projects approved pursuant to this Part. An approved project is eligible for only one grant per fiscal year from the Renewable Fuels Development Program. A project means either the construction of a new facility where such production did not previously exist or an expansion to increase the capacity of an existing production facility, as described in the application approved and funded by the Department through this program. Further, a facility receiving a grant for new construction or a plant expansion in one fiscal year may be eligible for a grant for expansion of the capacity of that facility in another fiscal year.
Section 130.40 Project Eligibility Requirements

In order to be eligible for funding under the program, the proposed project must meet all of the following criteria:

a) the project must be physically located in the State of Illinois;

b) the project must be either a plant construction project or a plant expansion project; new construction must consist of 30 million gallons or more;

c) the owner must commit to entering into a Project Labor Agreement covering the project that is compliant with the provisions of Section 130.60;

d) the owner must commit to securing all financing (debt and equity) necessary to complete the project; and

e) The owner must commit to using Illinois agricultural products as the primary source in the renewable fuels production process.

Section 130.50 Eligible Uses of Grant Funds

Program grant proceeds may be expended solely for costs incurred, including labor and other bondable expenses, that are directly related to capital facilities consisting of buildings, structures and durable equipment in connection with an approved plant construction or plant expansion project. Grant funding may not be used for administrative expenditures, including labor such as architectural and engineering fees, that are not related to the project.

Section 130.60 Project Labor Agreements

a) A Project Labor Agreement for the plant construction or plant expansion to be funded through the Renewable Fuels Development Program must include the following:

1) provisions setting forth established standard hourly wages for each class of labor organization employee;

2) provisions setting forth area standard benefits and other compensation for each class of labor organization employee;
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3) provisions establishing that no strike, job interruption, or delay will be engaged in by the covered employees;

4) provisions setting forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work;

5) provisions ensuring a reliable source of skilled and experienced labor;

6) provisions to further public policy objectives as to improved employment opportunities for minorities and women in the construction industry to the extent permitted by State and federal law;

7) provisions to permit the selection of the most qualified lowest responsible bidder, without regard to union or non-union status at other construction sites;

8) provisions to bind all contractors and subcontractors on the project through the inclusion of appropriate bid specifications in all relevant bid documents;

9) the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the Project Labor Agreement.

b) Project Labor Agreements shall include other terms as the parties deem appropriate.

c) The Project Labor Agreement shall be filed with the Director in accordance with the procedures established by the Department (Section 25 of the Act).

Section 130.70 Form of Application

The grant application package must include all of the following materials/information:

a) Application cover page (Appendix A);

b) Application form (Appendix B);

c) Projected Energy Use by Type form (Appendix C);
d) Narrative description of the proposed project, including:

1) Plant description. A description of the proposed construction or expansion project, including a description of the scope and nature of the plant, a description of equipment, technologies and processes used; a description of the renewable fuels production capacity; a description of the amounts, types and sources of Illinois agricultural products used as feedstock in the project; a location map showing project site and connections to existing transportation routes; and a description of all permits, contracts or other agreements necessary to complete the project. If the applicant does not have all relevant or necessary operating permits, identification of the status of any permit applications and anticipated date of permit issuance should be included in the narrative, in addition to the date that any required contracts or agreements will be executed.

2) Project benefits. Economic justification for the project that includes a summary of the social or economic benefits of the project to Illinois; identification of those communities, businesses, and other entities likely to benefit from the project; identification of employment impacts, such as number and type of permanent jobs created or retained by the project itself (i.e., non-construction jobs) and projected payrolls; and the existing and or new agricultural commodity and renewable fuel markets that would be affected by the project.

3) Project costs and schedule. A project budget and time schedule for completion of the project and for major project components. Direct material and labor costs associated with construction must be defined and itemized in the proposal. For instance, proposals should include specific line item budget amounts for equipment such as fermenters, grain-storage, dryer systems, tanks, and centrifuges, not simply reference to broad categories such as structures, mechanical, electrical, etc.

4) Ownership disclosure. Identification by name of those individuals or entities with 5% or more ownership of the plant that is the subject of the project.

5) Performance disclosure. As asserted against the owner, or any parent organization or holding company, identification of all pending or
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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unresolved violations of state or federal laws or regulations that could result in legal or regulatory impact on the operation of the project;

e) Copy of the Prospectus to Shareholders, if applicable;

f) Copy of the business plan;

g) Organization/management structure information;

h) Copy of the Project Labor Agreement (or draft agreement if the final agreement is still pending at the time of initial application);

i) Certification that owner will obtain all necessary, applicable and required permits;

j) Certification that owner will obtain all financing (debt and equity) necessary to complete the project;

k) Certification identifying the number of permanent jobs to be created/retained and identification of the types of jobs created/retained.

Section 130.80 Application Submittal

a) Applications to the program for grant funds may be submitted to the Department at any time in accordance with this Part, or pursuant to the time frame specified in a formal Request for Proposals issued by the Department.

b) One original and five copies of each grant application shall be submitted to Illinois Renewable Fuels Development Program, Bureau of Energy and Recycling, Illinois Department of Commerce and Economic Opportunity, 620 East Adams Street, CIPS-5, Springfield IL 62701-1615. Applications submitted by e-mail or facsimile are not acceptable unless the Department specifically requests additional information and/or materials to be submitted by the applicant.

c) The Department may require applications to be clarified or supplemented through additional written submissions or oral presentations.

d) Information submitted that could reasonably be considered to be proprietary, privileged, or confidential commercial or financial information should be identified as such in the application. The Department will maintain the confidentiality of that information to the extent permitted by law.
Section 130.90 Application Evaluation Procedures

a) The Department will evaluate complete proposals in the following manner: proposals will be evaluated to determine whether the proposed project meets the project eligibility criteria specified in Section 130.40 and to determine whether, based on the information supplied in the application documentation, the proposal demonstrates that:

1) the project is economically viable;

2) the project is technically viable; and

3) the Project will result in economic development benefits to the State.

b) The Department may obtain the assistance of other persons either within or outside of State government in reviewing part or all of any application when, in the opinion of the Department, to do so would promote a more thorough and fair understanding of the proposed project. If the Department elects to obtain such assistance, the Department shall select persons qualified by relevant environmental, technical, or engineering experience.

c) The Department reserves the right to make on-site survey inspections during the evaluation when, in the opinion of the Department, to do so would promote a more thorough and fair understanding of the proposed project.

d) Upon completion of the evaluation and determination of the grant award, in accordance with Section 130.100, the Department staff shall make a recommendation to the Director. The Director may then approve, reject, or amend the grant award, according to the best interests of the State, at her or his discretion.

e) Rejection of applications. The Department reserves the right to reject any proposal that does not comply with the requirements of this Part.

f) No rights conferred. The submission of a proposal under this Section confers no right upon any applicant. The Department is not obligated to award a grant, to pay any cost incurred by the applicant in the preparation and submission of a proposal, or pay any grant related costs incurred prior to the project start date.
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Section 130.100  Grant Award Evaluation Criteria and Funding Limitations

The Department staff shall utilize the following award evaluation criteria to determine the award amount for any grant to be recommended to the Director:

a)  General Award Evaluation Criteria.

1)  Cooperative ownership share of the project.

2)  The size (total new biofuels production capacity) of the project.

3)  The volume of usage of Illinois agricultural products in the production of renewable fuels at the facility.

4)  The number of permanent new jobs created.

5)  The local or regional economic need for the project.

6)  The current local base prices for corn and soybeans in the project area.

7)  The use of new process technologies, new energy efficiency or energy production technologies, other new technologies designed to reduce production costs or increase profitability of the facility, or the production of new value-added by-products.

8)  Other considerations determined by the Department to be in the best interest of the State of Illinois.

b)  Grant limitations and other grant award considerations.

1)  The maximum grant award under the program is $5.5 million for either a plant expansion or a new construction project.

2)  Grants for biofuels facilities shall not exceed 10% of the total construction costs of the facility.

3)  The Department reserves the right to determine the final amount of the grant based on its evaluation of the project, amount of funds available, and the number of applications for program funds.
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4) Funding awards are not transferable or assignable to another project and may not be assigned to another entity without the Department's prior written permission.

5) The Department will negotiate the structure of the agreement (i.e., advance production payment, conventional grant award, etc.) with the recipient, taking into consideration the organizational status of the recipient, project financing, applicable tax credits and considerations, and applicable Illinois statutory and administrative requirements.

Section 130.110 General Program Requirements

a) Reporting requirement. Recipients will be required to submit Monthly Progress Reports to the Department during the grant term, including information on the number of jobs created or retained. Recipients shall also be required to provide production data/records for the performance period specified by the Department. The grant term/performance period will be determined on a project specific basis.

b) Disbursement of grant funds. Notwithstanding selection for a grant award pursuant to this Part, disbursement of grant funds is contingent upon the following requirements:

1) Submission of a fully executed grant agreement;

2) Submission of a fully executed Project Labor Agreement for the project;

3) Submission of evidence of a commitment from a primary lender for all financing necessary to complete the project.

c) Freedom of Information Act/confidential information. Funded proposals are subject to disclosure, in response to requests received under provisions of the Freedom of Information Act [5 ILCS 140]. Information that may reasonably be considered to be proprietary, privileged or confidential commercial or financial information should be identified as such in the proposal. The Department will maintain the confidentiality of that information only to the extent permitted by law.

d) Ownership/use of equipment. Grant recipients may not sell, lease, transfer assignment or encumber any equipment or material purchased with grant funds,
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without the express written approval of the Department, for the duration of the grant term/performance period.

e) Dissemination of information/technology transfer. Recipients will be contractually required to allow the Department access to the project site and allow the Department to obtain, publish, disseminate or distribute any and all information obtained from the project (except any data or information that has been negotiated as being confidential or proprietary), without restriction and without payment or compensation by the Department.

f) Recapture of grant funds. A recipient must operate the plant to produce renewable fuels for a period of five years. In the event that the plant ceases production during that period, or fails to create and maintain the number of jobs specified in the grant agreement, the Department reserves the right to require appropriate proportional repayment of funds up to the entire amount of the grant.

g) The Director may elect to waive enforcement of any provision of this Part or of a contractual provision arising out of a grant agreement based on a finding that the waiver is necessary to avert any imminent and demonstrable hardship to the recipient that may result in the recipient's insolvency or discharge of workers.

h) In addition to compliance with any federal, State or local permitting requirements, funded projects will be subject to review by the following Illinois agencies: Departments of Natural Resources, Historic Preservation and Agriculture and the Illinois Environmental Protection Agency. Recipients will be required to comply with requirements established by these agencies relative to their respective reviews. Recipients will be responsible for coordinating directly with the applicable external agencies. Any requirements communicated to the Department shall be incorporated into the agreement awarded as of its execution date, or if received from the applicable agency subsequent to execution, as an addendum to the agreement. Recipients will be contractually obligated to comply with these requirements. Prior to notification of compliance by the applicable agency, recipients may request disbursement of funds only for the following purposes: administrative, contractual, legal, engineering or architectural/engineering costs incurred that are necessary to allow for compliance by the recipient with requirements established by the external agency. Funds will not be disbursed for land acquisition or any activity that physically impacts the project site until the Department receives the appropriate sign-off from the applicable agencies.

Section 130.120  Grant Agreement
a) When a grant has been awarded, the grantee and the Department shall execute an agreement. The agreement shall be executed between the grantee and the Director or the Director's designee on behalf of the Department.

b) The agreement shall contain substantive provisions, including, but not limited to, the following:

1) A recitation of legal authority pursuant to which the agreement is made;

2) An identification of the project scope and schedule and the work or services to be performed or conducted by the grantee;

3) An identification of the grant amount;

4) The conditions and manner in which the Department shall pay the grant amount, subject at all times to annual appropriation by the General Assembly;

5) A promise by the grantee not to assign or transfer any of the rights, duties or obligations of the grantee without the written consent of the Department;

6) A promise by the grantee not to amend the agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The project must be completed by the completion date in the agreement unless a written request for an extension is submitted no later than 30 days prior to the award completion date;

7) A covenant that the grantee shall expend the grant amount and any accrued interest only for the purposes of the project as stated in the agreement and approved by the Department; and

8) A covenant that the grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Act.

Section 130.130 Administrative Requirements for Grants
a) Termination of grant. Grants shall be terminated for the following reasons:

1) Termination due to loss of funding. In the absence of State funding for a fiscal year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate cuts to all grantees. In the event the Department suffers such a loss of funding in full or part, the Department will give the grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.

2) Termination for cause.

A) If the Department determines that the grantee has failed to comply with the terms and conditions of the grant, the Department shall terminate the grant in whole, or in part, at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not necessarily limited to, the following: consistent failure to submit required reports; failure to maintain required records; evidence of fraud and abuse; and consistent failure to meet performance standards. These circumstances are explained in the agreement.

B) The Department shall notify the grantee in writing, within 10 working days after the determination to terminate, of the reasons for the termination and the effective date of the termination. Payments made to the grantee or recoveries by the Department shall be made in accordance with legal rights and liabilities expressed in the agreement.

3) Termination for convenience. The Department may terminate the grant upon its determination that continuation of the project is not in the best interest of the State such that it would justify further expenditure of public funds. The grantee shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the grantee for the Department's share of the noncancelable obligations properly incurred by the grantee prior to termination.
b) Interest on grant funds. In accordance with Section 10 of the Illinois Grant Funds Recovery Act [30 ILCS 705/10], all interest earned on funds held by the grantee under the grant shall become part of the grant when earned, as long as this amount does not exceed the maximum allowable grant award. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department.

c) Grant close-out. In accordance with Section 4 of the Illinois Grant Funds Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee, shall be returned to the Department within 45 days after the end of the relevant period. The grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the agreement.

d) Audits. A grantee shall be responsible for securing a compliance audit for any grant award exceeding $300,000. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and disclosure of previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza 3, Jersey City, New Jersey 07311 (June 2001, no later editions are incorporated).

e) Special audits. The Department reserves the right to conduct special audits, of the funds expended under Department grants, including but not limited to an agency-wide audit, at any time during normal working hours.

f) Monitoring and evaluation. Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to, and the right to examine, any documents, papers, and records of the grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the grantee will be notified of the Department's findings. If a determination of noncompliance has been made by the Department, the grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved within 60
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

days from the date the grantee received notice of the noncompliance, the Department will issue a notice requesting that the grantee repay any funds that are determined by the Department to have been spent in violation of the agreement. If the grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules (56 Ill. Adm. Code 2605).

g) Complaint process. An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the grantee. In either case, the Department and the grantee shall follow the Administrative Hearing Rules set forth in 56 Ill. Adm. Code 2605.

h) Certifications. The grantee shall make all certifications required by statute or administrative rules or regulations relative to the issuance of a grant.

i) Reports. Grantee shall submit, as required by the Department, reports on the financial status of the project and reports on outcomes and results of the project.
Illinois Department of Commerce & Economic Opportunity

Bureau of Energy & Recycling – Alternative Energy Development Section

Renewable Fuels Development Program
Application Cover Sheet

Applicant Name

FEIN No.

Applicant Address (including 9 digit zip code)

Project Address (if different from above)

County of Project

Project Manager (Please Type)

Phone

Fax

Type of Biofuels Project:  New Construction ☐  Alteration ☐  Modification ☐  Retrofit ☐

Legal Organizational Status

☐  Owner of Sole Proprietorship  ☐  LLC

☐  Partnership  ☐  Corporation

☐  Cooperative  ☐  Other

Funding:
Total Grant Request:  $ __________________

Total Project Cost:  $ __________________
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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Applicant Certifications – The applicant certifies that:

- This project complies with all applicable State, federal, and local environmental and zoning laws, ordinances and regulations and that all required licenses, permits, etc., have either been obtained or will be obtained no later than 90 days following the grant award from DCEO;
- It is not in violation of the prohibitions against bribery of any officer or employee of the State of Illinois as set forth in 30 ILCS 505/10.1;
- It has not been barred from contracting with a unit of State or local government as a result of a violation of Section 33E-3 or 33E-4 of the Criminal Code of 1961 [720 ILCS 5/33E-3 and 33E-4];
- It is not in violation of the Educational Loan Default Act [5 ILCS 385];
- As of the submittal date, the information provided in this application is accurate and the individuals signing below are authorized to submit this application;
- It will enter into a Project Labor Agreement covering the project that is compliant with the provisions of the Renewable Fuels Development Program;
- It will commit to securing all debt and equity financing necessary to complete the project; and
- It will commit to using Illinois agricultural products as the primary source in the renewable fuels production process.

_________________________________________  ______________________________
Authorized Official (signature)               Title

_________________________________________  ______________________________
Printed Name                                  Date
Section 130. APPENDIX B Application Form For Renewable Fuels Development Program

Illinois Department of Commerce & Economic Opportunity

Application Form For Renewable Fuels Development Program

Name and Mailing Address of Organization:

List Type of Organization (Cooperative, LLC, Corporation, etc.)

Type of Renewable Fuels Production Facility:  Biodiesel ☐  Ethanol ☐

New Construction ☐  Expansion ☐  Retrofit or Upgrade ☐

Capacity (gallon/year):

New:  ________________________________

Existing: ________________________________

Total: ________________________________

Feedstock – Type & Quantity

Facility Location:

1. Nearest city or town:  ________________________________
2. Estimated population:  ________________________________
3. County:  ________________________________
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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4. Proposed site location: ________________________________

Total costs of project: ________________________________
Total construction jobs: ________________________________
Total permanent jobs created: __________________________
Estimated start date of construction: ____________________
Estimated completion date of construction: ________________

Financial Structure:
1. Cooperative (# of Members): ________________________
2. Cost/share: ________________________________
3. Total equity: ________________________________
4. List other equity partners & amount of investment:
   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________
5. Debt: ________________________________

List primary lender: ________________________________
Design company: ________________________________
Construction management company: ____________________
List other incentives received or applied for:
   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________
   ___________________________________________________________________
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

List of required attachments:

1. Completed Appendix A (Application Cover Sheet)
2. Completed Appendix B (Grant Application Form)
3. Completed Appendix C (Projected Energy Use By Type Information Form)
4. Copy of Prospectus for Shareholders (Either Cooperative or Other)
5. Copy of Business Plan
6. Organizational Structure
7. Copy of budget for construction, including materials, labor hours and total costs, and management/engineering (please indicate if confidential)
8. Copy of Project Labor Agreement

PROJECT NARRATIVE

The Project Narrative should concisely address all topics set forth below:

1) Plant description. A description of the proposed construction or expansion project, including a description of the scope and nature of the plant; a description of equipment, technologies and processes used; a description of the renewable fuels production capacity; a description of the amounts, types and sources of Illinois agricultural products used as feedstock in the project; a location map showing project site and connections to existing transportation routes; and a description of all permits, contracts or other agreements necessary to complete the project. If the applicant does not have all relevant or necessary operating permits, identification of the status of any permit applications and anticipated date of permit issuance should be included in the narrative, in addition to the date that any required contracts or agreements will be executed.

2) Project benefits. Economic justification for the project that includes a summary of the social or economic benefits of the project to Illinois; identification of those communities, businesses, and other entities likely to benefit from the project; identification of employment impacts, such as number and type of permanent jobs created or retained by the project itself (i.e., non-construction jobs) and projected payrolls; and the existing
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

and/or new agricultural commodity and renewable fuel markets that would be affected by the project.

3) Project costs and schedule. A gross project budget and time schedule for completion of the project and for major project components; include cost estimates and anticipated completion dates.

4) Ownership disclosure. Identification by name of those individuals or entities with 10% or more ownership of the plant that is the subject of the project.

5) Performance disclosure. As asserted against the owner, or any parent organization or holding company, identification of all pending or unresolved violations of State or federal laws or regulations that could result in legal or regulatory impact on the operation of the project.
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

Section 130.APPENDIX C  Projected Energy Use By Type Information Form

Projected Energy Use By Type Information Form
For plant expansions, include both current consumption and projected consumption per the proposed improvements

Electricity

Monthly Estimated Total Usage: ___________ kWh
a. Estimated electricity to be purchased: ___________ %
b. Estimated electricity to be generated on site: ___________ %
c. Estimated electricity consumption per gallon of biofuels production: ___________

Natural Gas

Monthly Estimated Total Usage: ___________ Therms
a. Estimated use for process heat: ___________ Therms
b. Estimated use for electric power generation: ___________ Therms
c. Estimated gas consumption per gallon of biofuels production: ___________

Coal

Monthly Estimated Total Usage: ___________ Tons
a. Estimated use for process heat: ___________ Tons
b. Estimated use for electric power generation: ___________ Tons
c. Estimated coal consumption per gallon of biofuels production: ___________
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Aid to the Aged, Blind or Disabled

2) **Code Citation:** 89 Ill Adm. Code 113

3) **Section Numbers:**

<table>
<thead>
<tr>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>113.1 Amendment</td>
</tr>
<tr>
<td>113.245 Amendment</td>
</tr>
<tr>
<td>113.264 New Section</td>
</tr>
</tbody>
</table>

4) **Statutory Authority:** Implementing Articles III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13] and PA 93-741.

5) **A Complete Description of the Subjects and Issues involved:** Pursuant to provisions of PA 93-741, (effective 7/15/04), this rulemaking provides AABD cash eligibility to persons who have been found ineligible for Supplemental Security Income (SSI) due to the expiration of the seven year period of eligibility for refugees and asylees pursuant to 8 USC 1612(a)(2). As a result of these proposed amendments, a special needs allowance of $500 per month will be provided to these individuals until July 1, 2006.

6) **Will these proposed amendments replace any emergency amendments currently in effect?** Yes

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this proposed rulemaking contain incorporations by reference?** No

9) **Are there any other amendments pending on this Part?** Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Illinois Register Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>113.253</td>
<td>Amendment</td>
<td>28 Ill. Reg. 2560; 2/13/04</td>
</tr>
<tr>
<td>113.260</td>
<td>Amendment</td>
<td>28 Ill. Reg. 2560; 2/13/04</td>
</tr>
</tbody>
</table>

10) **Statement of Statewide Policy Objectives (if applicable):** This rulemaking does not create or expand a State mandate.

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois  62762
(217) 785-9772

12) 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

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated by the Department.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appear in this issue of the Illinois Register on page 11366.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Water Quality Standards


3) Section Numbers: Proposed Action:
   302.202  Amend
   302.307  Add
   302.525  Amend

4) Statutory authority: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27]

5) A complete description of the subjects and issues involved: The Board started this rulemaking in response to a proposal filed by the Illinois Environmental Protection Agency. The Board has already held two public hearings prior to its adoption of its July 8, 2004 first notice order in this docket, R04-21.

The proposed changes to Sections 302.207 and 302.525 would eliminate the existing general use and Lake Michigan (respectively) water quality standards for radium 226, yet retain the existing radioactivity standards for gross beta particle activity and strontium 90. The proposed new Section 302.307 establishes a public and food processing water supply standard for radium 226 and 228 combined of 5 pCi/L. These proposed amendments correspond to the United States Environmental Protection Agency’s (USEPA) Maximum Contaminant Level for finished drinking water. The USEPA final drinking water standard became effective December 8, 2003 (National Primary Drinking Water Regulations; Radionuclide; Final Rule. 65 Fed. Reg. 76707 (Dec. 7, 2000)). The Board adopted these federal amendments in its identical in substance rulemaking SDWA Update, USEPA Amendments (July 1, 2000 through December 31, 2000) (R01-20) at 25 Ill. Reg. 13611, effective October 9, 2001.

6) Will these proposed amendments replace any emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

10) Statement of statewide policy objectives: The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R04-21 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Additionally, the Board will hold a hearing on these proposed amendments on August 25, 2004, at 1:30 pm at the Illinois Pollution Control Board Hearing Room, 1021 North Grand Avenue East, North Entrance, Springfield IL.

Address all questions to Amy Antoniolli, at 312-814-3665 or antonioa@ipcb.state.il.us.

Request copies of the Board’s opinion and order in Docket R04-21 from Dorothy M. Gunn, at 312-814-3620, or download copies from the Board’s Web site at www.ipcb.state.il.us.

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This proposal will primarily benefit publicly owned treatment works (POTWs) and public drinking water supplies and the people who drink the water they furnish.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2004

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section
302.100 Definitions
302.101 Scope and Applicability
302.102 Allowed Mixing, Mixing Zones and ZIDs
302.103 Stream Flows
302.104 Main River Temperatures
302.105 Antidegradation

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section
302.201 Scope and Applicability
302.202 Purpose
302.203 Offensive Conditions
302.204 pH
302.205 Phosphorus
302.206 Dissolved Oxygen
302.207 Radioactivity
302.208 Numeric Standards for Chemical Constituents
302.209 Fecal Coliform
302.210 Other Toxic Substances
302.211 Temperature
302.212 Total Ammonia Nitrogen
302.213 Effluent Modified Waters (Ammonia) (Repealed)

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

Section
302.301 Scope and Applicability
302.302 Algicide Permits
302.303 Finished Water Standards
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

302.304 Chemical Constituents
302.305 Other Contaminants
302.306 Fecal Coliform
302.307 Radium 226 and Radium 228

SUBPART D: SECONDARY CONTACT AND INDIGENOUS AQUATIC LIFE STANDARDS

Section
302.401 Scope and Applicability
302.402 Purpose
302.403 Unnatural Sludge
302.404 pH
302.405 Dissolved Oxygen
302.406 Fecal Coliform (Repealed)
302.407 Chemical Constituents
302.408 Temperature
302.409 Cyanide
302.410 Substances Toxic to Aquatic Life

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

Section
302.501 Scope, Applicability, and Definitions
302.502 Dissolved Oxygen
302.503 pH
302.504 Chemical Constituents
302.505 Fecal Coliform
302.506 Temperature
302.507 Thermal Standards for Existing Sources on January 1, 1971
302.508 Thermal Standards for Sources Under Construction But Not In Operation on January 1, 1971
302.509 Other Sources
302.510 Incorporations by Reference
302.515 Offensive Conditions
302.520 Regulation and Designation of Bioaccumulative Chemicals of Concern (BCCs)
302.521 Supplemental Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs)
302.525 Radioactivity
302.530 Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern
NOTICE OF PROPOSED AMENDMENTS

302.535 Ammonia Nitrogen
302.540 Other Toxic Substances
302.545 Data Requirements
302.550 Analytical Testing
302.553 Determining the Lake Michigan Aquatic Toxicity Criteria or Values – General Procedures
302.555 Determining the Tier I Lake Michigan Acute Aquatic Toxicity Criterion (LMAATC): Independent of Water Chemistry
302.560 Determining the Tier I Lake Michigan Basin Acute Aquatic Life Toxicity Criterion (LMAATC): Dependent on Water Chemistry
302.563 Determining the Tier II Lake Michigan Basin Acute Aquatic Life Toxicity Value (LMAATV)
302.565 Determining the Lake Michigan Basin Chronic Aquatic Life Toxicity Criterion (LMCATC) or the Lake Michigan Basin Chronic Aquatic Life Toxicity Value (LMCATV)
302.570 Procedures for Deriving Bioaccumulation Factors for the Lake Michigan Basin
302.575 Procedures for Deriving Tier I Water Quality Criteria and Values in the Lake Michigan Basin to Protect Wildlife
302.580 Procedures for Deriving Water Quality Criteria and Values in the Lake Michigan Basin to Protect Human Health – General
302.585 Procedures for Determining the Lake Michigan Basin Human Health Threshold Criterion (LMHHTC) and the Lake Michigan Basin Human Health Threshold Value (LMHHTV)
302.590 Procedures for Determining the Lake Michigan Basin Human Health Nonthreshold Criterion (LMHHTNC) or the Lake Michigan Basin Human Health Nonthreshold Value (LMHHTNV)
302.595 Listing of Bioaccumulative Chemicals of Concern, Derived Criteria and Values

SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

Section
302.601 Scope and Applicability
302.603 Definitions
302.604 Mathematical Abbreviations
302.606 Data Requirements
302.612 Determining the Acute Aquatic Toxicity Criterion for an Individual Substance – General Procedures
302.615 Determining the Acute Aquatic Toxicity Criterion – Toxicity Independent of Water Chemistry
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

302.618  Determining the Acute Aquatic Toxicity Criterion – Toxicity Dependent on Water Chemistry
302.621  Determining the Acute Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.627  Determining the Chronic Aquatic Toxicity Criterion for an Individual Substance – General Procedures
302.630  Determining the Chronic Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.633  The Wild and Domestic Animal Protection Criterion
302.642  The Human Threshold Criterion
302.645  Determining the Acceptable Daily Intake
302.648  Determining the Human Threshold Criterion
302.651  The Human Nonthreshold Criterion
302.654  Determining the Risk Associated Intake
302.657  Determining the Human Nonthreshold Criterion
302.658  Stream Flow for Application of Human Nonthreshold Criterion
302.660  Bioconcentration Factor
302.663  Determination of Bioconcentration Factor
302.666  Utilizing the Bioconcentration Factor
302.669  Listing of Derived Criteria

302.APPENDIX A  References to Previous Rules
302.APPENDIX B  Sources of Codified Sections
302.APPENDIX C  Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature

302.TABLE A  pH-Dependent Values of the AS (Acute Standard)
302.TABLE B  Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Absent
302.TABLE C  Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Present

AUTHORITY:  Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS


SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.207 Radioactivity

a) Gross beta (STORET number 03501) concentration shall not exceed 100 picocuries per liter (pCi/L).

b) Concentrations of radium 226 (STORET number 09501) and Strontium 90 (STORET number 13501) concentration shall not exceed 1 and 2 picocuries per liter (pCi/L) respectively.

(Source: Amended at 28 Ill. Reg. _____, effective ____________)

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

Section 302.307 Radium 226 and Radium 228

Radium 226 and 228 (STORET number 11503) combined concentration shall not exceed 5 picocuries per liter (pCi/L) at any time.

(Source: Added at 28 Ill. Reg. _____, effective ____________)

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

Section 302.525 Radioactivity

Except as provided in Section 302.102, all waters of the Lake Michigan Basin must meet the following concentrations in any sample:
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

a) Gross beta (STORET number 03501) concentrations must not exceed 100 picocuries per liter (pCi/L).

b) Concentrations of radium 226 (STORET number 09501) and Strontium 90 (STORET number 13501) concentration shall not exceed 1 and 2 picocuries per liter (pCi/L), respectively.

(Source: Amended at 28 Ill. Reg. _____, effective ______________)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Skilled Nursing and Intermediate Care Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 300

3) **Section Numbers**
   - 300.340 Amendment
   - 300.620 Amendment
   - 300.661 Amendment
   - 300.696 New Section
   - 300.1020 Amendments
   - 300.1060 New Section
   - 300.1450 New Section

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A complete description of the subjects and issues:** Part 300 establishes licensing requirements for skilled nursing and intermediate care facilities. Section 300.340 (Incorporated and Referenced Materials) is being amended to update incorporated and referenced materials. Section 300.620 (Admission and Discharge Policies) is being amended to move language concerning involuntary discharges and transfers to subsection (a), and to delete language that limits “at risk” residents to those who are mentally ill and in need of mental treatment. Statutory language concerning vaccinations, which was deleted in the Nursing Home Care Act by Public Act 93-0384 (effective July 25, 2003) is being deleted. Section 300.661 (Health Care Worker Background Check) is being amended to replace the existing text with a requirement that facilities comply with the requirements of the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (proposed at 28 Ill. Reg. 2968). Section 300.696 (Infection Control) is being added to place infection control requirements that are currently in Section 300.1020 (Communicable Disease Policies) in a separate Section. Section 300.1060 (Vaccinations) is being added to set forth requirements that were added to the Nursing Home Care Act by P.A. 93-0384. Section 300.1450 (Language Assistance Services) is being added to require compliance with the Language Assistance Services Act [210 ILCS 87], which was amended by Public Act 93-0564 (effective January 1, 2004) to make compliance with the Language Assistance Services Act mandatory, rather than voluntary, for hospitals and long-term care facilities.

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

NOTICE OF PROPOSED AMENDMENTS

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

6) Will this rulemaking replace an emergency rule currently in effect?  No

7) Does this rulemaking contain an automatic repeal date?  No

8) Does this rulemaking contain any incorporations by reference?  Yes

9) Are there any other proposed amendments pending on this Part?  Yes

<table>
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<th>Section Numbers</th>
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10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand a State Mandate.

11) **Time, place, and manner in which interested persons may comment on this rulemaking:** Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

    Susan Meister  
    Division of Legal Services  
    Illinois Department of Public Health  
    535 West Jefferson St., 5th Floor  
    Springfield, Illinois 62761  
    217/782-2043
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: skilled nursing and intermediate care facilities.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

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300.120 Application for License
300.130 Licensee
300.140 Issuance of an Initial License for a New Facility
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300.160 Issuance of a Renewal License
300.163 Alzheimer's Special Care Disclosure
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300.270 Monitor and Receivership
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300.274 Determination of the Level of a Violation
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300.300 Alcoholism Treatment Programs In Long-Term Care Facilities
300.310 Department May Survey Facilities Formerly Licensed
300.315 Supported Congregate Living Arrangement Demonstration
300.320 Waivers
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Section
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Section
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300.680 Restraints
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300.690 Serious Incidents and Accidents
300.695 Contacting Local Law Enforcement
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300.840 Personnel Policies

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300.1025 Tuberculin Skin Test Procedures
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300.TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
300.TABLE D Heat Index Table/Apparent Temperature
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 300.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

B) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

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E) For existing facilities (see Subpart O), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, 02269:

i) No. 10 (1978): Standards for Portable Extinguishers


iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems


viii) No. 253 (1978): Flooring Radiant Heat Energy Test

ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials

x) Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

F) For new facilities (see Subpart N), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1
DEPARTMENT OF PUBLIC HEALTH

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Batterymarch Park, Quincy, Massachusetts, 02269:


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


x) NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition


H) The following standards, which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

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2) Federal guidelines:

The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.


B) Guideline for Hand Hygiene in Health-Care Settings (October 2002), Handwashing and Hospital Environmental Control (1985).


E) Guideline for Prevention of Nosocomial Pneumonia (February 1994).

F) Guideline for Isolation Precautions in Hospitals (February 18, 1997).


3) Federal regulations:

A) 21 CFR 1306, Prescriptions (April 1, 2002)

B) 42 CFR 483.151-156, Requirements for States and Long-Term Care Facilities (October 1, 2002)
b) 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.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:
   A) Civil Rights Act of 1964 (42 USC 2000e et seq.)
   B) Social Security Act (42 USC 301 et seq., 1395 et seq. and 1396 et seq.)
   C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:
   A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]
   B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]
   C) Child Care Act of 1969 [225 ILCS 10]
   D) Court of Claims Act [705 ILCS 505]
   E) Illinois Dental Practice Act [225 ILCS 25]
   F) Election Code [10 ILCS 5]
   G) Freedom of Information Act [5 ILCS 140]
   H) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
   I) Hospital Licensing Act [210 ILCS 85]
   J) Illinois Controlled Substances Act [720 ILCS 570]
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K) Illinois Health Facilities Planning Act [20 ILCS 3906]
M) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
N) Illinois Occupational Therapy Practice Act [225 ILCS 75]
O) Illinois Physical Therapy Act [225 ILCS 90]
P) Life Care Facilities Act [210 ILCS 40]
Q) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
R) Medical Practice Act of 1987 [225 ILCS 60]
S) Mental Health and Developmental Disabilities Code [405 ILCS 5]
T) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
U) Nursing Home Care Act [210 ILCS 45]
V) Pharmacy Practice Act of 1987 [225 ILCS 85]
W) Private Sewage Disposal Licensing Act [225 ILCS 225]
X) Probate Act of 1975 [775 ILCS 5]
Y) Illinois Public Aid Code [305 ILCS 5]
Z) Safety Glazing Materials Act [430 ILCS 60]
AA) Illinois Administrative Procedure Act [5 ILCS 100]
BB) Clinical Psychologist Licensing Act [225 ILCS 15]
CC) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
DEPARTMENT OF PUBLIC HEALTH

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DD) Health Care Worker Background Check Act [225 ILCS 46]
FF) Cannabis Control Act [720 ILCS 550]
FFHH) Living Will Act [755 ILCS 35]
GGHH) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
HHHH) Health Care Surrogate Act [755 ILCS 45]
IIKK) Right of Conscience Act [745 ILCS 70]
JJLL) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]
KKMM) Supportive Residences Licensing Act [210 ILCS 65]
LLNN) Community Residential Alternatives Licensing Act [210 ILCS 40]
MMOO) Community Living Facilities Licensing Act [210 ILCS 35]
NNPP) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]
OOQQ) Counties Code [55 ILCS 5]
PPRR) Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]
QQSS) Podiatric Medical Practice Act of 1987 [225 ILCS 100]
RRTT) Illinois Optometric Practice Act of 1987 [225 ILCS 80]
SSUU) Physician Assistant Practice Act of 1987 [225 ILCS 95]
TTVV) Alzheimer's Special Care Disclosure Act [210 ILCS 4]
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Illinois Act on the Aging [20 ILCS 105]

Alternative Health Care Delivery Act [210 ILCS 3]

Uniform Conviction Information Act [20 ILCS 2635]

Assisted Living and Shared Housing Act [210 ILCS 9]

Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)


C) Department of Public Health:

i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)


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x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Professional Regulation:

i) Controlled Substances Substance Act (68 Ill. Adm. Code 3100)


E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)
ILLINOIS REGISTER
10916
04

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 28 Ill. Reg. _____, effective ____________)

SUBPART C: POLICIES

Section 300.620 Admission and Discharge Policies

a) All involuntary discharges and transfers shall be in accordance with Section 3-401 through 3-423 of the Act.

b) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility. Provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

cb) Each facility shall have a policy concerning the admission of persons needing prenatal and/or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house and/or outside resources. (See Section 300.3220.)

de) No resident shall be admitted to or kept in the facility:

1) Who is mentally ill, in need of mental treatment, and at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a result of the mental illness, as determined by professional evaluation. All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

2) Who is destructive of property, himself, or others, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

d) No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing
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intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code 350). Such persons shall be admitted only to facilities licensed as intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350, or if the person is under 18, a long-term care facility for persons under 22 years of age that is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

Persons with communicable, contagious, or infectious diseases may be admitted under the conditions and in accordance with the procedures specified in Section 300.1020.

A facility shall not admit more residents than the number authorized by the license issued to it.

Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

Section 300.661 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing
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or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


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15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414e, 414e, and 414g));


25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720...
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26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed...
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by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one
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or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and
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2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;
2) The circumstances surrounding the crime;
3) The length of time since the conviction;
4) The applicant's or employee's criminal history since the conviction;
5) The applicant's or employee's work history;
6) The applicant's or employee's current employment references;
7) The applicant's or employee's character references;
8) Nurse Aide Registry records; and
9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)

q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:
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1) Single disqualifying misdemeanor conviction—waiver consideration no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions—waiver consideration no earlier than three years after the most recent conviction date;

3) More than three disqualifying misdemeanor convictions—waiver consideration no earlier than five years after the most recent conviction date;

4) Single disqualifying felony convictions—waiver consideration no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions—waiver consideration no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions—waiver consideration no earlier than ten years after the most recent conviction date.

r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);


3) Kidnapping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);
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5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]). (Section 40(b) of the Health Care Worker Background Check Act)

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is
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invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

u) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

v) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

w) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
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3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

x) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

y) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act). The facility shall include the individual's Social Security number on the criminal history record check results.

z) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

aa) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 28 Ill. Reg. _____, effective ____________)

Section 300.696 Infection Control

a) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690) and Control of Sexually Transmissible
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Diseases Code (77 Ill. Adm. Code 693). Activities shall be monitored to ensure that these policies and procedures are followed.

b) A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections.

c) Each facility shall adhere to the following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services (see Section 300.340):

1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections
2) Guideline for Hand Hygiene in Health-Care Settings
3) Guidelines for Prevention of Intravascular Catheter-Related Infections
4) Guideline for Prevention of Surgical Site Infection
5) Guideline for Prevention of Nosocomial Pneumonia
6) Guideline for Isolation Precautions in Hospitals
7) Guidelines for Infection Control in Health Care Personnel

(Source: Added at 28 Ill. Reg. ______, effective ____________)

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section 300.1020 Communicable Disease Policies

a) The facility shall comply with meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

b) A resident who is suspected of or diagnosed as having any communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act and Section
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300.620 of this Part. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall inform the Department of all incidents of scabies and other skin infestations.

d) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease. The notice to the Department shall include at least the date of the admission and the nature of the condition.

e) Infection control responsibilities

1) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code. Activities shall be monitored to ensure that these policies and procedures are followed.

2) Each facility shall adhere to the recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial Infection." This publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333. This publication includes the following guidelines:


B) "Guideline for Handwashing and Hospital Environmental Control" (January 1, 1985).
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C) "Guideline for Prevention of Intravascular Infections" (August 1, 1991).

D) "Guideline for Prevention of Surgical Wound Infections" (March 1982, Revised 1985).

E) "Guideline for Prevention of Nosocomial Pneumonia" (January 3, 1997).

F) "Guideline for Isolation Precautions in Hospitals" (January 1, 1996).

G) "Guideline for Infection Control in Hospital Personnel" (July 1, 1983).

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

Section 300.1060 Vaccinations

a) A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. (Section 2-213 of the Act)

b) A facility shall document in the resident's medical record that an annual vaccination against influenza was administered, refused or medically contraindicated. (Section 2-213 of the Act)

c) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 or over, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the
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Centers for Disease Control and Prevention, who has not received this immunization prior to or upon admission to the facility unless the resident refuses the offer for vaccination or the vaccination is medically contraindicated. (Section 2-213 of the Act)

d) A facility shall document in each resident's medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated. (Section 2-213 of the Act)

(Source: Added at 28 Ill. Reg. _____, effective _____________)

SUBPART G: RESIDENT CARE SERVICES

Section 340.1450 Language Assistance Services

A facility shall provide language assistance services in accordance with the Language Assistance Services Act [210 ILCS 87] and the Language Assistance Services Code (77 Ill. Adm. Code 940).

(Source: Added at 28 Ill. Reg. _____, effective _____________)
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1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3) Section Numbers: Proposed Action:
   330.340 Amendment
   330.720 Amendment
   330.790 New Section
   330.795 New Section
   330.911 Amendment
   330.1130 Amendment
   330.1160 New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A complete description of the subjects and issues: Part 330 establishes licensing requirements for sheltered care facilities. Section 330.340 (Incorporated and Referenced Materials) is being amended to update incorporated and referenced materials and to add infection control guidelines of the Centers for Disease Control. Section 330.720 (Admission and Discharge Policies) is being amended to move language concerning involuntary discharges and transfers to subsection (a), and to delete language that limits “at risk” residents to those who are mentally ill and in need of mental treatment. Statutory language concerning vaccinations, which was deleted in the Nursing Home Care Act by Public Act 93-0384 (effective July 25, 2003) is being deleted. Section 330.790 (Infection Control) is being added to set forth infection control requirements. Section 330.795 (Language Assistance Services) is being added to require compliance with the Language Assistance Services Act [210 ILCS 87], which was amended by Public Act 93-0564 (effective January 1, 2004) to make compliance with the Language Assistance Service Act mandatory, rather than voluntary, for hospitals and long-term care facilities. Section 330.911 (Health Care Worker Background Check) is being amended to replace the existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (proposed at 28 Ill. Reg. 2968). Section 330.1130 (Communicable Disease Policies) is being amended to include a reference to involuntary discharge and transfer requirements in Section 330.720. Section 330.1160 (Vaccinations) is being added to set forth the requirements that were added to the Nursing Home Care Act by P.A. 93-0384.
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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) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State Mandate.

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Sheltered care facilities

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None
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13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the Proposed Amendments begins on the next page:
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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
330.110 General Requirements
330.120 Application for License
330.130 Licensee
330.140 Issuance of an Initial License For a New Facility
330.150 Issuance of an Initial License Due to a Change of Ownership
330.160 Issuance of a Renewal License
330.163 Alzheimer's Special Care Disclosure
330.165 Criteria for Adverse Licensure Actions
330.170 Denial of Initial License
330.175 Denial of Renewal of License
330.180 Revocation of License
330.190 Experimental Program Conflicting With Requirements
330.200 Inspections, Surveys, Evaluations and Consultation
330.210 Filing an Annual Attested Financial Statement
330.220 Information to be Made Available to the Public By the Department
330.230 Information to be Made Available to the Public By the Licensee
330.240 Municipal Licensing
330.250 Ownership Disclosure
330.260 Issuance of Conditional Licenses
330.270 Monitoring and Receivership
330.271 Presentation of Findings
330.272 Determination to Issue a Notice of Violation or Administrative Warning
330.274 Determination of the Level of a Violation
330.276 Notice of Violation
330.277 Administrative Warning
330.278 Plans of Correction
330.280 Reports of Correction
330.282 Conditions for Assessment of Penalties
330.284 Calculation of Penalties
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330.286 Determination to Assess Penalties
330.288 Reduction or Waiver of Penalties
330.290 Quarterly List of Violators (Repealed)
330.300 Alcoholism Treatment Programs In Long-Term Care Facilities
330.310 Department May Survey Facilities Formerly Licensed
330.315 Supported Congregate Living Arrangement Demonstration
330.320 Waivers
330.330 Definitions
330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section
330.710 Resident Care Policies
330.720 Admission and Discharge Policies
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Serious Incidents and Accidents
330.785 Contacting Local Law Enforcement
330.790 Infection Control
330.795 Language Assistance Services

SUBPART D: PERSONNEL

Section
330.910 Personnel
330.911 Health Care Worker Background Check
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
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330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

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330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
330.APPENDIX C Forms for Day Care in Long-Term Care Facilities
330.APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
330.APPENDIX E Guidelines for the Use of Various Drugs
330.TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].
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SUBPART A: GENERAL PROVISIONS

Section 330.340 Incorporated and Referenced Materials

a) The following private and professional association standards and guidelines are incorporated in this Part:


2) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:


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F) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


J) NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition

3) For new and existing facilities (see Section 330.1510) NFPA 99: Standard for Health Care Facilities – 2002 Edition

4) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

A) Guideline for Hand Hygiene in Health-Care Settings (October 2002)

B) Guideline for Prevention of Nosocomial Pneumonia (February 1994)

C) Guideline for Isolation Precautions in Hospitals (February 18, 1997)


b) All incorporations by reference of federal guidelines and the standards of nationally recognized organizations refer to the standards on the date specified and do not include any amendments or editions subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:
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1) Federal statutes:
   A) Civil Rights Act of 1964 (42 USC2000e et seq.)
   B) Social Security Act (42 USC 301 et seq., 1395 et seq. and 1396 et seq.)
   C) Controlled Substances Act (2 USC 802)

2) State of Illinois statutes:
   A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]
   B) Child Care Act of 1969 [225 ILCS 10]
   C) Court of Claims Act [705 ILCS 505]
   D) Illinois Dental Practice Act [225 ILCS 25]
   E) Election Code [10 ILCS 5]
   F) Freedom of Information Act [5 ILCS 140]
   G) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
   H) Hospital Licensing Act [210 ILCS 85]
   I) Illinois Health Facilities Planning Act [20 ILCS 3960]
   K) Life Care Facilities Act [210 ILCS 40]
   L) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
   M) Medical Practice Act of 1987 [225 ILCS 60]
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N) Mental Health and Developmental Disabilities Code [405 ILCS 5]
O) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
P) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
Q) Nursing Home Care Act [210 ILCS 45]
R) Illinois Occupational Therapy Practice Act [225 ILCS 75]
S) Pharmacy Practice Act of 1987 [225 ILCS 85]
T) Illinois Physical Therapy Act [225 ILCS 90]
U) Private Sewage Disposal Licensing Act [225 ILCS 225]
V) Probate Act of 1975 [755 ILCS 5]
W) Illinois Public Aid Code [305 ILCS 5]
X) Illinois Administrative Procedure Act [5 ILCS 100]
Y) Clinical Psychologist Licensing Act [225 ILCS 15]
Z) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
AA) Health Care Worker Background Check Act [225 ILCS 46]

CC) Cannabis Control Act [720 ILCS 550]

EE) Living Will Act [755 ILCS 35]
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DD) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

EE) Health Care Surrogate Act [755 ILCS 40]

FF) Right of Conscience Act [745 ILCS 70]

GG) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

HH) Illinois Controlled Substances Act [720 ILCS 570]

II) Supportive Residences Licensing Act [210 ILCS 65]

JJ) Community Residential Alternatives Licensing Act [210 ILCS 140]

KK) Community Living Facilities Licensing Act [210 ILCS 35]

LL) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

MM) Counties Code [55 ILCS 5]

NN) Alzheimer’s Special Care Disclosure Act [220 ILCS 4]

OO) Tort Immunity Act [745 ILCS 10]

PP) Illinois Act on the Aging [20 ILCS 105]

QQ) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

RR) Assisted Living and Shared Housing Act [210 ILCS 9]

UU) Alternative Health Care Delivery Act [210 ILCS 3]

VV) Wrongs to Children Act [720 ILCS 150]

WW) Criminal Jurisprudence Act [720 ILCS 115]
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XX) Uniform Conviction Information Act [20 ILCS 2635]

SS) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

TT) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

UU) Physician Assistant Practice Act of 1987 [225 ILCS 95]

VV) Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:


B) Department of Public Health

   i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

   ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

   iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


   v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)


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x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
x) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
xii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)
xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)
xv) Control of Tuberculosis Code (7 Ill. Adm. Code 696)
xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

(C) Department of Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100)

(DD) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

(DE) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)

(Source: Amended at 28 Ill. Reg. _______, effective ____________)

SUBPART C: POLICIES

Section 330.720 Admission and Discharge Policies
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a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. Admission Restrictions

b) No resident determined by professional evaluation to be in need of nursing care shall be admitted to or kept in a sheltered care facility. Neither shall any such resident be kept in a distinct part designated and classified for sheltered care.

c) Homes in Chicago licensed as Residential Care (Half-Way) Homes shall only accept and keep persons requiring residential care. Residential care is defined as maintenance and oversight. Oversight is defined as general watchfulness and appropriate action to meet the total needs of residents, exclusive of nursing or personal care, as defined in Chapter 136.1 of the "Municipal Code of the City of Chicago." Oversight shall include, at a minimum, social, recreational, and employment opportunities for residents who, by reason of previous physical or mental disability, or in the opinion of a licensed physician, are in need of residential care.

d) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.

e) No resident shall be admitted to or kept in the facility:

1) Who is mentally ill, in need of mental treatment, and at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a result of the mental illness, as determined by professional evaluation;

2) Who is destructive of property or her/himself; or

3) Who has serious mental or emotional problems based on medical diagnosis.

f) Children under 18 years of age shall not be cared for in a facility for adults.
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**g)** A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.

**h)** No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 330.1130 of this Part.

**i)** A facility shall not admit more residents than the number authorized by the license issued to it.

**h)** Before a prospective resident’s admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

Section 330.790 Infection Control

**a)** Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690) and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693). Activities shall be monitored to ensure that these policies and procedures are followed.

**b)** A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections.

**c)** Depending on the services provided by the facility, each facility shall adhere to the following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, as applicable (see Section 330.340):

1) Guideline for Hand Hygiene in Health-Care Settings

2) Guideline for Prevention of Nosocomial Pneumonia
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3) Guideline for Isolation Precautions in Hospitals

4) Guidelines for Infection Control in Health Care Personnel

(Source: Added at 28 Ill. Reg. ______, effective ____________)

Section 330.795 Language Assistance Services

A facility shall provide language assistance services in accordance with the Language Assistance Services Act [210 ILCS 87] and the Language Assistance Services Code (77 Ill. Adm. Code 940).

(Source: Added at 28 Ill. Reg. ______, effective ____________)

SUBPART D: PERSONNEL

Section 330.911 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


3) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the
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### NOTICE OF PROPOSED AMENDMENTS

<table>
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<tr>
<th>Number</th>
<th>Description</th>
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<tr>
<td>15)</td>
<td>Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));</td>
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<tr>
<td>19)</td>
<td>Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal</td>
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</table>
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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));


26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or

b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to this Section. (Section 25(a) of the Health Care Worker Background Check Act)

e) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:
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1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(e) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.
3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge.
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The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a–5) of the Health Care Worker Background Check Act)

o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;
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3) The length of time since the conviction;

4) The applicant’s or employee’s criminal history since the conviction;

5) The applicant’s or employee’s work history;

6) The applicant’s or employee’s current employment references;

7) The applicant’s or employee’s character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to, the applicant’s or employee’s participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant’s or employee’s participation in anger management or domestic violence prevention programs; the applicant’s or employee’s status on nurse aide registries in other states; the applicant’s or employee’s criminal history in other states; or the applicant’s or employee’s successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)

q) Waivers will not be granted to individuals who have not met the following time frames. “Disqualifying” refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction—waiver consideration no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions—waiver consideration no earlier than three years after the most recent conviction date;
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<td>3)</td>
<td>More than three disqualifying misdemeanor convictions—waiver consideration no earlier than five years after the most recent conviction date;</td>
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<tr>
<td>4)</td>
<td>Single disqualifying felony conviction—waiver consideration no earlier than three years after the conviction date;</td>
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<tr>
<td>5)</td>
<td>Two to three disqualifying felony convictions—waiver consideration no earlier than five years after the most recent conviction date;</td>
</tr>
<tr>
<td>6)</td>
<td>More than three disqualifying felony convictions—waiver consideration no earlier than ten years after the most recent conviction date.</td>
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r) **Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:**

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<tbody>
<tr>
<td>1)</td>
<td>Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);</td>
</tr>
<tr>
<td>3)</td>
<td>Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);</td>
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<tr>
<td>4)</td>
<td>Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);</td>
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<td>5)</td>
<td>Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);</td>
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<td>6)</td>
<td>Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);</td>
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NOTICE OF PROPOSED AMENDMENTS

7) Abuse and gross neglect of a long term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) An individual shall not be employed in a direct care position from the time the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

u) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the...
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Health Care Worker Background Check Act

v) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

w) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State;

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)
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x) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

y) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

z) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

aa) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section 330.1130 Communicable Disease Policies

a) The facility shall comply with the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

b) The facility shall not knowingly admit a person with a communicable, contagious, or infectious disease, as defined in the Control of Communicable Diseases Code. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if required, in accordance with the Control of Communicable
DEPARTMENT OF PUBLIC HEALTH

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Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act and Section 330.720 of this Part. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall also inform the Department of all incidents of scabies and other skin infestations.

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

Section 330.1160 Vaccinations

a) A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. (Section 2-213 of the Act)

b) A facility shall document in the resident's medical record that an annual vaccination against influenza was administered, refused or medically contraindicated. (Section 2-213 of the Act)

c) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 or over, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, who has not received this immunization prior to or upon admission to the facility unless the resident refuses
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the offer for vaccination or the vaccination is medically contraindicated. (Section 2-213 of the Act)

d) A facility shall document in each resident's medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated. (Section 2-213 of the Act)

(Source: Added at 28 Ill. Reg. _____, effective ______________)
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1) **Heading of the Part:** Illinois Veterans’ Homes Code

2) **Code Citation:** 77 Ill. Adm. Code 340

3) **Section Numbers:**

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4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A complete description of the subjects and issues:** Part 340 establishes licensing requirements for Illinois veterans’ homes. Section 340.1010 (Incorporated and Referenced Materials) is being amended to update incorporated and referenced materials. Section 340.1310 (Admission and Discharge Policies) is being amended to move language concerning involuntary discharges and transfers to a new subsection (a), and to delete statutory language concerning vaccinations, which was removed from the Nursing Home Care Act by Public Act 93-0384 (effective July 25, 2003). Section 340.1335 (Infection Control) is being amended to update incorporated materials. Section 340.1377 (Health Care Worker Background Check) is being amended to replace the existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (proposed at 28 Ill. Reg. 2968). Section 340.1510 (Communicable Disease Policies) is being amended to reference Section 340.1310 and to remove a requirement that facilities notify the Department upon the admission of a resident with a communicable, contagious, or infectious disease. Section 340.1640 (Vaccinations) is being added to set forth requirements that were added to the Nursing Home Care Act by P.A. 93-0384. Section 340.1650 (Language Assistance Services) is being added to require compliance with the Language Assistance Services Act [210 ILCS 87], which was amended by Public Act 93-0564 (effective January 1, 2004) to make compliance with the Language Assistance Services Act mandatory, rather than voluntary, for hospitals and long-term care facilities.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.
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The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, place, and manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

   Susan Meister
   Division of Legal Services
   Illinois Department of Public Health
   535 West Jefferson St., 5th Floor
   Springfield, Illinois 62761
   217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

   A) Type of small businesses, small municipalities and not-for-profit corporations affected: Veterans' homes subject to this Part.

   B) Reporting, bookkeeping or other procedures required for compliance: None

   C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

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340.1620 Medication Administration (Repealed)
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340.1670 Labeling and Storage of Medication
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340.TABLE A Heat Index Table/Apparent Temperature
340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].


SUBPART A: GENERAL PROVISIONS

Section 340.1010 Incorporated and Referenced Materials
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a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

   NFPA No. 99: Standard for Health Care Facilities (2000 Edition), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269. (See Section 340.1650.)

2) Federal government publications:

   The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

   A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981);

   B) Guideline for Hand Hygiene in Health-Care Settings (October 2002);

   C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2002);

   D) Guideline for Prevention of Surgical Site Infection (1999);

   E) Guideline for Prevention of Nosocomial Pneumonia (February 1994);

   F) Guideline for Isolation Precautions in Hospitals (February 18, 1997);


3) Federal regulations:
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A) Definitions (38 CFR 51.2, effective February 7, 2000);

B) Resident rights (38 CFR 51.70, effective February 7, 2000);

C) Admission, transfer and discharge rights (38 CFR 51.80, effective February 7, 2000);

D) Resident behavior and facility practices (38 CFR 51.90, effective February 7, 2000);

E) Quality of life (38 CFR 51.100, effective February 7, 2000);

F) Resident assessment (38 CFR 51.110, effective February 7, 2000);

G) Quality of care (38 CFR 51.120, effective February 7, 2000);

H) Nursing services (38 CFR 51.130, effective February 7, 2000);

I) Dietary services (38 CFR 51.140, effective February 7, 2000);

J) Physician services (38 CFR 51.150, effective February 7, 2000);

K) Specialized rehabilitative services (38 CFR 51.160, effective February 7, 2000);

L) Dental services (38 CFR 51.170, effective February 7, 2000);

M) Pharmacy services (38 CFR 51.180, effective February 7, 2000);

N) Infection control (38 CFR 51.190, effective February 7, 2000);

O) Physical environment (38 CFR 51.200, effective February 7, 2000);

P) Administration (38 CFR 51.210, effective February 7, 2000);

Q) Prescriptions (21 CFR 1306, effective April 1, 2002).

b) The following federal and State statutes are referenced in this Part:
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1) Civil Rights Act of 1964 (42 USC 2000e et seq.);

2) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.);

3) Veterans' Benefits (38 USC 101; 38 USC 641 et seq.);

4) Controlled Substances Act (21 USC 802);

5) Illinois Dental Practice Act [225 ILCS 25];

6) Election Code [10 ILCS 5];

7) Freedom of Information Act [5 ILCS 140];

8) General Not For Profit Corporation Act of 1986 [805 ILCS 105];

9) Illinois Health Facilities Planning Act [20 ILCS 3960];

10) Nursing and Advanced Practice Nursing Act [225 ILCS 65];

11) Illinois Occupational Therapy Practice Act [225 ILCS 75];

12) Illinois Physical Therapy Act [225 ILCS 90];

13) Life Care Facilities Act [210 ILCS 40];

14) Medical Practice Act of 1987 [225 ILCS 60];

15) Mental Health and Developmental Disabilities Code [405 ILCS 5];

16) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70];

17) Nursing Home Care Act [210 ILCS 45];

18) Pharmacy Practice Act of 1987 [225 ILCS 85];

19) Probate Act of 1975 [755 ILCS 5];

20) Illinois Public Aid Code [305 ILCS 5].
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21) Counties Code [55 ILCS 5];
22) Hospital Licensing Act [210 ILCS 85];
23) Child Care Act of 1969 [225 ILCS 10];
24) Community Living Facilities Licensing Act [210 ILCS 35];
25) Community Residential Alternatives Licensing Act [210 ILCS 40];
26) Supportive Residences Licensing Act [210 ILCS 65];
27) Assisted Living and Shared Housing Act [210 ILCS 9];
28) Alternative Health Care Delivery Act [210 ILCS 3];
29) Clinical Psychologist Licensing Act [225 ILCS 15];
30) Clinical Social Work and Social Work Practice Act [225 ILCS 20];
31) Alzheimer’s Special Care Disclosure Act [220 ILCS 4];
32) Illinois Administrative Procedure Act [5 ILCS 100];
33) Illinois Act on the Aging [20 ILCS 105];
34) Criminal Code of 1961 [720 ILCS 5];
35) Health Care Worker Background Check Act [225 ILCS 46];
36) Uniform Conviction Information Act [20 ILCS 2635];
37) Cannabis Control Act [720 ILCS 550];
38) Illinois Controlled Substances Act [720 ILCS 570];
39) Wrongs to Children Act [720 ILCS 150];
40) Criminal Jurisprudence Act [720 ILCS 115];
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3844) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV];

3942) Probate Act of 1975 [775 ILCS 5];

4043) Mental Health and Developmental Disabilities Code [405 ILCS 5];

4144) Living Will Act [755 ILCS 35];

4245) Health Care Surrogate Act [755 ILCS 45];

4346) Right of Conscience Act [745 ILCS 70];

4447) Illinois Optometric Practice Act of 1987 [225 ILCS 80];

4548) Physician Assistant Practice Act of 1987 [220 ILCS 95];

4649) Podiatric Medical Practice Act of 1987 [225 ILCS 100].

c) The following State of Illinois rules are referenced:

1) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690);

2) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693);

3) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750);

4) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890);

5) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905);

6) Department of Public Health, Drinking Water Systems Code (77 Ill. Adm. Code 900);

7) Department of Public Health, Illinois Water Well Construction Code (77...
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Ill. Adm. Code 920);

8) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925);

9) Department of Public Health, Freedom of Information Code (2 Ill. Adm. Code 1126);

10) Department of Public Health, Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395);

11) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696);

12) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955);

13) Department of Public Health, Language Assistance Services Code (77 Ill. Adm. Code 940);

14) Department of Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100);

15) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060);

16) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140.544).

d) 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 28 Ill. Reg. ______, effective ____________)

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1310 Admission and Discharge Policies
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a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or distinct part of a facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

c) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning keeping of persons who become pregnant while they are residents of the facility. If these policies permit these persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to these persons from in-house or outside resources. (See Section 340.1550.)

d) Residents with a history of aggressive or self-abusive behavior may be admitted only if the facility has in place appropriate, effective and individualized programs to manage the resident's behaviors and adequate, properly trained and supervised staff to administer the programs.

e) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

g) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

h) A facility shall document all leaves and temporary transfers. Such documentation shall include date, time, condition of resident, person to whom the resident was released, planned destination, anticipated date of return, and any special instructions on medication dispensed.

Before a prospective resident's admission to a facility, the facility shall advise the prospective
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resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 28 Ill. Reg. __________, effective _____________________)

Section 340.1335 Infection Control

a) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690) and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693). Activities shall be monitored to ensure that these policies and procedures are followed.

b) A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections.

cb) Each facility shall adhere to the following guidelines of recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial Infections." The publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control and Prevention, U.S. Public Health Service, Department of Health and Human Services (see Section 340.1010), Atlanta, Georgia 30333. This publication includes the following guidelines:


2) "Guideline for Hand Hygiene in Health-Care Settings Handwashing and Hospital Environmental Control" (1985).

3) "Guideline for Prevention of Intravascular Infections" (October 1981).

4) "Guideline for Prevention of Surgical Site Infection Wound Infections" (March 1982, Revised 1985).
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5) "Guideline for Prevention of Nosocomial Pneumonia" (February 1994).

6) "Guideline for Isolation Precautions in Hospitals" (January 1996).

7) Guidelines "Guideline for Infection Control in Health Care Hospital Personnel" (July 1983).

(Source: Amended at 28 Ill. Reg. ______, effective __________)

Section 340.1377 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


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1961, ch. 38, pars. 252, 252.1, and 252.4));


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15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));


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20 1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));

22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414e, 414e, and 414g));


26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to this Section. (Section 25(a) of the Health Care Worker Background Check Act)

e) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer...
becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Health Care Worker Background Check Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions;

3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(e) of the Health Care Worker Background Check Act)

The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-
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fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30 of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which
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the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant’s or employee’s criminal history since the conviction;

5) The applicant’s or employee’s work history;

6) The applicant’s or employee’s current employment references;

7) The applicant’s or employee’s character references;

8) Nurse Aide Registry records; and
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9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to a court. (Section 40(b) of the Health Care Worker Background Check Act)

q) Waivers will not be granted to individuals who have not met the following time frames.—"Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction — waiver consideration no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions — waiver consideration no earlier than three years after the most recent conviction date;

3) More than three disqualifying misdemeanor convictions — waiver consideration no earlier than five years after the most recent conviction date;

4) Single disqualifying felony conviction — waiver consideration no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions — waiver consideration no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions — waiver consideration no earlier than ten years after the most recent conviction date.

r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
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1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);


3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);

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11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q) or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

u) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

v) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which
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the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

w) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

x) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

y) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act). The facility shall include the individual's Social Security number on the criminal history record check results.

z) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA
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criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

aa) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

SUBPART D: HEALTH SERVICES

Section 340.1510 Communicable Disease Policies

a) The facility shall comply with the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

b) A resident who is suspected of or diagnosed as having any communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act and Section 340.1310 of this Part. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall inform the Department of all incidents of scabies and other skin infestations.

d) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease. The notice to the Department shall include at least the date of the admission and the nature of the condition.

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

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Section 340.1640  Vaccinations

a)  A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. (Section 2-213 of the Act)

b)  A facility shall document in the resident's medical record that an annual vaccination against influenza was administered, refused or medically contraindicated. (Section 2-213 of the Act)

c)  A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 or over, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, who has not received this immunization prior to or upon admission to the facility unless the resident refuses the offer for vaccination or the vaccination is medically contraindicated. (Section 2-213 of the Act)

d)  A facility shall document in each resident's medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated. (Section 2-213 of the Act)

(Source:  Added at 28 Ill. Reg. ______, effective ____________)

Section 340.1650  Language Assistance Services

A facility shall provide language assistance services in accordance with the Language Assistance Services Act [210 ILCS 87] and the Language Assistance Services Code (77 Ill. Adm. Code 940).
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(Source: Added at 28 Ill. Reg. _____, effective ____________ )
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1) **Heading of the Part:** Intermediate Care for the Developmentally Disabled Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 350

3) **Section Numbers:**

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4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A complete description of the subjects and issues:** Part 350 establishes licensing requirements for intermediate care facilities for the developmentally disabled. Section 350.340 (Incorporated and Referenced Materials) is being amended to update incorporated and referenced materials. Section 350.630 (Admission and Discharge Policies) is being amended to move language concerning involuntary discharges and transfers to a new subsection (a), and to deleted statutory language concerning vaccinations, which was removed from the Nursing Home Care Act by Public Act 93-0384 (effective July 25, 2003). Section 350.681 (Health Care Worker Background Check) is being amended to replace the existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (proposed at 28 Ill. Reg. 2968). Section 350.1088 (Language Assistance Services) is being added to require compliance with the Language Assistance Service Act [210 ILCS 87], which was amended by Public Act 93-0564 (effective January 1, 2004) to make compliance with the Language Assistance Services Act mandatory, rather than voluntary, for hospitals and long-term care facilities. Section 350.1260 (Vaccinations) is being added to set forth requirements that were added to the Nursing Home Care Act by P.A. 93-0384.

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) **Will this rulemaking replace any emergency rulemaking currently in effect?** No
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7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: intermediate care facilities for the developmentally disabled

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the Proposed Amendments begins on the next page:
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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section  
350.110 General Requirements  
350.120 Application for License  
350.130 Licensee  
350.140 Issuance of an Initial License for a New Facility  
350.150 Issuance of an Initial License Due to a Change of Ownership  
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350.165 Criteria for Adverse Licensure Actions  
350.170 Denial of Initial License  
350.175 Denial of Renewal of License  
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350.200 Inspections, Surveys, Evaluations and Consultation  
350.210 Filing an Annual Attested Financial Statement  
350.220 Information to Be Made Available to the Public By the Department  
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350.250 Ownership Disclosure  
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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Section 350.340 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) ANSI/ASME Standard No. A17.1 – 2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

B) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.
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E) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981), and the following standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:

i) No. 10(1978): Standards for Portable Extinguishers


iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems


viii) No. 253 (1978): Flooring Radiant Heat Energy Test

ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials
x) Appendix C (1981): Fire Safety Evaluation System for Health Occupancies

F) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:


vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


x) NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition

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H) Underwriters Laboratories, Inc. (UL), which may be obtained from Underwriters Laboratories, Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:


2) Federal regulations and guidelines:

A) 21 CFR 1306, Prescriptions (April 1, 2002)

B) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

2) i) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981)

ii) Guideline for Hand Hygiene in Health-Care Settings (October 2002).


iv) Guideline for Prevention of Surgical Site Infection (1999)

v) Guideline for Prevention of Nosocomial Pneumonia (February 1994)

vi) Guideline for Isolation Precautions in Hospitals (February 18, 1997)


b) All incorporations by reference of federal regulations and guidelines and the
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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.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:
   
   A) Civil Rights Act of 1964 (42 USC 2000e et seq.)
   
   B) Social Security Act (42 USC 301 et seq., 1395 et seq. and 1396 et seq.)
   
   C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

   A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]
   
   B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]
   
   C) Child Care Act of 1969 [225 ILCS 10]
   
   D) Court of Claims Act [705 ILCS 505]
   
   E) Illinois Dental Practice Act [225 ILCS 25]
   
   F) Election Code [10 ILCS 5]
   
   G) Freedom of Information Act [5 ILCS 140]
   
   H) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
   
   I) Illinois Health Facilities Planning Act [20 ILCS 3906]
   
   J) Hospital Licensing Act [210 ILCS 85]
   
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L) Illinois Controlled Substances Act [720 ILCS 570]

M) Life Care Facilities Act [210 ILCS 40]

N) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]

O) Medical Practice Act of 1987 [225 ILCS 60]

P) Mental Health and Developmental Disabilities Code [405 ILCS 5]

Q) Illinois Nursing Act of 1987 [225 ILCS 65]

R) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

S) Nursing Home Care Act [210 ILCS 45]

T) Illinois Occupational Therapy Practice Act [225 ILCS 75]

U) Pharmacy Practice Act of 1987 [225 ILCS 85]

V) Illinois Physical Therapy Act of 1985 [225 ILCS 90]

W) Private Sewage Disposal Licensing Act [225 ILCS 225]

X) Probate Act of 1975 [755 ILCS 5]

Y) Illinois Public Aid Code [305 ILCS 5]

Z) Safety Glazing Materials Act [430 ILCS 60]

AA) Illinois Administrative Procedure Act [5 ILCS 100]

BB) Clinical Psychologist Licensing Act [225 ILCS 15]

CC) Dietetic and Nutrition Services Practice Act [225 ILCS 30]

DD) Health Care Worker Background Check Act [225 ILCS 46]
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FF) Cannabis Control Act [720 ILCS 550]

EE) Clinical Social Work Practice Act [225 ILCS 20]

FF) Living Will Act [755 ILCS 35]

GG) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

HH) Health Care Surrogate Act [755 ILCS 40]

II) Right of Conscience Act [745 ILCS 70]

JJ) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

KK) Supportive Residences Licensing Act [210 ILCS 65]

LL) Community Residential Alternatives Licensing Act [210 ILCS 40]

MM) Community Living Facilities Licensing Act [210 ILCS 35]

NN) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

OO) Counties Code [55 ILCS 5]

PP) Illinois Act on the Aging [20 ILCS 105]

QQ) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

RR) Assisted Living and Shared Housing Act [210 ILCS 9]

SS) Alternative Health Care Delivery Act [210 ILCS 3]

TT) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

UU) Physician Assistant Practice Act of 1987 [225 ILCS 95]
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VV) Language Assistance Services Act [210 ILCS 87]

RR) Illinois Act on the Aging [20 ILCS 105]

SS) Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

TT) Assisted Living and Shared Housing Act [210 ILCS 9]

UU) Alternative Health Care Delivery Act [210 ILCS 3]

VV) Uniform Conviction Information Act [20 ILCS 2635]

WW) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

XX) Physician Assistant Practice Act of 1987 [225 ILCS 95]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)


C) Department of Public Health:

   i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

   ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

   iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


   v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
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x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xiii) Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Professional Regulation:

i) Controlled Substances Act (68 Ill. Adm. Code 3100)


E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)
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F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

SUBPART C: POLICIES

Section 350.630 Admission and Discharge Policies

  a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

  b) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted interdisciplinary team.

  c) No resident determined by professional evaluation to be in need of skilled level of nursing care shall be admitted to, or kept in, an Intermediate Care Facility, or Intermediate Care Facility for the Developmentally Disabled, or any distinct part of the facility designated and classified for intermediate care for the developmentally disabled.

  d) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.

  e) A facility for infants and children under 18 years of age shall be used exclusively for children. Persons under 18 years of age may not be cared for in a facility for adults without prior approval from the Department. Such approval will be granted only when it is the best possible placement for the person under the particular set of circumstances.

  f) A facility shall not refuse to discharge or transfer a resident when requested to do
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so by the resident himself or, if the resident is incompetent, by the resident's
guardian.

If a resident insists on being discharged and is discharged against the advice of a
physician or a Qualified Mental Retardation Professional, the facts involved in the
situation shall be fully documented in the resident's clinical record.

No resident shall be discharged without the concurrence of the attending
physician. All involuntary discharges and transfers shall be in accordance with
Sections 3-401 through 3-423 of the Act.

No resident shall be admitted with a communicable, contagious or infectious
disease except as set forth in Section 350.1223 of this Part.

A facility shall not admit more residents than the number authorized by the
license issued to it.

Before a prospective resident's admission to a facility, the facility shall advise the
prospective resident to consult a physician to determine whether the prospective
resident should obtain a vaccination against pneumococcal pneumonia. (Section
2-213 of the Act)

(Source: Amended at 28 Ill. Reg. _____, effective ____________)

Section 350.681 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and
the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

a) The facility shall not knowingly hire any individual in a position with duties
involving direct care for residents if that person has been convicted of committing
or attempting to commit one or more of the following offenses (Section 25(a) of
the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and
8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]
(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));

2) Murder, homicide, manslaughter or concealment of a homicidal death
(Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal
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9) Criminal sexual assault or criminal sexual abuse (Sections 12-13, 12-14,
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15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));


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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414e, 414e, and 414g));


26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or

27) Manufacture, delivery or trafficking of controlled substances (Sections
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b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided. Section 25(b) of the Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
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2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UClA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UClA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UClA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint
check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (e) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;
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2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to a court. (Section 40(b) of the Health Care Worker Background Check Act)

q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction — waiver consideration no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions — waiver consideration no earlier than three years after the most recent conviction date;
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3) More than three disqualifying misdemeanor convictions—waiver consideration no earlier than five years after the most recent conviction date;

4) Single disqualifying felony conviction—waiver consideration no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions—waiver consideration no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions—waiver consideration no earlier than ten years after the most recent conviction date.

r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);


3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14 and 12-14.1]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
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7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]) and;

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

u) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)
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v) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

w) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

x) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee
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after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

y) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

z) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

aa) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

Section 350.760 Infection Control

a) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690) and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693). Activities shall be monitored to ensure that these policies and procedures are followed.

b) A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections.

c) Depending on the services provided by the facility, each facility shall adhere to the following guidelines of the Center for Infectious Diseases, Centers for Disease
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Control and Prevention, United States Public Health Service, Department of Health and Human Services, as applicable (see Section 350.340):

1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections
2) Guideline for Hand Hygiene in Health-Care Settings
3) Guidelines for Prevention of Intravascular Catheter-Related Infections
4) Guideline for Prevention of Surgical Site Infection
5) Guideline for Prevention of Nosocomial Pneumonia
6) Guideline for Isolation Precautions in Hospitals
7) Guidelines for Infection Control in Health Care Personnel

(Source: Added at 28 Ill. Reg. _____, effective ____________)

SUBPART E: RESIDENT LIVING SERVICES

Section 350.1088  Language Assistance Services

A facility shall provide language assistance services in accordance with the Language Assistance Services Act [210 ILCS 87] and the Language Assistance Services Code (77 Ill. Adm. Code 940).

(Source: Added at 28 Ill. Reg. _____, effective ____________)

SUBPART F: HEALTH SERVICES

Section 350.1223  Communicable Disease Policies

a) The facility shall comply with the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

b) The facility shall not knowingly admit a person with a communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, except as allowed in subsection (d) of this Section. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if
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required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act and Section 350.630 of this Part. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall also inform the Department of all incidents of scabies and other skin infestations.

d) Admission of Persons with Communicable, Contagious, or Infectious Diseases. Persons with communicable, contagious, or infectious diseases may be admitted under the following conditions:

1) When a person's infectious condition is directly related to one or more chronic pressure sores, from which laboratory tests have proven the presence of a pathogenic organism. Such a person may be admitted if the facility is capable of implementing appropriate treatment and isolation techniques to avoid secondary spread of infection.

2) When a person's condition is communicable, contagious, or infectious only through blood or other body fluid contact, such as hepatitis, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV) infection.

e) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease under subsection (d)(1) of this Section. The notice to the Department shall include at least the date of the admission and the nature of the condition.

f) Written approval to admit or keep a person with other communicable, contagious, or infectious diseases may be granted by the Department on an individual case basis. Such approval will depend upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the person and to safeguard the staff and other residents of the facility from the spread of primary and secondary infections.
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e) Infection control: Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code. Activities shall be monitored to ensure that these policies and procedures are followed.

(Source: Amended at 28 Ill. Reg. ______, effective __________)

Section 350.1260 Vaccinations

a) A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. (Section 2-213 of the Act)

b) A facility shall document in the resident's medical record that an annual vaccination against influenza was administered, refused or medically contraindicated. (Section 2-213 of the Act)

c) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 or over, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, who has not received this immunization prior to or upon admission to the facility unless the resident refuses the offer for vaccination or the vaccination is medically contraindicated. (Section 2-213 of the Act)
d) A facility shall document in each resident's medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated. (Section 2-213 of the Act)

(Source: Amended at 28 Ill. Reg. ______, effective ______________)
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1) **Heading of the Part:** Long-Term Care for Under Age 22 Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 390

3) **Section Numbers:**

   **Proposed Action:**
   
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>390.340</td>
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4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A complete description of the subjects and issues:** Part 390 establishes licensing requirements for long-term care facilities for persons under age 22. Section 390.340 (Incorporated and Referenced Materials) is being amended to update incorporated and referenced materials and to add infection control guidelines of the Centers for Disease Control. Section 390.630 (Admission and Discharge Policies) is being amended to move language concerning involuntary discharges and transfers to subsection (a). Statutory language concerning vaccinations, which was deleted in the Nursing Home Care Act by Public Act 93-0384 (effective July 25, 2003) is being deleted. Section 390.681 (Health Care Worker Background Check) is being amended to replace the existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (proposed at 28 Ill. Reg. 2968). Section 390.760 (Infection Control) is being added to set forth infection control requirements, which are currently in Section 390.1020 and will be deleted in that Section. Section 390.1130 (Communicable Disease Policies) is being added so that these policies, which were in Section 390.1020 are being deleted from that Section, are more easily located in the rules. Section 390.1140 (Vaccinations) is being added to set forth requirements that were added to the Nursing Home Care Act by P.A. 93-0384. Section 390.1150 (Language Assistance Services) is being added to require compliance with the Language Assistance Services Act [210 ILCS 87], which was amended by Public Act 93-0564 (effective January 1, 2004) to make compliance with the Language Assistance Services Act mandatory, rather than voluntary, for hospitals and long-term care facilities.
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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) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State Mandate.

11) Time, place, and manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: long-term care facilities for individuals under age 22

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None
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13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the Proposed Amendments begins on the next page:
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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.315 Supported Congregate Living Arrangement Demonstration
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390.APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C Guidelines for the Use of Various Drugs
390.TABLE A Infant Feeding
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390.TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
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390.TABLE E Sprinkler Requirements
390.TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 390.340 Incorporated and Referenced Materials

a) The following regulations, guidelines, and standards are incorporated in this Part:

1) ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

2) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2001), and Handbook of Applications (1999), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.


5) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained
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from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:

A) No. 10 (1978): Standards for Portable Extinguishers


C) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems


G) No. 220 (1979): Standards Types of Building Construction

H) No. 253 (1978): Flooring Radiant Heat Energy Test

I) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials


6) For new facilities (see Subpart M), the following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:


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F) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition


8) The following standards, which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

A) Fire Resistance Directory (2003 Edition);

B) Building Material Directory (2003 Edition);

9) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:

A) Guideline for Prevention of Catheter-Associated Urinary Tract
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Infections (October 1981)

B) Guideline for Hand Hygiene in Health-Care Settings (October 2002)


D) Guideline for Prevention of Surgical Site Infection (1999)

E) Guideline for Prevention of Nosocomial Pneumonia (February 2014)

F) Guideline for Isolation Precautions in Hospitals (February 18, 1997)


b) 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.

c) The following statutes and State regulations are referenced in this Part:

1) Federal statutes:

   A) Civil Rights Act of 1964 (42 USC 2000e et seq.)

   B) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.)

   C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

   A) Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305]

   B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]
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C) Child Care Act of 1969 [225 ILCS 10]
D) Civil Practice Act [735 ILCS 5]
E) Court of Claims Act [705 ILCS 505]
F) Illinois Dental Practice Act [225 ILCS 25]
G) Election Code [10 ILCS 5]
H) Freedom of Information Act [5 ILCS 140]
I) General Not For Profit Corporation Act [805 ILCS 105]
J) Hospital Licensing Act [210 ILCS 85]
K) Illinois Controlled Substances Act [720 ILCS 570]
L) Illinois Health Facilities Planning Act [20 ILCS 3906]
N) Life Care Facilities Act [210 ILCS 40]
O) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
P) Medical Practice Act of 1987 [225 ILCS 60]
Q) Mental Health and Developmental Disabilities Code [405 ILCS 5]
R) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
S) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
T) Nursing Home Care Act [210 ILCS 45]
U) Illinois Occupational Therapy Practice Act [225 ILCS 75]
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V) Pharmacy Practice Act of 1987 [225 ILCS 85]
X) Private Sewage Disposal Licensing Act [225 ILCS 225]
Y) Probate Act of 1975 [755 ILCS 5]
Z) Illinois Public Aid Code [305 ILCS 5]
AA) Safety Glazing Materials Act [430 ILCS 60]
BB) School Code [105 ILCS 5]
CC) Illinois Administrative Procedure Act [5 ILCS 100]
DD) Clinical Psychologist Licensing Act [225 ILCS 15]
EE) Dietetic and Nutrition Services Practices Act [225 ILCS 30]
FF) Health Care Worker Background Check Act [225 ILCS 46]
HH) Cannabis Control Act [720 ILCS 550]
JJ) Living Will Act [755 ILCS 35]
KK) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
LL) Health Care Surrogate Act [755 ILCS 40]
MM) Right of Conscience Act [745 ILCS 70]
NN) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]
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Supportive Residences Licensing Act [210 ILCS 65]  
Community Residential Alternatives Licensing Act [210 ILCS 40]  
Community Living Facilities Licensing Act [210 ILCS 35]  
Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]  
Counties Code [55 ILCS 5]  
Podiatric Medical Practice Act of 1987 [225 ILCS 100]  
Illinois Optometric Practice Act of 1987 [225 ILCS 80]  
Physician Assistant Practice Act of 1987 [220 ILCS 95]  
Alternative Health Care Delivery Act [210 ILCS 3]  
Uniform Conviction Information Act [20 ILCS 2635]  
Wrongs to Children Act [720 ILCS 150]  
Criminal Jurisprudence Act [720 ILCS 115]  
Assisted Living and Shared Housing Act [210 ILCS 9]  
Language Assistance Services Act [210 ILCS 87]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)


C) Department of Public Health

i) Control of Communicable Diseases Code (77 Ill. Adm.)
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Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)


v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)


x) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xiii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
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xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Professional Regulation: Controlled Substances Act (77 Ill. Adm. Code 3100)

i) Controlled Substances Act (7768 Ill. Adm. Code 3100)


E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 2706)

G) Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

SUBPART C: POLICIES

Section 390.630 Admission and Discharge Policies

a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) A facility shall admit only residents who have had a comprehensive evaluation of their medical history and physical and psycho/social factors conducted by an appropriately constituted interdisciplinary team. No resident determined by professional evaluation to be in need of services not readily available in a particular facility shall be admitted to or kept in that facility. Additionally, emotional and cognitive histories shall be evaluated when applicable and available.

c) A facility for persons under 22 years of age shall be used exclusively for persons under 22 years of age, except when the facility's interdisciplinary team has determined that either initial or continued placement in the facility is appropriate because of the resident's physical and mental functioning status, and that the
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A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is a minor, by the resident's parent or guardian.

e) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

f) No resident shall be discharged without the concurrence of the attending physician. If such approval is given, the facility shall have the right to discharge or transfer a resident to an appropriate resource in accordance with Sections 3-401 through 3-423 of the Act.

g) A facility shall not admit more residents than the number authorized by the license issued to it.

h) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Nursing Home Care Act)

(Source: Amended at 28 Ill. Reg. _______, effective ____________)

Section 390.681 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
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1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] 
(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));

2) Murder, homicide, manslaughter or concealment of a homicidal death 
(Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal 
370, 373, 373a, 417, and 474));

3) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the 
Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly 

4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of 
the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly 
1961, ch. 38, pars. 252, 252.1, and 252.4));

5) Indecent solicitation of a child, sexual exploitation of a child, exploitation 
of a child, child pornography (Sections 11-6, 11-9.1, 11-9.2, and 11-20.1 of the 
Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11- 
pars. 103 and 104));

6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, 
or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12- 
3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the 
Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12- 
4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. 
Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12- 
4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, 
ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 
60b));
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15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3])
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22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414e, 414e, and 414g));


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26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or deliver to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

d) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
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3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of
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the following whenever a non-fingerprint based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may
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request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check history form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2).

o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.
The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;
2) The circumstances surrounding the crime;
3) The length of time since the conviction;
4) The applicant's or employee's criminal history since the conviction;
5) The applicant's or employee's work history;
6) The applicant's or employee's current employment references;
7) The applicant's or employee's character references;
8) Nurse Aide Registry records; and
9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to a court. (Section 40(b) of the Health Care Worker Background Check Act)

Waivers will not be granted to individuals who have not met the following time frames unless the Director of Public Health approves the waiver in writing. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section.

1) Single disqualifying misdemeanor conviction—waiver consideration no earlier than one year after the conviction date;
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2) Two to three disqualifying misdemeanor convictions — waiver consideration no earlier than three years after the most recent conviction date;

3) More than three disqualifying misdemeanor convictions — waiver consideration no earlier than five years after the most recent conviction date;

4) Single disqualifying felony conviction — waiver consideration no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions — waiver consideration no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions — waiver consideration no earlier than ten years after the most recent conviction date.

r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);


3) Kidnapping or aggravated kidnapping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);
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6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)
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u) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

v) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

w) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with
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duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

x) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

y) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

z) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

aa) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 28 Ill. Reg. ______, effective ____________)

Section 390.760 Infection Control

a) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690) and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693). Activities shall be monitored to ensure that these policies and procedures are followed.
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b) A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections.

c) Each facility shall adhere to the following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Services, Department of Health and Human Services (see Section 390.340):

1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections
2) Guideline for Hand Hygiene in Health Care Settings
3) Guidelines for Prevention of Intravascular Catheter-Related Infections
4) Guideline for Prevention of Surgical Site Infection
5) Guideline for Prevention of Nosocomial Pneumonia
6) Guideline for Isolation Precautions in Hospitals
7) Guidelines for Infection Control in Health Care Personnel

(Source: Added at 28 Ill. Reg. _____, effective ____________)

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section 390.1020 Medical Services

a) General Medical Services

1) The facility shall have a written program of medical services approved in writing by the medical advisory committee that reflects the philosophy of care provided, the policies relating to this, and the procedures for implementation of the services. The program shall include the entire complex of services provided by the facility and the arrangements to effect transfer to other facilities as promptly as needed. The written program of medical services shall be followed in the operation of the facility.

2) A medical advisory committee composed of at least a physician, administrator and the director of nursing shall be responsible for advising
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the administrator and the licensee on the overall medical management of the residents and the staff in the facility. If the facility employs a house physician, the physician shall be a member of this committee. The written program of medical services shall also include the structure and function of the medical advisory committee.

b) Medical Emergencies

1) The medical advisory committee shall develop policies and procedures to be followed during medical emergencies including, but not limited to, foreign body aspiration, poisoning, acute trauma (fractures, burns, and lacerations), cardiac arrest, acute coronary, acute cardiac failure, asthmatic or allergic reactions, acute convulsion, shock, diabetic coma, insulin shock, and acute respiratory distress.

2) The facility shall maintain in a suitable location the equipment necessary to be used during emergencies, including, but not limited to, a portable oxygen kit, including a face mask or cannula; an airway; and tongue blades.

3) At least one staff person shall be on duty at all times who has been properly trained to handle medical emergencies.

c) Communicable Disease Policies

1) The facility shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

2) The facility shall not knowingly admit a person with a communicable, contagious or infectious disease, as defined in the Control of Communicable Diseases Code, except as allowed in subsection (c)(4) of this Section. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

3) All illnesses required to be reported under the Control of Communicable
DEPARTMENT OF PUBLIC HEALTH

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Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. The facility shall also inform the Department of all incidents of scabies and other skin infestations.

4) Admission of Persons with Communicable, Contagious, or Infectious Diseases

A) Persons with communicable, contagious, or infectious diseases may be admitted under the following conditions:

i) When a person's infectious condition is directly related to one or more chronic pressure sores, from which laboratory tests have proven the presence of a pathogenic organism. Such a person may be admitted if the facility is capable of implementing appropriate treatment and isolation techniques to avoid secondary spread of infection.

ii) When a person's condition is communicable, contagious, or infectious only through blood or other body fluid contact, such as hepatitis, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV) infection.

B) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious disease under subsection (c)(4)(A) of this Section. The notice to the Department shall include at least the date of the admission and the nature of the condition.

C) Written approval to admit or keep a person with other communicable, contagious or infectious diseases may be granted by the Department on an individual case basis. Such approval will depend upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the person and to safeguard the staff and other residents of the facility from the spread of primary and secondary infections.
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d) Infection Control

1) Policies and procedures for investigating, controlling, and preventing infections in the facility shall be established and followed. A group, either an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code. Activities shall be monitored to ensure that these policies and procedures are followed.

2) Each facility shall adhere to the recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial Infections". This publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Services, Department of Health and Human Services, Atlanta, Georgia 30333. This publication includes the following guidelines:

A) "Guidelines for Prevention of Catheter-Associated Urinary Tract Infections" (February 1, 1981).

B) "Guidelines for Handwashing and Hospital Environmental Control" (January 1, 1985).

C) "Guidelines for Prevention of Intravascular Infections" (August 1, 1981).

D) "Guideline for Prevention of Surgical Wound Infections" (March 1982, Revised 1985).

E) "Guideline for Prevention of Nosocomial Pneumonia" (January 3, 1997).

F) "Guideline for Isolation Precautions in Hospitals" (January 1, 1996).

G) "Guideline for Infection Control in Hospital Personnel" (July 1, 1983).
DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 28 Ill. Reg. _____, effective ____________)

Section 390.1130  Communicable Disease Policies

a) The facility shall comply with the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

b) A resident who is suspected of or diagnosed as having any communicable, contagious, or infectious disease shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the facility believes that it cannot provide the necessary infection control measures, it must initiate an involuntary transfer and discharge pursuant to Article III, Part 4 of the Act. In determining whether a transfer or discharge is necessary, the burden of proof rests on the facility.

c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The facility shall furnish all pertinent information relating to such occurrences. In addition, the facility shall also inform the Department of all incidents of scabies and other skin infestations.

(Source: Added at 28 Ill. Reg. _____, effective ____________)

Section 390.1140  Vaccinations

a) A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 or over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. (Section 2-213 of the Act)
b) A facility shall document in the resident’s medical record that an annual vaccination against influenza was administered, refused or medically contraindicated. (Section 2-213 of the Act)

c) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 and over, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, who has not received this immunization prior to or upon admission to the facility unless the resident refuses the offer for vaccination or the vaccination is medically contraindicated. (Section 2-213 of the Act)

d) A facility shall document in each resident’s medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated. (Section 2-213 of the Act)

(Source: Added at 28 Ill. Reg. ______, effective ____________)

Section 390.1150 Language Assistance Services

A facility shall provide language assistance services in accordance with the Language Assistance Services Act [210 ILCS 87] and the Language Assistance Services Code (77 Ill. Adm. Code 950).

(Source: Added at 28 Ill. Reg. ______, effective ____________)
NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Drivers, Trainers, and Agents

2) **Code Citation**: 11 Ill. Adm. Code 1317

3) **Section Number**: Proposed Action:
   - 1317.30  Repeal
   - 1317.85  New

4) **Statutory Authority**: 230 ILCS 5/9(b)

5) **A Complete Description of the Subjects and Issues Involved**: This rulemaking repeals obsolete language contained in Section 1317.30. This rulemaking also creates a new Section 1317.85 that defines conflict of interest for harness drivers by prohibiting a driver from driving against another racehorse in which he or she has a financial or business interest.

6) **Will these proposed amendments replace any emergency amendments currently in effect?**  No

7) **Does this rulemaking contain an automatic repeal date?**  No

8) **Do these proposed amendments contain incorporation by reference?**  No

9) **Are there any other proposed amendments pending in this Part?**  No

10) **Statement of Statewide Policy Objectives**: No local governmental units will be required to increase expenditures.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: Written comments should be submitted, within 45 days after this notice, to:
    
    Mickey Ezzo  
    Illinois Racing Board  
    100 West Randolph, Suite 11-100  
    Chicago, Illinois 60601  
    (312) 814-5017

12) **Initial Regulatory Flexibility Analysis**:
    
    A) **Types of small business affected**: None
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated when they were submitted.

The full text of the Proposed Amendments begins on the next page:
NOTICE OF PROPOSED AMENDMENTS

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

PART 1317
DRIVERS, TRAINERS, AND AGENTS

Section
1317.10 Proper License
1317.20 Approval of License
1317.30 Driver's Bench (Repealed)
1317.40 Disorderly Conduct
1317.50 Caretakers
1317.60 Colors
1317.70 Restricted Areas for Drivers in Colors
1317.80 Driver Substitutions
1317.85 Conflict of Interest
1317.90 Driving Violations
1317.100 Color Registration
1317.110 Repeated Violations
1317.120 Accidents
1317.130 Physical Examination
1317.140 Objections
1317.150 Drivers Meeting
1317.160 Traffic Procedure

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


Section 1317.30 Driver's Bench (Repealed)

Drivers wearing colors, but not competing in a particular race, shall view said race from benches set aside for them by the race track operator.
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NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 28 Ill. Reg. ______, effective ____________)

Section 1317.85 Conflict of Interest

a) No driver shall drive a horse in a race in which there shall start another horse that he in any way represents or handles, unless coupled as an entry.

b) No driver shall drive a horse in a race in which there shall start another horse in which he has a financial or business interest, or an interest that is injurious to racing as determined by the stewards, unless coupled as an entry.

(Source: Added at 28 Ill. Reg. ______, effective ____________)
DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

1) **Heading of the Part:** AMBER Alert Notification Plan

2) **Code Citation:** 20 Ill. Adm. Code 1292

3) **Section Numbers:**
   - 1292.10 New Section
   - 1292.20 New Section
   - 1292.30 New Section
   - 1292.40 New Section
   - 1292.50 New Section

4) **Statutory Authority:** Implementing and authorized by Section 2605-480 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-480].

5) **A Complete Description of the Subjects and Issues Involved:** The purpose of this Part is to develop and implement a coordinated program for a statewide emergency alert system to be used when a child is abducted.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective:** These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed rules. The submissions must be in writing and directed to:

    Mr. Keith Jensen  
    Chief Legal Counsel  
    Illinois State Police  
    124 East Adams Street, Room 102  
    Post Office Box 19461
12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Municipal police agencies are affected.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included in either of the 2 most recent agendas because: The proposed amendments are needed in order to comply with Public Act 92-259, and the agency only recently became aware of those changes.

The full text of the Proposed Rules begin on the next page:
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DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1292
AMBER ALERT NOTIFICATION PLAN

Section
1292.10 Purpose
1292.20 Definitions
1292.30 Requirements
1292.40 Procedures
1292.50 Responsibilities

AUTHORITY: Implementing and authorized by Section 2605-480 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-480].

SOURCE: Adopted at 28 Ill. Reg. _____, effective ____________.

Section 1292.10 Purpose

The purpose of this Part is to develop and implement a coordinated program for a statewide emergency alert system to be used when a child is abducted.

Section 1292.20 Definitions

"AMBER Alert Notification Plan" means the system implemented to broadcast critical information to the public when a child is abducted.

"AMBER Plan Task Force" means the group appointed by the Illinois Department of State Police to monitor and review the implementation and operation of the plan, including procedures, budgetary requirements, and response protocols. The Task Force shall also develop additional network resources for use in the system.

"Child" means a minor under the age of 16 or an individual with a proven mental or physical disability, which may be determined on a case-by-case basis.

"Child Safety Coordinator" means the Illinois Department of State Police employee appointed to assist in the establishment of State standards for child safety from kidnap and abduction and to advocate for the achievement of those standards. The qualifications and experience for the position shall be as outlined in the official position description.
DEPARTMENT OF STATE POLICE

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maintained by the Department.

"Department" means the Illinois Department of State Police.

"Investigative law enforcement agency" means the law enforcement agency leading the investigation in the jurisdiction in which the abduction occurred.

Section 1292.30  Requirements

The following criteria must be met to activate the AMBER Alert Notification Plan:

a) The investigative law enforcement agency must confirm that a child has been abducted.

b) The investigative law enforcement agency must confirm that the child meets the definition of child contained within Section 1292.20 of this Part.

c) Law enforcement officials must believe the child is in danger of serious bodily harm or death.

d) There must be sufficient descriptive information about the child, abductor, and/or suspect's vehicle to believe an immediate broadcast alert will help locate the child, abductor, and/or suspect's vehicle.

Section 1292.40  Procedures

a) The investigative law enforcement agency must confirm the situation meets the criteria outlined in Section 1292.30 of this Part and then contact the Illinois Department of State Police Springfield Communications Center to request activation of the AMBER Alert Notification Plan.

b) The investigative law enforcement agency shall notify all Illinois law enforcement agencies of a child abduction alert through the Law Enforcement Agencies Database System (LEADS) and other state law enforcement agencies through the National Law Enforcement Telecommunications System (NLETS).

c) Critical information relating to the abduction will be sent via the National Weather Service Emergency Alert System to statewide media outlets by the Illinois Department of State Police Springfield Communications Center.
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d) The Illinois Department of State Police Springfield Communications Center will request that the media broadcast details of the abduction in order to obtain the public's assistance in locating the abducted child, abductor, and/or vehicle used in the abduction.

e) The Illinois Department of State Police Springfield Communications Center will contact the Illinois Department of Transportation in order to post the critical information relating to the abduction on Illinois Department of Transportation and Illinois Tollway electronic message signs on roads and highways and Illinois State websites.

Section 1292.50 Responsibilities

a) The Department shall establish an AMBER Plan Task Force.

b) The Department shall appoint a Child Safety Coordinator.

c) The Department, in coordination with the Illinois Emergency Management Agency, shall develop and implement a community outreach program to promote awareness among the State's parents and children of child abduction prevention and response.

d) The Department, in coordination with the Illinois State Board of Education, shall develop child abduction prevention instruction for inclusion in elementary and secondary school curricula throughout the State. The Department and State Board of Education shall encourage the inclusion of the child abduction prevention instruction in private elementary and secondary school curricula throughout the State.
TEACHERS’ RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** The Administration and Operation of the Teachers’ Retirement System

2) **Code Citation:** 80 Ill. Adm. Code 1650

3) **Section Number:** 1650.310  **Proposed Action:** Amended

4) **Statutory Authority:** Implementing and authorized by Article 16 [40 ILCS 5/16] of the Illinois Pension Code.

5) **A Complete Description of the Subjects and Issues Involved:** This amendment to Section 1650.310 establishes the procedure for determining “date of first full-time employment” for the purpose of assessing interest charges on private school optional service purchases.

6) **Will this proposed amendment replace an emergency amendment currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this proposed amendment contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives:** This rulemaking does not create or extend a State mandate.

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:

    Thomas S. Gray, General Counsel
    Teachers’ Retirement System
    2815 West Washington, P. O. Box 19253
    Springfield, Illinois  62794-9253
    (217) 753-0375

12) **Initial Regulatory Flexibility Analysis:** These rules will not affect small businesses.

    A) **Types of small businesses, small municipalities and not for profit corporations affected:** None
TEACHERS’ RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the Proposed Amendment begin on the next page:
TEACHERS’ RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF
THE STATE OF ILLINOIS

PART 1650
THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section
1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section
1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section
1650.201 Disability Benefits – Application Procedure
1650.202 Disability and Occupational Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary
TEACHERS’ RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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Rates
1650.210 Claim Applications
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1650.220 Reclassification of Disability Claim (Repealed)
1650.221 When Member Becomes Annuitant
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1650.230 Medical Examinations and Investigations of Claims (Repealed)
1650.240 Refunds; Impermissible Refunds; Canceled Service; Repayment
1650.250 Death Benefits
1650.260 Evidence of Age
1650.270 Reversionary Annuity – Evidence of Dependency
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1650.341 Service Credit for Involuntary Layoffs
1650.345 Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346 Service Credit for Periods Away From Teaching Due to Adoption
1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.355 Purchase of Optional Service – Required Minimum Payment
1650.356 Payroll Deduction Program (Repealed)
1650.357 Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360 Settlement Agreements and Judgments
1650.370 Calculation of Average Salary (Renumbered)
1650.380 Definition of Actuarial Equivalent
1650.390 Independent Contractors
1650.391 Optional 2.2 Upgrade of Earned and Credited Service
1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade
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### SUBPART N: PAYROLL DEDUCTION PROGRAM

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### SUBPART O: RETIREMENT BENEFITS

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1650.2900 Excess Benefit Arrangement

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].


SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section 1650.310 Effective Date of Membership

a) The effective date of membership in the System shall be the date of employment by an employer, as recorded by the employer.

b) In the absence of a record of the date of employment in the official proceedings of
TEACHERS’ RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

the qualifying employer, the date of membership shall be the first payroll day for which contributions were required.

c) For purposes of calculating the required contributions to purchase military service not immediately following employment under the provisions of 40 ILCS 5/16-128(a)(iii), and/or to purchase private school teaching under the provisions of 40 ILCS 5/16-128(d-5) in the absence of official records documenting the date of first full-time employment as a teacher, the date of first membership shall be defined as July 1 of the first year of System contributing service.

(Source: Amended at 28 Ill. Reg. _______, effective ___________)
DEPARTMENT OF AGRICULTURE

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1) **Heading of the Part:** Fairs Operating Under the Agricultural Fair Act

2) **Code Citation:** 8 Ill. Adm. Code 260

3) **Section Numbers:**

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DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

260.515   Amend
260.520   Repeal
260.522   Add
260.524   Add
260.525   Amend
260.530   Amend
260.535   Repeal
260.537   Add

4) Statutory Authority: Agricultural Fair Act [30 ILCS 120]
5) Effective date of amendments: July 23, 2004
6) Does this rulemaking contain an automatic repeal date? No
7) Does this rulemaking contain incorporations by reference? No
8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.
10) Has JCAR issued a Statement of Objection to this rule? No
11) Differences between proposal and final version: Section 260.415 in the Table of Contents and body of the rule has been changed to Detailed Report of Premium Awards. Sections 260.30 and 260.60 provides for other persons to pick up premium money or purse if the exhibitor is unable to personally pick up the money. In Sections 260.300 and 260.305 the judge’s fees have been changed to $400 instead of $800. Other nonsubstantive technical and grammatical changes have been made as requested by 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 these amendments replace any emergency amendments currently in effect? No
14) Are there any amendments pending on this Part? No
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

15) **Summary and purpose of amendments:** The Bureau of County Fairs and Horse Racing is submitting additions, amendments or repealing sections of the Fairs Operating Under the Agricultural Fair Act rules. The issues involve simplifying and clarification of reporting requirements, accountability and audit finding solutions for county fair associations or agricultural societies, fair and exposition associations or authorities, 4-H clubs and vocational agriculture sections.

16) **Information and questions regarding these adopted amendments shall be directed to:**

   Linda Rhodes  
   Illinois Department of Agriculture  
   P. O. Box 19281, State Fairgrounds  
   Springfield, Illinois  62794-9281  
   217/785-5713  
   Fax: 217/785-4505

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

NOTICE OF ADOPTED AMENDMENTS

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

PART 260
FAIRS OPERATING UNDER THE AGRICULTURAL FAIR ACT

SUBPART A: FAIRS OPERATING UNDER THE AGRICULTURAL PREMIUM FUND

Section
260.5 Definitions
260.10 Appropriations
260.15 Declaration of Intention
260.20 Premium State Aid Payable on the Authorized Base
260.25 Denial of State Aid Claim (Repealed)
260.30 Premiums and Receipts for Premiums Paid
260.35 Stall or Pen Fees
260.40 Entry Fees and Entry Fee Certification Form
260.45 County Fair Organization and Operation
260.50 Exhibits and Livestock; Presence on the Fairgrounds and Early Release Procedure
260.55 Premium Book
260.60 Horse Racing – Harness and Running
260.65 Heavy Horses (Repealed)
260.70 Light Horses and Western Horses (Repealed)
260.75 Western Horse Shows (Repealed)
260.80 Livestock Classification and Registration Papers
260.85 Registration Papers (Repealed)
260.87 Open and Junior Jackpot Shows
260.90 Inspections and Inspectors Reports (Repealed)
260.95 Junior Classes Shows
260.100 Premium Grand Summary A State Aid Report
260.105 Growth Incentive Program
260.110 Pro Rata (Grant) Payments and Justification
260.115 Petitioning for Base Adjustments (Repealed)
260.117 Administrative Rules (Formal Administrative Hearings, Contested Cases, Petitions, and Administrative Procedures)

SUBPART B: FAIRS
PARTICIPATING IN THE REHABILITATION FUND
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 260.200  Appropriation
Section 260.205  Ownership of Grounds
Section 260.207  Rehabilitation Declaration of Intent (Repealed)
Section 260.210  Rehabilitation Claims
Section 260.215  Major Building Projects (Repealed)
Section 260.220  Rehabilitation Report and Receipts
Section 260.225  Pro Rata Payments and Justification

SUBPART C: PROCEDURES FOR PARTICIPATION
IN THE 4-H FUND

Section 260.300  Appropriation and Eligibility
Section 260.305  A 4-H Claim Report
Section 260.310  Pro Rata Payment and Justification (Repealed)

SUBPART D: PROCEDURES FOR PARTICIPATION
IN THE VOCATIONAL AGRICULTURE FUND

Section 260.400  Appropriation
Section 260.405  Eligibility for Premiums
Section 260.410  List of Premiums Sent to Bureau (Repealed)
Section 260.415  Vocational Agriculture Report of Premium Awards
Section 260.420  Pro Rata Payments
Section 260.425  Fiscal Accounting (Repealed)

SUBPART E: FAIRS OPERATING UNDER THE
FAIR AND EXPOSITION FUND

Section 260.500  Appropriation (Repealed)
Section 260.505  Eligibility
Section 260.510  Ownership or Leasing of Grounds
Section 260.515  Declaration of Intention and Construction Plans/Specifications
Section 260.520  Transfer of Funds (Repealed)
Section 260.522  Entry Fee Certification Form and Premium Books
Section 260.524  Premium State Aid Payable on the Authorized Base
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260.525 Distribution of Funds, Declaration of Intention, Penal Bond, and Audit
260.530 Expenditure of Funds
260.535 Accumulation of Funds for Major Building Projects (Repealed)
260.537 Premium Grand Summary Report and Fair and Exposition Financial Statement and Receipts
260.540 Administrative Rules (Formal Administrative Hearings, Contested Cases, Petitions, and Administrative Procedures)

AUTHORITY: Implementing and authorized by the Agricultural Fair Act [30 ILCS 120].


SUBPART A: FAIRS OPERATING UNDER THE AGRICULTURAL PREMIUM FUND

Section 260.5 Definitions

"Act" means the Agricultural Fair Act [30 ILCS 120].

"Bureau" means the Bureau of County Fairs and Horse Racing, Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, Illinois 62794-9281. The telephone number for the Bureau is 217/782-7411.

"Class" is a group, set or kind of animal or exhibit which shares common attributes (e.g., Herefords, Belgians, Dorset, Hamburg, championship, milk and cream, Duroc, barrows, corn, apples, arrangement, clothing, and ceramics).

"Department" means a general grouping of animal species or general categories of exhibits. Departments are listed in Section 260.55(a)(2).

"Premium number" means the number assigned to the class or the event.

"Premium State aid" means reimbursement by the Illinois Department of Agriculture to county fairs for premiums paid.
Section 260.10 Appropriations

a) Eligibility of fair associations or agricultural societies to participate in appropriations from the Agricultural Premium Fund shall be as set forth in Sections 3, 5 and 7 of the Act. Any newly organized fair association or agricultural society must receive an appropriation for their first year's fair as set forth in Section 6 of the Act, and in subsequent years the Department of Agriculture shall include the appropriation for that fair as part of its annual budget.

b) Appropriations made to the Department of Agriculture for disbursement to fair associations or agricultural societies shall not be used to pay for personnel, premiums and expenses of acts which are primarily for the entertainment of persons (e.g., grandstand shows, variety acts, bands, clowns, queen contests, showmanship events, machinery shows, demolition derbies, parades, balloon races, auto races, motorcycle races, human races, baton twirling, bocce ball, and amateur contests), except for those exhibits and events relating to agriculture as identified in Section 9 of the Act. 4-H Club fairs and exhibitions receive an appropriation in accordance with Section 14 of the Act and, therefore, 4-H Club classes do not qualify for reimbursement of State Aid for premiums paid.

c) Appropriations shall not be used for salaries of officers of the fair or for personnel hired or contracted for by the fair officers (Sections 9 and 22 of the Agricultural Fair Act, 30 ILCS 120/9 and 22).

d) Contributions, such as money, ribbons, trophies, rosettes, blankets, or wreaths, made by and/or expenses incurred by persons or organizations sponsoring events or classes, other than the fair association or agricultural society, are not eligible for premium State aid.

Section 260.15 Declaration of Intention

a) On or before December 31 of the year preceding the year in which a fair association or agricultural society will participate in the Agricultural Premium Fund appropriation, the fair association or agricultural society shall file a Declaration of Intention with the Bureau. A fee of $25 will be deducted each day.
DEPARTMENT OF AGRICULTURE

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The Declaration of Intention forms to each fair association or agricultural society that participated in the previous year's appropriation and to any newly organized fair that receives an appropriation in accordance with Section 6 of the Act. Failure to receive this form shall not relieve the fair association or agricultural society from filing the Declaration of Intention.

b) The following information shall be submitted on the Declaration of Intention:

1) Names and addresses of the fair's officers.

2) The location of the fair.

3) The dates of the next year's fair exhibition.

4) The approximate amount of premiums to be offered in each department and the maximum amount of premiums to be offered by the fair.

5) Estimated costs of trophies, ribbons and rosettes, including engraving, for those classes that are eligible for State Aid in accordance with Section 9 of the Act.

56) Name, address and telephone number of the person who is responsible for filing the premium grand summary report if this person is other than the secretary of the fair association or agricultural society.

7) Which Division (Division I or Division II) shall be used for the 100% reimbursement of the first $2,000. This reimbursement may be divided on a 50/50 basis or any combination thereof between the two divisions. If this information is omitted, the 100% reimbursement of the first $2,000 shall be taken in Division I.

68) Signatures of the officers (i.e., President, Secretary and Treasurer) of the fair association or agricultural society.

e) The Declaration of Intention shall be notarized by a notary public.

cd) The secretary or the designated contact person for the fair shall notify the Bureau in writing when changes occur in the fair's officers and/or the person designated as the contact person.
Once the Declaration of Intention is filed with the Bureau, the dates of exhibition may be changed only due to an emergency or because the wrong dates were submitted. Before the fair association or agricultural society may change the dates of exhibition or advertise such change, the fair association or agricultural society must notify the Bureau in writing and request the dates of the fair be changed, giving the new dates and the reason for such change. The Bureau shall approve the change in the dates when an emergency exists (e.g., the fair cannot get a carnival, events conflict with a neighboring fair or the State Fair, rehabilitation or repair projects are not completed, or severe weather caused destruction to the facilities) or if the change in the dates will avoid conflict with neighboring fairs or the State Fair.

Before any change is made in the amount of premiums offered in the fair's program from that amount as originally submitted on the Declaration of Intention, the fair association or agricultural society shall contact request approval of such change in writing from the Bureau. Within 10 days after the receipt of the fair's request, the Bureau shall notify the fair secretary or designated contact person of the Bureau's decision on whether to permit a change in the amount of premiums offered. The Bureau shall approve changes in the amount of premiums offered when the number of participants in or lack of participation in classes indicates such change is needed or when costs, such as for trophies, ribbons, rosettes, or engraving, were omitted from the Declaration of Intention until the fair's premium book is printed.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.20 Premium State Aid Payable on the Authorized Base

a) Premium State aid shall be paid to the fair association or agricultural society based upon each fair's authorized base. The authorized base shall be determined in accordance with the provisions of Section 10(a) and (b) of the Act. The authorized base for newly organized fairs shall be the same as the first year's appropriation for that fair.

b) The distribution of premiums must be in compliance with the provisions of Section 9(a) of the Act in order to be eligible for premium State aid.

c) The premium grand summary report shall be filed with the Bureau in accordance with provisions of Section 12 of the Act and Section 260.100.
d) Failure to comply with the provisions of this Section shall cause all premiums awarded in those classes where the violation occurred to be ineligible for premium State aid.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.30 Premiums and Receipts for Premiums Paid

a) All premiums shall be paid by the fair association or agricultural society to the winners and persons who placed in each class prior to the filing of the premium grand summary report. A receipt showing the amount of each premium paid and the exhibitor's social security number shall be signed by the exhibitor who won or placed in the class and was paid the premium. If the exhibitor is unable to personally pick up the premium money, the person picking up or mailing the check shall sign the exhibitor's name and write "by" and his or her name and provide his or her address. Falsifying a receipt by someone else signing the exhibitor's name, except as provided above, or obtaining signed receipts before premiums are paid shall result in denial of State Aid for the amount of that premium.

b) All receipts for premiums paid shall accompany the premium grand summary report in support of claims. If, in a few cases, the secretary or the person designated to file the premium grand summary report is unable to obtain a signed receipt, the cancelled check or a photostatic copy of the cancelled check shall be attached to the unsigned receipt. The cancelled check (or copy of the cancelled check) shall remain as a part of the premium grand summary report and shall not be returned to the fair association or agricultural society. The original of the receipt shall accompany the premium grand summary report, a copy of the receipt shall be given to the exhibitor, and a copy of the receipt shall be retained for three years by the fair association or agricultural society.

c) Each exhibitor's receipt shall be totaled separately. The receipts shall be kept separated according to each department.

d) Premium State aid will be paid on a maximum of two premiums awarded to the same exhibitor under the same premium number. Where only one exhibit is entered in a class, the exhibit shall be declared first place and be paid the first place premium. Except for stake races in Division II, only one premium...
shall be eligible for reimbursement of State Aid in each sweepstake or champion class. Premium State Aid shall be paid on a maximum of 10 placings under any one premium number. Premiums awarded under the Danish system (where premiums are based upon the number of entrants) or group system of placing are not eligible for State Aid. The premium amounts must be on a graduated scale.

e) The costs of ribbons, rosettes and trophies, including engraving, are eligible for premium State Aid when they are awarded in classes that are eligible for premium State Aid. An itemized invoice showing only the items as before stated that are eligible for premium State Aid shall accompany the premium grand summary report. Invoices for trophies, ribbons, or rosettes must show the business from which they were purchased. Where the ribbon, rosette, trophy and/or the engraving on the trophy is paid by an organization or person sponsoring the event, these costs are not eligible for premium State Aid.

f) In order to qualify for premiums, entries must show in their proper classes (i.e., according to age, sex, breed, or other qualifications as established for the exhibit or event by the fair association or agricultural society; five-gaited horses cannot show as three-gaited, and polled herefords cannot show in the horned Hereford class). Combining of classes, such as the polled herefords with the horned Herefords, will disqualify such combined classes for premium State Aid, except where the classes were advertised as combined classes in the premium book.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.35 Stall or Pen Fees

Stall or pen fees shall be set and charged by the fair association or agricultural society. Stall or pen fees must be published in the premium book (see Section 260.55) and once they are published they cannot be changed. The fair association or agricultural society may set stall or pen fees as one sum which will cover all the days of the fair. The stall or pen fee that may be charged shall be set by the fair association or agricultural society.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.40 Entry Fees and Entry Fee Certification Form
DEPARTMENT OF AGRICULTURE

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a) An entry fee shall not be more than 10% of the purse offered under one premium number, nor more than 75% of the smallest premium offered. Where either percentage is violated, the amount of the excess entry fee that was charged shall be deducted from the amount of premiums paid in that particular class when determining State Aid reimbursement.

b) The amount of the entry fee charged must be printed in the premium book for each department and shall be shown separately from stall or pen fees that are charged by the fair association or agricultural society. The entry fee shall be for each class entered and not for each animal.

c) All fairs participating in the Agricultural Premium Fund must submit an entry fee certification form to the Bureau of County Fairs and Horse Racing, on a form provided by the Bureau, signed by the fair president, secretary and treasurer stating that all entry fees are in compliance with Section 260.40(a). The entry fee certification form is to be submitted to the Bureau of County Fairs and Horse Racing at least 10 days prior to the opening day of the fair together with two premium books. A fee of $25 will be deducted each day the form is late from the total premiums awarded at the fair. Reimbursement shall be delayed until such time the certification is received by the Bureau.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.45  County Fair Organization and Operation

a) A fair association or agricultural society may be open to the world or confined to the county or an adjacent county or counties contiguous thereto or other defined grouping of counties and shall be designated in the fair's premium book. The Department of Agriculture shall grant written permission upon receipt of written request for any exceptions to this rule, unless the premium books have been printed.

b) All events and exhibits in order to be eligible for premium State Aid must be held on the fairgrounds during the advertised dates of the fair.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.50  Exhibits and Livestock; Presence on the Fairgrounds and Early Release Procedure
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a) Exhibits and livestock are required to be in place for exhibition and livestock is required to be on the fairgrounds for a minimum of three days, except for exhibits and livestock in 4-H club shows, junior shows, one-day shows and in Departments C, D, E, Q, R, S, T, V and Z. The county fair board may require specified exhibits and livestock to stay beyond the minimum 72-hour exhibition time. 4-H Club shows, Junior Shows, and one-day shows, such as Horse show, Steer show or Barrow show. The number of days the exhibit or livestock must be on the fairgrounds for exhibition shall be indicated in the Premium Book (see Section 260.55). If recommended by the county fair's veterinarian and approved by fair management, early dismissal of livestock may be granted by the Bureau for the following reasons: disease outbreak, severe hot weather, or other existing conditions which may result in the death of livestock. The Bureau may also grant early dismissal of livestock and other exhibits in emergency situations upon recommendation of fair management in the case where facilities have been lost due to fire, wind or heavy rain damage to tents and barns, or loss of electrical power, or if facilities cannot accommodate livestock due to space limitations. All eligible early dismissals shall be followed up in a letter to the Bureau.

b) Junior shows shall comply with Section 260.95(c) regarding the presence of livestock and exhibits on the fairgrounds.

c) 4-H Club shows shall comply with Section 260.300(h) regarding the presence of livestock and exhibits on the fairgrounds.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.55 Premium Book

a) A premium book showing the classes of exhibits and the premiums offered for each class/species must be made available by the fair association or agricultural society to the public upon request and two copies sent to the Bureau at least 10 days prior to the opening day of the fair and another copy shall accompany the State Aid Report. A fee of $25 will be deducted from the premiums claimed for each day the premium books are late. Premium reimbursement shall be delayed until the premium books are received. Along with the premium books, the entry fee certification form must be signed and submitted (see Section 260.40(c)). For those fairs utilizing other computer programs to supply the Bureau's reporting requirements, the 10% and 75% report must also accompany the fairs premium books and certification and another copy shall accompany the premium grand summary report. The premium book shall contain the following information:
DEPARTMENT OF AGRICULTURE

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1) The **total** amount of premiums **that are** offered in each department.

2) Each department shall be identified as follows:

   Department A – Beef Cattle
   Department B – Dairy Cattle
   Department C – Heavy Horse
   Department D – Equine Pulling Contest
   Department E – Jacks, Jennets and Mules
   Department F – Sheep
   Department G – Swine
   Department H – Junior Department – Livestock
   Department I – Poultry, Rabbits, and Ratites
   Department J – Agricultural Products
   Department K – Horticulture
   Department L – Floriculture
   Department M – Fine Arts and Textiles (Fine arts may be designated as M-1 and textiles as M-2)
   Department N – Education and Natural History
   Department O – Dairy, Apiary and Culinary
   Department P – Junior Department (other than Livestock)
   Department Q – Tractor Pulls and Pick-up Truck Pulls
   Department R – Light Horse and Western Department – Equine Events
   Department S – Harness Races
   Department T – Running Races
   Department U – Goats and Llamas
   Department V – Miscellaneous
   Department Z – Rodeos

3) **The class number. The first class in the premium book shall be numbered 1 and the remaining classes numbered consecutively throughout the entire book. Numbers may be left blank to allow for future expansion of classes or breeds.**

4) **The entry requirements and the graduated premiums offered for each class**.

5) **The minimum maximum number of days that the exhibits or livestock must**
DEPARTMENT OF AGRICULTURE

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remain on the fairgrounds.

56) The time and date for the release of livestock and exhibits.

62) Stall or pen rent charged.

78) Entry fee charged.

b) All departments and classes must be published in the premium book to be eligible for premium State aid.

c) Should it be necessary to make corrections in the premium book after it is printed, these corrections must be made available to the public and must be indicated on the copy which accompanies the State Aid report.

d) Department I shall include other birds that are raised in domestic production or for exhibition purposes, such as pigeons, pheasants, guineas, peafowl, ostrich, rheas, and emus.

e) Any classes that do not come under Departments A through Z as listed in Section 260.55(a)(2) shall be listed under Department V.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.60 Horse Racing – Harness and Running

a) In order to qualify for premium State aid, harness horse races shall be confined to standardbred horses; running horse races shall be confined to thoroughbred and quarter horses. Quarter horse races are reported under Department-Equine Races, Department T, on the premium grand summary report.

b) Entry fees shall be as set forth in Section 260.40. Stall fees shall conform with Section 260.35.

be) Contributions, such as money, blankets, ribbons, wreaths, trophies, rosettes or engraving, made by other persons or organizations (e.g., Colt associations, the promoter of the races, the State Fair, or Standardbred and Thoroughbred Breeding and Racing Programs) are not eligible for premium State aid. The actual amount of monies expended for horse racing by a fair association or agricultural
society is eligible for premium State Aid reimbursement. Horse racing entry fees may be included in the amount requested for premium State Aid reimbursement.

c) The party paid the purse shall sign the receipt showing each purse and total purse won. The receipt shall be submitted with the premium grand summary report. If the party is unable to personally pick up the purse, the person picking up or mailing the check shall sign his or her name and provide his or her address.

d) A racing program marked to indicate the placings in each race shall accompany the premium grand summary report.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.65 Heavy Horses (Repealed)

In order for an event to qualify for State Aid, heavy purebred horses (draft horses) shall be registered with a national registry association, as evidenced by a certificate of registry. It shall be the responsibility of the county fair association or agricultural society to check registration certificates. Heavy horses shall be listed in Department C on the State Aid report (see Section 260.55(a)(2)).

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.70 Light Horses and Western Horses (Repealed)

a) In order to qualify for State Aid, a purebred western or light horse shall be registered with a national registry association, as evidenced by a certificate of registry. It shall be the responsibility of the county fair association or agricultural society to check registration certificates.

b) Light or western horses shall be listed in Department R on the State Aid report (see Section 260.55(a)(2)).

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.80 Livestock Classification and Registration Papers

a) Herd, flock or group classes of livestock shall be defined by the fair association or agricultural society and the classifications such
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criteria shall be published in the premium book. The fair association or agricultural society may follow the current classifications as defined by the national breed organizations.

b) Registration papers are required for all purebred livestock. Poultry classifications shall be limited to the popular farm varieties and ratites in the area where the county fair is held in order to be eligible for State Aid as determined by the county fair association or agricultural society. Poultry classifications shall be published in the premium book.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.85 Registration Papers (Repealed)

Registration papers are required for all purebred livestock.

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.87 Open and Junior Jackpot Shows

a) Where the county board elects to have both a junior and open fair, jackpot shows are eligible for premium State aid. The estimated purse, plus any monies added by the fair (i.e., entry fees), including graduated percentage placings for premiums, must be listed in the premium book to be eligible for premium State aid. The premium book must also list whether the shows are open or are closed to participants from that county only. Sanction fees are not eligible for premium State aid.

b) Where a county board elects to have strictly a junior fair, only junior jackpot shows closed to that county are eligible for premium State aid and the premium book must list the exhibition as a closed junior jackpot show. The estimated purse, plus any monies added by the fair (i.e., entry fees), including graduated percentage placings for premiums, must be listed in the premium book to be eligible for premium State aid. Sanction fees are not eligible for premium State aid.

(Source: Added at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.95 Junior Classes Shows
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a) Junior classes are eligible for premium State Aid only if they are open to boys and girls who are 8 years of age or in third grade and not yet 19 years of age on or before September 1 of the year previous to the fair, between 8 and 18 years of age as of January 1 of the year the fair is held. The same classes which are eligible for State Aid in the open show are eligible for State Aid in the Junior Show. All animals (i.e., individual, herd or flock classes) shown in junior classes must be the property of the boys and girls showing them. If the same animals are shown in both the open classes and junior classes, they shall be shown under the same exhibitor's name (for example, the father is not permitted to show an animal in the open class and the son or daughter to show the same animal in the junior classes).

b) Exhibitors may be assisted in herd or flock classes during the judging process only by other boys and girls who meet the age requirement set forth in subsection (a). A fair that is composed entirely of Junior Show classes and does not have open classes shall use the standard department classifications (e.g., Department A—Beef Cattle) as stated in Section 260.55(a)(2). However, fairs that have both Junior and open classes shall report livestock showing in the Junior Show in Department H and all other Junior Show classes, such as poultry, agricultural products, horticulture, floriculture, educational, fine arts and textiles, dairy products, apiary and culinary, shall be reported in Department P.

c) Where the county board elects to have strictly a Junior Show, livestock and exhibits must be on the fairgrounds on the opening day of the fair until the close of the fair, unless earlier release of the livestock is authorized by the Bureau. Where both a Junior Show and open show are held, livestock and exhibits entered in the Junior Show shall follow the standards for the open show set forth in Section 260.50(a).

d) Junior Show classes must be separate and distinct classes from the open and 4-H show classes and must be shown and competitively judged separately from 4-H and open shows or exhibitions and the Junior Show dates shall appear on the Declaration of Intention.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.100 Premium Grand Summary A-State Aid Report

a) In accordance with Section 12 of the Act, the premium grand summary report shall be filed with the Bureau in person or postmarked on or before October...
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15 of each year. A fee of $25 will be deducted from the total premiums claimed by the fair for each day the report is late. A premium book shall accompany the premium grand summary report. This information may be supplied by computer printout. Premium grand summary reports and paid receipts should be retained for three years by the fair association or agricultural society.

b) The Bureau shall mail each fair association or agricultural society a copy of the premium grand summary report form to be used in submitting the information required by Sections 10 and 12 of the Act. A copy of the report should be retained by the fair association or agricultural society for its records.

c) Receipts for trophies, ribbons, rosettes, engraving and premiums paid as outlined in Section 260.30 shall accompany the premium grand summary report.

d) The receipts for each department must be accompanied by an adding machine tabulation, tabulated in chronological order, showing the premiums paid and the total for each department. This information may be supplied by computer printout or other electronic data transfer system if approved by the Bureau.

e) Copies of the premium grand summary report (pages 1 and 2) are due directly following the fair in order for the Bureau to prepare and publish a recapitulation report and county fair date list, which can be used by a fair in evaluating its program and for planning next year’s fair, as well as for the Department of Agriculture and the Illinois General Assembly to use to evaluate appropriation needs, the following information shall be submitted by the fair association or agricultural society on the premium grand summary report:

1) The year for which the report is being submitted.
2) The name of the fair association or agricultural society (exactly how the check should be made out).
3) The city or town where the fair was held.
4) County where the fair was held.
5) The names, titles (if applicable) and mailing address for all officers and directors of the fair association or agricultural society.
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6) The date the fair was organized.

7) The date the fair association or agricultural society was incorporated, if applicable.

8) The number of acres in the fairgrounds and whether the fairgrounds are owned or leased. If the fairgrounds are leased, the number of years remaining under the terms of the lease and the expiration date of the lease.

9) The cash value of the fairgrounds and improvements.

10) The dates of the current year's fair was held.

11) The dates of next year's fair;

12) Verification statement that exhibitors have been paid in full;

13) Estimated attendance and gate admission fees charged;

14) Name of carnival;

15) A The Grand Summary shall include a breakdown of the following information for each department listed in Section 260.55(a)(2):
   A) Number of animals or articles entered shown;
   B) Amount of premiums offered;
   C) Entry fees collected and;
   D) Amount of premiums paid;

16) Totals for the information requested in subsection Section 260.100(e)(14) for each division and the grand total and;

17) A financial statement for the current year showing receipts, expenditures and the total operating profit or loss. The amount of money spent for real estate and capital or permanent improvements for the current year shall
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also be provided.

f) No one department or class shall be paid premiums awarded in excess of 30% of the total premiums awarded by the county fair except those departments or classes limited to junior exhibitors [30 ILCS 120/9]. The grand total of Column 4 (Amount of Premiums Paid Each Department) on the premium grand summary report is the amount on which the 30% is figured. The grand total of Column 4 shall not exceed the grand total as shown on the Declaration of Intention. The Bureau shall deduct the excess from the grand total premiums paid, that amount in excess of the amount shown as the grand total on the Declaration of Intention.

g) Income shown on the financial statement shall include gate admission, grandstand admission, auto parking, stall and pen fees, fees paid by concessionaires, commercial exhibits and the carnival, entry fees, estimated premium State aid for the current year, estimated rehabilitation aid for the current year, aid from the county, if any, rental fees for the buildings and grounds for periods other than the fair, and any other income that was received by the fair but not included in the other categories mentioned. Borrowed money shall not be reported as income. Expenses of the fair shall include premiums paid, costs of grounds improvements, charges for music and attractions, judges' and assistants' fees, administrative and office payrolls, personnel expenses for gates, grandstand help, policy and parking vehicles, general and common labor payrolls, advertising expenses including the costs of the premium book, federal admission tax paid, and other operating expenses, such as interest on indebtedness, that were not listed in the categories mentioned. The financial statement on file with the Department of Agriculture is subject to audit by auditors investigating Department of Agriculture accounts.

h) The premium grand summary report shall be signed and notarized by a notary. The President and the Secretary of the fair association or agricultural society shall sign the premium grand summary report.

i) The State Aid report shall be personally delivered or mailed by first class, registered or express mail to the Bureau. The report should be wrapped securely and placed in the expanding folder which was sent to the fair association or agricultural society by the Bureau. A premium book shall accompany the State Aid report (see Section 260.55). This information may also be supplied by computer printout or other electronic data transfer system if approved by the Bureau.
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(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.105 Growth Incentive Program

If the appropriation allows, fairs that qualify shall participate in the Growth Incentive Program. Qualification requirements for participation in the Growth Incentive Program and the procedure for determining the amount of eligible claims shall be as set forth in Section 10.1 of the Act. This payment will be made to a participating fair following the payment of all premium State Aid claims.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.110 Pro Rata (Grant) Payments and Justification

a) If, after premium State Aid and/or Growth Incentive payments have been made, there remain any funds in the appropriations, pro rata (grant) payments shall be made to all fairs that are participating in the premium State Aid program in accordance with Section 10(c) of the Act. This payment will be made after all eligible claims are paid from the Growth Incentive Program.

b) All fairs receiving pro rata (grant) payments are required to file with the Bureau a fiscal accounting of the expenditure of these grant monies. This accounting will be due at the same time each fair files its premium grand summary report (Section 260.100(a)) for the year in which such monies were received.

c) Pro rata (grant) monies received by a fair association or agricultural society shall only be used for premiums and awards:

1) Premiums and Awards (including that amount in excess of the grand total on the Declaration of Intention, if any, that was deducted as set forth in Section 260.100(f))

2) Judges' Fees

3) Other expenses incurred by the fair association or agricultural society which are directly related to the operation of the fair (e.g., manure and rubbish removal, rental of garbage containers, entry tags, advertising, supplies, tickets, and printing of premium books).
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d) Pro rata (grant) monies shall not be used for rehabilitation purposes (see Subpart B of the rules of this Part).

e) Pro rata (grant) money shall not be used to reimburse expenses incurred by and/or contributions made by other persons or organizations in promoting the fair.

f) Section 22 of the Act prohibits pro rata (grant) money from being used to pay salaries.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

SUBPART B: FAIRS PARTICIPATING IN THE REHABILITATION FUND

Section 260.200 Appropriation

Each fair association or agricultural society shall receive an annual appropriation, in an amount as set forth in Section 13 of the Act, that which shall be used for rehabilitation of its grounds, purchase of land, construction projects, maintenance projects and repair projects. The Bureau shall approve rehabilitation claims in accordance with Section 13 of the Act and Subpart B. The fair association or agricultural society shall file a rehabilitation report as required by Section 13 of the Act and Section 260.220. In accordance with Section 17 of the Act, a fair that has been participating in the Fair and Exposition Fund and notifies the Bureau in writing by January 1 that it elects to participate in the Agricultural Premium Fund shall not be eligible for participation in the rehabilitation appropriation until the next fiscal year.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.205 Ownership of Grounds

Expenditures for rehabilitation of fairgrounds, purchase of land, construction projects, maintenance projects and repair projects are not eligible for reimbursement from rehabilitation funds when unless the fair association or agricultural society or State, city, village or county government body owns the fairgrounds or has a long-term lease for the use of the fairgrounds upon which the expenditures were made. Except as allowed by the Director, iff the fair association or agricultural society leases the fairgrounds, the lease shall be for a period of 2015 years, the terms of which require the lessee to have continuous possession of the land during every day of the lease period, or longer and it shall contain a clause that those buildings constructed with rehabilitation funds shall be the property of the fair. Should the lease be terminated before the expiration date, the ownership of the buildings and improvements...
constructed with, or equipment purchased with, rehabilitation funds lies with the fair association or agricultural society and the fair association or agricultural society has the rights to remove buildings, improvements and equipment purchased with rehabilitation funds.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.207 Rehabilitation Declaration of Intent (Repealed)

a) In order to be eligible for reimbursement for rehabilitation projects, each fair association or agricultural society must submit a Declaration of Intent for these funds to the Bureau.

b) The following information shall be submitted on the Declaration of Intent:

1) Signatures of the officers (i.e., President, Secretary and Treasurer) of the fair association or agricultural society.

2) Description of equipment purchases and repairs and maintenance with projected costs.

3) Amount projected for casualty and liability insurance (this should not include personal liability insurance).

4) Descriptions of construction or purchase of permanent facilities and systems stored on the fairgrounds, including the projected costs.

5) Amount to be paid for labor on the grounds.

6) Amount to be paid for interest on loans (operating loans are not eligible).

7) Amounts to be spent and descriptions of building materials and supplies.

e) The Declaration of Intent shall be notarized by a notary public.

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.210 Rehabilitation Claims

a) Rehabilitation claims may include the cost of land purchase, both materials and labor expended for rehabilitation of the fairgrounds, its buildings, facilities and
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for construction projects. Maintenance and/or repair projects shall include improvements made for the purpose of restoring and/or maintaining the fairgrounds, buildings and facilities for long term uses.

b) The purchases of tractors, drags, water wagons and other equipment used to maintain or repair the track, show arenas, and the grounds or buildings, and the initial purchase or upgrade of a computer, printer and related items if done on or after April 17, 1996, are eligible for rehabilitation reimbursement. The Department of Agriculture shall reimburse fair associations for equipment that is necessary for the maintenance and repair of projects, except computer equipment, that have received rehabilitation reimbursement. Any repairs to this equipment shall also be reimbursed. The reimbursement rate for the total of all above expenses shall be 100% of the first $5,000, and 75% of the next $20,000, and 50% of the next $20,000 (example: spend $45,000 – receive $30,000 per fiscal year). Equipment purchased with rehabilitation funds shall remain on the fairgrounds at all times. When a fair association or agricultural society disposes of any such equipment, it shall maintain disposal records for a period of five years, notify the Bureau in writing. If, during an inspection by a Department of Agriculture inspector, the equipment is not found on the fairgrounds and there are no disposal records for the equipment, notice of disposal is not on file with the Bureau, the Bureau shall send written notice that repayment is due and the fair association or agricultural society shall repay to the State Treasury within 30 days from receipt of the notice that portion of rehabilitation funds spent on the purchase of the said equipment that was not found on the fairgrounds, regardless of the fiscal year in which the equipment was purchased.

c) Premiums paid for general liability and casualty insurance are eligible for rehabilitation reimbursement. Premiums for personal liability insurance are not eligible for rehabilitation reimbursement.

d) On rehabilitation projects, a fair association or agricultural society shall adhere to the provisions of the Illinois Procurement Code [30 ILCS 505].

e) Itemized bills, receipts and/or copies of cancelled checks for rehabilitation projects must be submitted or postmarked by June 30 in the fiscal year for which the projects are to be reimbursed.

f) The amount carried over shall constitute a claim for reimbursement for a subsequent period not to exceed seven years as long as funds are available [30 ILCS 120/13].
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(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.220  A-Rehabilitation Report and Receipts

a) When filing a rehabilitation report with the Bureau, a fair association or agricultural society shall have the report postmarked or filed with the Bureau on or before June 30 of each year file with the Bureau by June 15 of each year a rehabilitation report on forms furnished by the Bureau. A $25 fee will be deducted from the total rehabilitation claim each day the report is late. If there is any question as to whether certain expenditures are eligible for reimbursement of rehabilitation monies in accordance with Section 13 of the Act, the fair association or agricultural society may contact the Bureau for approval of the proposed expenditures claim prior to actually committing funds. Copies of both the rehabilitation reports and paid receipts reports should be retained for seven years by the fair association or agricultural society for its files.

b) The following information shall be submitted on the rehabilitation report:

1) The year for which the report is submitted
2) The name and address of the fair association or agricultural society
3) The county where the fair was held
4) The date the fair association or agricultural society was organized and the date of incorporation, if applicable.
5) The current value of real estate and improvements made to the fairgrounds
6) The name, title and address of the officers and directors of the fair
7) The number of acres in the fairgrounds and whether the fairgrounds are owned or leased by the fair association or agricultural society
8) If the fairgrounds are leased, the number of years remaining under the terms of the lease and the date of expiration of the lease
9) Each project shall be listed separately on the report along with the cost of
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the project.

c) Itemized bills and receipts as evidence of expenditures shall accompany the rehabilitation report. A fee of $25 will be deducted from the total rehabilitation claim each day receipts are late. Receipts and/or copies of cancelled checks indicating that payments of bills have been made by the fair association or agricultural society issued by the persons who performed the services or from whom the equipment was purchased shall also accompany the rehabilitation report. The itemized bills and receipts of payments submitted with the rehabilitation report will not be returned as they are a permanent part of the rehabilitation report.

d) The rehabilitation report shall be signed by the president and secretary of the fair association or agricultural society and shall be notarized. The rehabilitation report shall be personally delivered or mailed by first class, express or registered mail to the Bureau by June 15. This information may also be supplied by computer printout or other electronic data transfer system if approved by the Bureau.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.225 Pro Rata Payments and Justification

If any amount remains in the appropriation for rehabilitation after claims from all fairs are paid, pro rata payments shall be made to fairs that have exceeded their maximum reimbursement in accordance with the provisions of Section 13 of the Act. The Bureau will use that amount of money as indicated by receipts that were submitted with the rehabilitation report in excess of expenditures of $45,000 as justification for pro rata reimbursement. The Bureau shall also contact those fair associations or agricultural societies which exceeded their maximum reimbursement to see if they have additional bills and receipts for rehabilitation to submit for justification of pro rata payments. Any additional bills and receipts submitted must be received by the Bureau by July 15.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

SUBPART C: PROCEDURES FOR PARTICIPATION IN THE 4-H FUND

Section 260.300 Appropriation and Eligibility

a) University of Illinois extension units Extension 4-H clubs/groups shall be eligible to participate in appropriations made to the Department of Agriculture for
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premiums and judges' fees paid at county 4-H club/group shows or exhibitions approved by the State 4-H Office and based on the Accountability for Agricultural Premiums report in the following order in accordance with the provisions of Section 14 of the Act:

1) cash premiums awarded; and

2) judges' fees paid (not to exceed $400).

b) County 4-H club/group shows or exhibitions must have separate and distinct classes from junior and open show classes.

c) All exhibit classes or types of projects must be approved by the University of Illinois Extension State 4-H Office within three weeks prior to the show or exhibition.

d) All projects must be competitively judged and exhibited at a public display where reasonable prior public notice of the event has been given. If judged and exhibited at a county fair, the projects must be shown and judged separately from junior and open show classes.

e) The amount or method used to determine the amount of the 4-H premium or the type of award used in lieu of a 4-H premium must be publicly stated and notice sent to the University of Illinois Extension State 4-H Office in advance of the show or exhibition. The premium amounts must be on a graduated scale.

f) Only one show or exhibition of a class or type of project work for each 4-H club/group will be eligible for awards as provided in Section 14 of the Agricultural Fair Act.

g) Only awards to eligible 4-H members/individuals during the current year are eligible for reimbursement.

h) Livestock and exhibits must be on the fairgrounds on the opening day of the 4-H show and remain until the close of the 4-H show, unless earlier dismissal is granted by the Bureau in accordance with Section 260.50(a).

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.305 A 4-H Claim Report
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a) The State 4-H Office shall notify the Bureau of the number of 4-H premium eligible members in each county or unit before December 31 of each year.

b) Extension leaders of each county or unit designated by the State 4-H Office shall certify to the State 4-H officer under oath, on a blank form furnished by the Department, the amount paid out in premiums, judges' fees and ribbons at the 4-H shows or exhibitions for the current year, and the name of the officer or organization making the payments and the number of eligible members enrolled for the current year [30 ILCS 120/14]. Records verifying award recipients must be available and maintained for three years for official review.

cb) Extension leaders shall file this report with the Bureau on or before December 31 of each year (postmarked December 31 is acceptable). If the deadline is not met, a 5% penalty fee of total premiums claimed will be assessed each day the report is late and then subtracted from the total claim of the unit.

d) The extension leader of each county or unit shall provide itemized signed receipts as evidence of the eligible certified amounts to the State 4-H Office. Before December 31 of each year the State 4-H Office shall file with the Department certification of the eligible amount claimed for premiums awarded, judges' fees and ribbons, along with the claim report for each county or unit with the Department before December 31 of each year.

e) If the amount of the appropriation is sufficient, the Department will reimburse each county or unit at a rate calculated under this subsection (e). The appropriation will be divided by the total number of certified eligible 4-H members in all counties or units as certified by the State 4-H Office before December 31 of each year, then multiplied by the State 4-H Office certified number of individual eligible members for the county or unit. The amount for reimbursement shall be justified by receipted expenditures received in the Bureau with the current report by December 31 in the following order: for justified expenditures for awards up to an amount equal to $10.50 multiplied by the State 4-H Office's certified number of eligible enrolled members for that county or unit.
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1) cash premiums awarded; and

2) judges' fees (not to exceed $400).

f) If the amount appropriated is insufficient to reimburse counties or units as specified in subsection (e) of this Section, then the sum shall be prorated.

fg) If there remains an amount of the appropriation after the claims have been paid as specified in subsection (e) of this Section have been paid, then the Department shall provide reimbursement to each county or unit in the following order: for justified judge's fees up to $400 for each county.

1) excess cash premiums awarded;

2) excess judges' fees; and

3) ribbons.

The above reimbursements shall be justified by receipted expenditures already submitted to the Bureau on or before December 31 with the current year's 4-H report.

h) If there remains an amount of the appropriation after the claims as specified in subsection (g) of this Section have been paid, then the Department shall provide reimbursement for justified premiums.

i) If there remains an amount of the appropriation after the claims as specified in subsection (h) of this Section, it shall be distributed as a grant to the counties or units on a prorated basis of eligible membership. A fiscal accounting with receipts of expenditure of grant monies shall be presented to the State 4-H Office. Certification that expenditures of grant monies has been justified to the counties or units shall be filed with the Department no later than December 31 of each year in which the county or unit received the grant monies.

Grant monies under this Subpart may be used only for the following purposes:

1) Premiums paid in excess of the per eligible member amount as established in the annual appropriation for the Department in the fiscal year for which the report was submitted. Contributions made by other persons or organizations sponsoring exhibitions, classes or awards are not eligible for
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reimbursements.

2) Ribbons, trophies, engraving and entry forms for 4-H exhibit classes that are not sponsored by or provided by other persons or organizations.

3) Judges' fees in excess of the $400 allotted per county.

4) Rental of facilities and other approved expenses needed to conduct the 4-H show or exhibition.

j) Any grant monies not utilized by the 4-H group as specified in subsection (i) of this Section shall be reimbursed to the Department by December 31 of the year in which the grant monies were received.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

SUBPART D: PROCEDURES FOR PARTICIPATION IN THE VOCATIONAL AGRICULTURE FUND

Section 260.400 Appropriation

Agricultural education Vocational agricultural section fairs are eligible to participate in appropriations made to the Department of Agriculture on behalf of such fairs in accordance with the provisions of Section 16 of the Act.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.405 Eligibility for Premiums

Eligibility for premiums awarded to agricultural education vocational agricultural section fair students shall be as set forth in Section 16 of the Act.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.410 List of Premiums Sent to Bureau (Repealed)

a) At least 10 days prior to the holding of any vocational agricultural section fair, the State Board of Education shall forward to the Bureau a list of all premiums to be offered at that fair. The list of premiums shall be submitted on forms furnished by the Bureau.
b) The following information shall be submitted on the premium list report:

1) The section number of the vocational agricultural fair.
2) The location of the fair.
3) Dates of the fair.
4) Name of the vocational agricultural section fair manager.
5) Name of the section fair.
6) Name of the secretary of the section fair.
7) The class (e.g., swine, poultry and corn), the lot (e.g., Poland China gilts under 6 months of age, white corn, and Holstein heifer calves) and amount of prize money offered for each place.
8) The maximum premium per entry.

e) The premium list report shall be signed by the vocational agricultural section fair manager and notarized.

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.415 Vocational Agriculture Report of Premium Awards

a) Within 30 days after the close of the fair, section fair managers designated by the Illinois Association of Vocational Agriculture Teachers (IAVAT) shall certify to the Department, under oath, on forms furnished by the Bureau, a detailed report of premium awards showing all premiums awarded to agricultural education students at each fair. In addition, amendments to the detailed report of premium awards shall be made by the section fair manager. If the detailed report of premium awards is not submitted within 30 days after the close of the fair, a 5% penalty fee of the fair's total premiums awarded will be assessed each day the report is late, then subtracted from the total claim. Records verifying award recipients must be available and maintained for five years for official review.

Within 30 days after the close of the fair, a financial statement showing all premiums awarded to vocational agricultural students at that fair shall be
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forwarded to the Bureau by the State Board of Education [30 ILCS 120/16].

b) The report shall be completed in triplicate on forms furnished by the Bureau. One copy of the report is for the vocational agricultural section fair manager and another copy is for the State Board of Education. The original of the report shall be sent to the Bureau. The report shall include the following information:

1) The section number of the fair.
2) The dates the fair was held.
3) The location of the fair.
4) The total awards that were distributed.
5) The name and address of the school.
6) The agricultural education teacher's name, title, and address should be listed under the name of the school; and.
7) Student's name and address (listed only once) with a listing of winnings for that student and a total of all amounts won. All the students who have won premiums from that school should be listed under the name of their agricultural education teacher.

c) As vouchers are prepared directly from this report of premium awards, financial statement, a blank space should be left between each student's total winnings in order to set them apart.

d) The report of premium awards, financial statement shall be signed by the vocational agricultural section fair manager and notarized by a notary public.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.420 Pro Rata Payments

a) Any amount remaining in the appropriation after all eligible claims are paid shall be distributed, expended for the purposes, and a fiscal accounting made, in accordance with the provisions of Section 16 of the Act.
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b) Forms shall be furnished by the Bureau for pro rata justification of funds expended by the agricultural education section fair. The vocational agricultural section fair manager shall submit a list of premiums paid in the first fair held following the receipt of pro rata monies, but not later than one year after receipt of such funds. This justification shall be signed by the vocational agricultural section fair manager and notarized by a notary.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

SUBPART E: FAIRS OPERATING UNDER THE FAIR AND EXPOSITION FUND

Section 260.505 Eligibility

a) A fair association or agricultural society shall be eligible to participate in the Fair and Exposition Fund in lieu of participating in the Agricultural Premium Fund in accordance with Sections 17 and 18 of the Act. The fair and exposition participant shall file by January 1 with the Bureau a letter indicating its election to participate in the Fair and Exposition Fund.

b) A fair and exposition authority shall be eligible to participate in the Fair and Exposition Fund in accordance with Sections 18 and 19 of the Act.

c) In accordance with Section 17 of the Act, agricultural fairs or agricultural societies that have been participating in the Fair and Exposition Fund and elect to participate in the Agricultural Premium Fund are not eligible for participation in the rehabilitation fund until the next fiscal year.

d) All fair associations or agricultural societies participating in the Fair and Exposition Fund shall operate and conduct the premium portion of their county fair in accordance with Sections 260.5, 260.10(b), (c) and (d), 260.30, 260.35, 260.40(a), (b) and (c), 260.45, 260.50, 260.55, 260.60, 260.80, 260.85, 260.95 and 260.117 of this Part.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.510 Ownership or Leasing of Grounds

Each fair participating in the Fair and Exposition Fund shall file with the Bureau a certified copy of its lease or evidence that the land is owned by the fair association, agricultural society or fair
and exposition authority. The lease shall be for a period of at least 20 years, the terms of which require the lessee to have continuous possession of the land during every day of the lease period, except as otherwise allowed by the Director, and it shall contain a clause that those buildings constructed with fair and exposition funds shall be the property of the fair. Should the lease be terminated before the expiration date, the ownership of the buildings and improvements constructed with or equipment purchased with fair and exposition funds lies with the fair association or agricultural society, and the fair association or agricultural society has the right to remove buildings, improvements and equipment purchased with fair and exposition funds, the period of time as specified in Section 18 of the Act. The lease shall contain a clause stating that those buildings constructed with Fair and Exposition funds shall be the property of the fair.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.515 Declaration of Intention and Construction Plans/Specifications

a) On or before December 31 of the year previous to participating in the Fair and Exposition Fund, the fair shall file with the Bureau a Declaration of Intention. Plans and specifications relating to construction projects, as applicable, should be submitted with the Declaration of Intention. A $25 fee will be deducted respectively each day the Declaration of Intention and/or any pertinent information relating to items claimed on the fair’s Declaration of Intention are late from the amount due the fair and exposition. The following information shall be submitted on and/or accompany the Declaration of Intention:

1) Information on the fair's organization

2) Dates of the next year's fair (these dates should also be submitted to the Bureau by October 15 each year on a copy of the premium grand summary)

3) Location of the fair

4) The amount of money requested from the Fair and Exposition Fund for the purposes listed in Section 20 of the Act

5) Number of acres in the fairgrounds and whether they are owned or leased. If the fairgrounds are leased, the number of years remaining under the terms of the lease and date of expiration of the lease
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6) Whether an agricultural fair will be held in connection with the fair and exposition fair.

62) The names and addresses of the president, treasurer and secretary and treasurer of the fair and exposition fair; and.

78) A current copy of the lease of fairgrounds, unless it is owned.

b) The Declaration of Intention shall be signed by the president, secretary and treasurer of the fair and exposition fair and notarized by a notary public.

(Source: Amended at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.520 Transfer of Funds (Repealed)

Should it be necessary to transfer funds from one account to another (the purposes for which the funds will be spent as shown on the Declaration of Intention) after the Declaration of Intention is filed with the Bureau, written notification of such transfer shall be given the Bureau by the fair and exposition participant. The notice shall include the amounts that were submitted on the original Declaration of Intention, the changes that are desired, and the reasons for the changes. The Bureau shall approve the changes provided such changes are in accordance with Section 20 of the Act and the rules of this Subpart. The Bureau shall advise the fair and exposition participant in writing of its decision on the request within 14 days of receipt of the request. If the changes are approved, a corrected Declaration of Intention shall be mailed to the fair by the Bureau at the same time notice of approval is given.

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.522 Entry Fee Certification Form and Premium Books

All fairs participating in the Fair and Exposition Fund must submit an entry fee certification form (furnished by the Bureau) to the Bureau signed by the fair president, secretary and treasurer stating that all entry fees are in compliance with Section 260.40(a). A fee of $25 will be deducted from the total due for the fair each day the form and books are late. Reimbursement shall be delayed until the certification is received. Fairs may utilize computer programs to supply the Bureau’s reporting requirements, the certification, and the 10% and 75% report.

(Source: Added at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.524 Premium State Aid Payable on the Authorized Base
If premiums are claimed by a fair and exposition association or authority, reimbursement will be based on the authorized base system set forth in Section 260.20.

(Source: Added at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.525 Distribution of Funds, Declaration of Intention, Penal Bond, and Audit

a) As soon after January 1 as is practical and after the receipt of the Declaration of Intention containing all the requested information, distribution of Fair and Exposition funds will be made by the Bureau.

b) A detailed schedule, plans and specifications, as applicable, shall be submitted with the Declaration of Intention in accordance with Section 21 of the Act.

c) Each participant in Fair and Exposition funds shall file a penal bond in accordance with Section 18 of the Act at the same time as it files a Declaration of Intention (December 31). A fee of $25 will be deducted for each day the bond is late from the total amount due the fair and exposition association or authority. The penal bond shall show the effective date, the termination date, and contain a clause that upon cancellation of the bond, the Bureau shall be notified in writing at least 30 days prior to the date of cancellation of the bond by the company issuing the penal bond. If in the case where the fair and exposition participant requests the bond be cancelled, the participant shall also notify the Department of Agriculture of such request at the same time as it notifies the company that issued the bond.

d) Not later than January 15 after the calendar year that the fair participated in the Fair and Exposition fund the fair shall cause a full and complete audit to be made of its books and records by a certified public accountant or a firm of certified public accounts. The audit shall show the itemized expenditures made of the funds received from the Fair and Exposition Fund, as well as revenue derived the expenditures made by the fair in accordance with Section 21 of the Act. The audit shall be filed with the Bureau prior to the release of any further funds to the Fair and Exposition participant. It shall be accompanied by a receipt showing the amount of each premium paid and the exhibitor's social security number, and the receipt shall be signed by the exhibitor or his agent.

be) The maximum claim that any fair and exposition participant may receive from the Fair and Exposition Fund shall be determined in accordance with Section 18 of
Section 260.530 Expenditure of Funds

a) Fair and Exposition funds may be used only for payment of expenses relating directly to those purposes as outlined in Section 20 of the Act. Expenses for the certified public accountant's audit (should a fair and exposition or authority obtain one) are eligible for reimbursement from Fair and Exposition funds. Fair and Exposition funds spent for other purposes shall be refunded to the Department of Agriculture within 30 days from the date written notice is received by the fair and exposition participant that such expenditures are ineligible for reimbursement.

b) All Fair and Exposition participants shall adhere to the provisions of the State Purchasing Act on construction projects.

c) Interest on invested Fair and Exposition funds shall be used as specified in Section 21 of the Act.

Section 260.535 Accumulation of Funds for Major Building Projects (Repealed)

a) A Fair and Exposition fair may elect to accumulate all or a portion of their annual funds which are allocated for building construction purposes. The funds may be accumulated and invested as provided in Section 21 of the Act provided they are allocated on the Declaration of Intention to be used for a major building project and the projected costs will absorb two or more years of the fair’s monies that are allocated for construction.

b) A Fair and Exposition fair shall make application in writing to the Director requesting that such construction funds be accumulated and invested. The Director shall make a determination regarding the application for accumulation of funds within 45 days from the date of receipt of the application and shall notify the Fair and Exposition participant in writing within 10 days after the decision is made. The application requesting accumulation of funds shall consist of the following:

1) Purpose for which the funds will be accumulated.
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2) Proof the funds are or will be invested in an interest bearing account(s) (e.g., letter indicating the name of the bank, address and account number, if available).

3) A letter notarized by a notary public indicating that the interest will be applied toward the building project.

4) Preliminary construction blueprints.

5) Expected date for construction to begin on the project.

6) Estimated costs of such project at time of application and estimated costs of project at time of completion as specified.

e) A Fair and Exposition fair shall give notice to the Department at least 6 months before construction is to begin and provide the Department with documents relating to the construction, such as blueprints, proposed bid documents, and specifications.

d) Failure of a Fair and Exposition fair to use the money to construct a building project as set forth in its original authorized proposal will cause any accumulated funds and interest paid on such funds to be repaid to the Fair and Exposition Fund.

e) A Fair and Exposition fair may, upon request and if authorization is granted by the Director, extend the date of the beginning of the construction of such building project. Such authorization will be granted if the written request is received by the Department prior to the original date specified for the beginning of construction.

(Source: Repealed at 28 Ill. Reg. 11091, effective July 23, 2004)

Section 260.537 Premium Grand Summary Report and Fair and Exposition Financial Statement and Receipts

a) Each participant in Fair and Exposition funds shall follow the same guidelines as other county fair associations or agricultural societies when submitting the premium grand summary report and receipts (see Section 260.100(c), (d), (e) and (f). The premium grand summary report shall be notarized by a notary. The
president and the secretary of the fair association or agricultural society shall sign the premium grand summary report.

1) The premium grand summary report, along with all premium, ribbon and trophy receipts, if claimed, shall be postmarked on or before December 31 of each year in the County Fair Office on forms provided by the Bureau, along with any and all receipts that were claimed on a fair and exposition's Declaration of Intention. A fee of $25 will be deducted from the total amount due the fair for each day the report and/or receipts are late. A premium book shall accompany the premium grand summary report.

2) The fair and exposition financial statement, which is part of the premium grand summary report, is to be completed in lieu of a certified public accountant's audit and is due on or as soon after December 31 as is practical. However, if a certified public accountant’s audit is maintained by the fair and exposition association or authority, a copy should be provided to the Bureau. A copy of the premium grand summary report and copies of all applicable paid receipts should be retained by the fair association or agricultural society five years for its files. A fee of $25 will be deducted from the total amount due the fair for each day the financial statement and/or receipts are late. The financial statement on file with the Department of Agriculture is subject to audit by auditors investigating Department of Agriculture accounts.

3) Income shown on the financial statement shall include gate admission, grandstand admission, auto parking, stall and pen fees, fees paid by concessionaires, commercial exhibits and the carnival, entry fees, estimated premium State aid for the current year, estimated rehabilitation aid for the current year, aid from the county, if any, rental fees for the buildings and grounds for periods other than the fair, and any other income that was received by the fair but not included in the other categories mentioned. Borrowed money shall not be reported as income. Expenses of the fair shall include premiums paid, costs of grounds improvements, charges for music and attractions, judges' and assistants' fees, administrative and office payrolls, personnel expenses for gates, grandstand help, police and parking vehicles, general and common labor payrolls, advertising expenses including the costs of the premium book, federal admission tax paid, and other operating expenses, such as interest on indebtedness, that were not listed in the categories mentioned.
The financial statement shall show receipts, expenditures and the total operating profit or loss. The amount of money spent for real estate and capital or permanent improvements for the current year shall also be provided.

The bottom portion of the financial statement shall include a Declaration of Intention breakdown of State funds received and expended by a fair and exposition for the current fair and shall include:

A) whether the fair and exposition funds declared were used to finance eligible items declared on the previous Declaration of Intention submitted to the Bureau and, if so, the amounts used; and

B) the total of fair and exposition funds claimed, expended by, and paid to the fair and exposition association or authority for eligible expenses.

Any funds declared on the financial statement as having been received and not utilized to finance eligible items claimed shall be returned to the Illinois Department of Agriculture.

(Source: Added at 28 Ill. Reg. 11091, effective July 23, 2004)
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NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Programs, Illinois

2) **Code Citation**: 8 Ill. Adm. Code 290

3) **Section Number**: 290.85  **Adopted Action**: Amend

4) **Statutory Authority**: Sections 30, 30.5 and 31 of the Illinois Horse Racing Act of 1975 [230 ILCS 5/30, 30.5 and 31]

5) **Effective date of amendment**: July 23, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register**: March 19, 2004; 28 Ill. Reg. 4819

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version**: None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were made.

13) **Will this amendment replace any emergency amendment currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and purpose of amendment**: The Illinois Standardbred Breeders Fund Program was created to maximize the economic benefits to the people of the State of Illinois from the production of standardbred racehorses within the State. This amendment sets forth the conditions for foals, resulting from embryo transplants, to participate in the Illinois Standardbred Breeders Fund Program.

16) **Information and questions regarding this adopted amendment shall be directed to:**
DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

Linda Rhodes
Illinois Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield, Illinois 62794-9281
217/785-5713
Fax: 217/785-4505

The full text of Adopted Amendment begins on the next page:
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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER I: HORSE RACING AND BREEDING

PART 290
STANDARDBRED, THOROUGHBRED AND QUARTER HORSE BREEDING
AND RACING PROGRAMS, ILLINOIS

SUBPART A: RULES RELATING TO
ILLINOIS STANDARDBRED, THOROUGHBRED AND QUARTER
HORSE BREEDING AND RACING PROGRAMS

Section 290.10 Purpose and Definitions
290.12 Incorporation by Reference
290.15 Trust Funds; Nominating, Sustaining and Entry Fees
290.20 Operating Plan and Official Budget; Standardbred, Thoroughbred and Racing Quarter Horse Breeders Fund Programs and Monies Distribution Schedule

SUBPART B: STANDARDBRED DIVISION

Section 290.50 Stallion Certification Requirements
290.55 Certification of Stallion for First Time or Under New Ownership Before Offering Service
290.60 Renewal Application for Offering or Standing Stallion for Service
290.65 Breeding Record of Stallion – Record of Mares Bred
290.67 Requirements for Transported Fresh Semen of a Certified Stallion
290.70 Stallion Siring Foal Must Qualify In Order For Foal to be Eligible for Registration as an Illinois Conceived and Foaled Horse (Repealed)
290.75 Notification if Certified Stallion is Moved
290.77 Notification of Sale or Transfer of Ownership of Certified Stallion
290.78 Stallion Eligibility Certificate
290.80 Stallion Qualification Procedures (Repealed)
290.85 Qualifications for Illinois Conceived and Foaled Standardbred Horses
290.90 Registration for Illinois Conceived and Foaled Horses
290.95 Standardbred Breeders Awards
290.100 Grandfather Rights of Standardbred Horses Registered Under the Illinois Harness Racing Act (Repealed)
290.105 Standardbred Racing at County Fairs or Other Venues
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290.110 Illinois Conceived and Foaled Standardbred Races at the Illinois State Fair and Du Quoin State Fair

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290.155 Certification of Stallion for First Time or Under New Ownership Before Offering Service
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290.205 Grandfather Rights of Thoroughbred Horses Registered Under the Illinois Horse Racing Act (Repealed)
290.210 Thoroughbred Stallion Owners Awards
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290.220 Stallion Certification Requirements
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290.260 Qualifications for Illinois Conceived and Foaled Quarter Horses
290.265 Registration for Illinois Conceived and Foaled Horses
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290.270 Quarter Horse Racing at County Fairs or Other Locations

290.275 Illinois Conceived and Foaled Quarter Horse Races at the Illinois State Fair and Du Quoin State Fair

290.280 Quarter Horse Racing at Illinois Pari-mutuel Racetracks

AUTHORITY: Implementing and authorized by Sections 30, 30.5 and 31 of the Illinois Horse Racing Act of 1975 [230 ILCS 5/30, 30.5 and 31].


SUBPART B: STANDARDBRED DIVISION

Section 290.85 Qualifications for Illinois Conceived and Foaled Standardbred Horses

a) A horse, to be qualified for the Illinois Standardbred Breeders Fund Program and for races restricted to Illinois conceived and foaled horses, must meet the following requirements:

1a) An Illinois conceived and foaled horse is a foal born in this State and sired by a certified Illinois stallion standing for service within this State at the time of the foal's conception; and

2b) A mare (dam) of an Illinois conceived and foaled horse must be in the State a total of 30 consecutive days that includes the foaling date.

be) Embryo Transfer

1) Foals produced by embryo transfer procedures will be eligible for the Illinois Standardbred Breeders Fund Program and qualified for races restricted to Illinois conceived and foaled horses, provided all of the following requirements have been satisfied: program provided the conception of the donor mare occurred within the State, the birth of the foal occurred within the State, the owners of the mare or their authorized representative provide all information concerning markings, identity and
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location of the recipient mare, and all applicable requirements of the United States Trotting Association are met.

A) the donor mare was at least three years old at the time of the conception;

B) conception of the donor mare occurred within the State;

C) the foal was sired by a certified Illinois stallion standing for service within this State at the time of the foal’s conception;

D) prior to the embryo transplant, the donor mare owner or his or her authorized representative contacted and advised the Illinois Department of Agriculture’s Horse Racing Program of the embryo transplant;

E) the Department received from the donor mare owner, prior to the embryo transplant, a signed statement from a veterinarian licensed to practice in Illinois indicating that the veterinarian believes that it is unlikely the donor mare can carry the embryo to a successful birth;

F) after the embryo transplant was performed, the donor mare owner or his or her authorized representative provided to the Department’s Horse Racing Program all information concerning markings, identity and location of the recipient mare;

G) the recipient mare was identified by a Department equine investigator at an Illinois location prior to foaling;

H) the birth of the foal by the recipient mare occurred within the State; and

I) the recipient mare was in the State a total of 30 consecutive days that includes the foaling date.

2) Only the first living foal of a donor mare produced by embryo transplant in a calendar year shall be eligible to participate in the Illinois Standardbred Breeders Fund Program each year. Notwithstanding any provision of this Section to the contrary, the registration with the United
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States Trotting Association of any additional foal produced by the donor mare by embryo transplant during that year will void the eligibility of all foals produced by the donor mare by embryo transplant for the Illinois Standardbred Breeders Fund Program for that year.

c) Any foal produced by cloning will not be eligible for registration with the Illinois Standardbred Breeders Fund Program.

(Source: Amended at 28 Ill. Reg. 11133, effective July 23, 2004)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Aid to the Aged, Blind or Disabled

2) **Code Citation:** 89 Ill. Adm. Code 113

3) **Section Numbers:**
   - 113.253 Amendment
   - 113.260 Amendment

4) **Statutory Authority:** Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

5) **Effective date of amendments:** July 21, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** February 13, 2004; 28 Ill. Reg. 2560

10) **Has JCAR Issued a Statement of Objection to these amendments?** No

11) **Difference between proposal and final version:** No substantive changes were made in the text of the proposed amendments.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will these amendments replace emergency amendments currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and purpose of amendments:** A grant adjustment is an allowance for Aid to the Aged, Blind or Disabled cases that ensures that the amount of the Supplemental Security Income (SSI) increase from July 1977 and later will be available to clients. To comply with federal regulations, this rulemaking increases the grant adjustment and sheltered care/personal or nursing care rate amounts by the amount of the increase in the Social Security and SSI benefits. These changes increase the AABD Grant Adjustment
Allowance and Sheltered Care/Personal or Nursing Care rates by $12.00, the amount of the January 2004 SSA/SSI cost of living adjustment. The increase allows AABD cash clients to realize their Social Security Benefit increase.

16) Information and questions regarding these adopted amendments shall be directed to:

    Tracie Drew, Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue East
    3rd Floor, Harris Bldg.
    Springfield, Illinois 62762
    217/785-9772

17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

The full text of Adopted Amendments begins on the next page:
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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

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113.156  Court Ordered Child Support Payments of Parent/Step-Parent
113.157  Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
113.158  Responsibility of Sponsors of Non-citizens Entering the Country On or After
08/22/96
113.160  Assignment of Medical Support Rights

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113.245  Payment Levels for AABD
113.246  Personal Allowance
113.247  Personal Allowance Amounts
113.248  Shelter
113.249  Utilities and Heating Fuel
113.250  Laundry
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113.251 Telephone
113.252 Transportation, Lunches, Special Fees
113.253 Allowances for Increase in SSI Benefits
113.254 Nursing Care or Personal Care in Home Not Subject to Licensing
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113.260 Sheltered Care/Personal or Nursing Care Rates
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113.262 Meeting the Needs of an Ineligible Dependent with Client's Income
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SUBPART E: OTHER PROVISIONS

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113.300 Persons Who May Be Included In the Assistance Unit
113.301 Grandfathered Cases
113.302 Interim Assistance (Repealed)
113.303 Special Needs Authorizations
113.304 Retrospective Budgeting
113.305 Budgeting Schedule
113.306 Purchase and Repair of Household Furniture (Repealed)
113.307 Property Repairs and Maintenance
113.308 Excess Shelter Allowance
113.309 Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320 Redetermination of Eligibility
113.330 Attorney's Fees for VA Appellants (Repealed)

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113.400 Description of the Interim Assistance Program
113.405 Pending SSI Application (Repealed)
113.410 More Likely Than Not Eligible for SSI (Repealed)
113.415 Non-Financial Factors of Eligibility (Repealed)
113.420 Financial Factors of Eligibility (Repealed)
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113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
113.435 Medical Eligibility (Repealed)
113.440 Attorney's Fees for SSI Applicants (Repealed)
113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES

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DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS


SUBPART D: PAYMENT AMOUNTS

Section 113.253 Allowances for Increase in SSI Benefits

a) An allowance for $385.90 is authorized for all AABD cases as a "grant adjustment". A grant adjustment is an allowance that ensures that the amount of the SSI increase from July 1977 and later will be available to clients.

b) EXCEPTIONS: For clients whose assistance payments include an allowance for Sheltered Care or Care Not Subject to Licensing a "grant adjustment" of $10 is authorized. Individuals residing in long term group care facilities do not receive any "grant adjustment".

(Source: Amended at 28 Ill. Reg. 11140, effective July 21, 2004)

Section 113.260 Sheltered Care/Personal or Nursing Care Rates

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DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

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24 987.55

a) Group A Counties are counties other than Cook, DuPage, Kane, Lake and Will.

b) Group B Counties are Cook, DuPage, Kane, Lake and Will.

c) Rate includes shelter factor and approved activity and social rehabilitation programs.

(Source: Amended at 28 Ill. Reg. 11140, effective July 21, 2004)
DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Medical Assistance Programs

2) **Code Citation:** 89 Ill. Adm. Code 120

3) **Section Number:** 120.540  **Adopted Action:** New Section

4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and section 1115 of the Social Security Act, Family Planning Research and Demonstration Waiver

5) **Effective date of amendment:** August 1, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** April 30, 2004; 28 Ill. Reg. 6573

10) **Has JCAR issued a Statement of Objection to this amendment?** No

11) **Difference between proposal and final version:** No substantive changes have been made to the proposed rulemaking.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this adopted amendment replace any emergency amendments currently in effect?** No

14) **Are there any other amendments pending on this Part?** Yes

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<td>April 2, 2004; 28 Ill. Reg. 5606</td>
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<tr>
<td>120.379</td>
<td>Amendment</td>
<td>April 2, 2004; 28 Ill. Reg. 5606</td>
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15) Summary and purpose of amendment: This rulemaking describes the eligibility criteria for participation in the Illinois Healthy Women Program, a new waiver program approved by the Centers for Medicare and Medicaid Services under the Family Planning Research and Demonstration Waiver, section 1115 of the Social Security Act. The Illinois Healthy Women Program will provide services for a targeted population of women who are 19 through 44 years of age and who are no longer eligible for coverage by the Medical Assistance Program. In addition to a description of the eligible population, the rulemaking includes information on the coverage period, redeterminations of eligibility and conditions under which coverage will cease. A related amendment at 89 Ill. Adm. Code 140.486 describes the medical and family planning services available to eligible women under the Illinois Healthy Women Program.

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

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois  62763-0002  
217/524-0081

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

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120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section
120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard
120.40 Exceptions To Use Of MANG Income Standard
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section
120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –
MANG(AABD) and All Other Licensed Medical Facilities
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
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120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements
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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 Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
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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)
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)
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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)
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120.280  Assets (Repealed)
120.281  Exempt Assets (Repealed)
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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

Section
120.308  Client Cooperation
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120.313  Blind
120.314  Disabled
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
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120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
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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
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120.332 Budgeting Unearned Income
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120.338 Incentive Allowance
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120.347 Treatment of Trusts
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
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 Assets
120.381 Exempt Assets
120.382 Asset Disregard
120.383 Deferral of Consideration of Assets
120.384 Spend-down of Assets (AABD MANG)
120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
120.386 Property Transfers Occurring On or Before August 10, 1993
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120.387 Property Transfers Occurring On or After August 11, 1993
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
120.540 Illinois Healthy Women Program
120.TABLE A Value of a Life Estate and Remainder Interest
120.TABLE B Life Expectancy


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SUBPART I: SPECIAL PROGRAMS
Section 120.540  Illinois Healthy Women Program

a) A woman shall be eligible for medical services under this program if the woman:

1) Meets required citizenship/immigration status as described in Section 120.310;

2) Meets residency requirements as described in Section 120.311;

3) Does not reside in a public institution as described in Section 120.318;

4) Furnishes a Social Security Number as described in Section 120.327;

5) Is 19 through 44 years of age;

6) Did not lose medical assistance without spend-down coverage for refusing to assign rights to medical support and collection of payment, as described in Section 120.319, while receiving medical benefits;

7) Did not lose medical assistance without spend-down coverage for refusing to cooperate in establishing paternity and obtaining medical support rights, as described in Section 120.320, while receiving medical benefits, unless the woman had good cause as described in Section 120.321; and

8) Lost eligibility for medical assistance without a spend-down or a KidCare Health Plan under 89 Ill. Adm. Code 125 for a reason other than as described in subsections (a)(1) through (7) of this Section.

b) Initial coverage will occur automatically beginning on the first day of the month following the last month of Medicaid without spend-down coverage and will continue for three months.

c) If, in the prescribed timeframe of three months for initial coverage, the woman signs and returns the enrollment form that is mailed to her by the Department, eligibility will continue for an additional nine months beginning on the first day of the month that follows the third month of initial coverage.

d) Eligibility must be redetermined once every 12 months. If the woman continues to meet the requirements set forth in subsections (a)(1) through (5) of this Section
and her total countable family income is at or below 200 percent of the Federal Poverty Level, the woman will remain eligible for an additional 12 months if, within the prescribed timeframe, she signs and returns the re-enrollment form that is mailed to her.

e) A re-enrollment form will not be mailed to the women if, after coverage under this program began:

1) She reached the age of 45 years;

2) She moved out of Illinois;

3) She became eligible for another medical program under this Part;

4) She became an inmate of a correctional facility or a resident of a public institution;

5) She requested that benefits be terminated; or

6) The Department paid for a sterilization procedure for her.

f) Coverage for all participants shall end upon termination of the federal waiver under which this coverage is provided.

g) Benefits available under this program are those set forth in 89 Ill. Adm. Code 140.486.

(Source: Added at 28 Ill. Reg. 11150, effective August 1, 2004)
DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Medical Payment

2) **Code Citation:** 89 Ill. Adm. Code 140

3) **Section Number:** 140.486  
   **Adopted Action:** Amendment

4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Section 1115 of the Social Security Act, Family Planning Research and Demonstration Waiver

5) **Effective date of amendment:** August 1, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** April 30, 2004; 28 Ill. Reg. 6576

10) **Has JCAR issued a Statement of Objection to this amendment?** No

11) **Differences between proposal and final version:** No substantive changes have been made to the proposed rulemaking.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this adopted amendment replace any emergency amendment currently in effect?** Yes

14) **Are there any other amendments pending on this Part?** Yes

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<td>Amendment</td>
<td>February 27, 2004</td>
<td>28 Ill. Reg. 3700</td>
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15) **Summary and purpose of amendment:** This rulemaking regarding the Illinois Healthy Women Program describes the medical coverage available through a waiver program approved by the Centers for Medicare and Medicaid Services under the Family Planning Research and Demonstration Waiver, Section 1115 of the Social Security Act. The Illinois Healthy Women Program will provide necessary family planning services for a targeted population of women who are 19 through 44 years of age, and who are no longer eligible for coverage by the Medical Assistance Program. Companion amendments are also being adopted at 89 Ill. Adm. Code 120.540 describing the eligibility requirements for the new program.

16) **Information and questions regarding this adopted amendment shall be directed to:**

   Joanne Scattoloni  
   Office of the General Counsel, Rules Section  
   Illinois Department of Public Aid  
   201 South Grand Avenue East, Third Floor  
   Springfield, Illinois 62763-0002  
   217/524-0081

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section 140.1 Incorporation By Reference
Section 140.2 Medical Assistance Programs
Section 140.3 Covered Services Under Medical Assistance Programs
Section 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
Section 140.5 Covered Medical Services Under General Assistance
Section 140.6 Medical Services Not Covered
Section 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
Section 140.8 Medical Assistance For Qualified Severely Impaired Individuals
Section 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
Section 140.10 Medical Assistance Provided to Incarcerated Persons

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Section 140.11 Enrollment Conditions for Medical Providers
Section 140.12 Participation Requirements for Medical Providers
Section 140.13 Definitions
Section 140.14 Denial of Application to Participate in the Medical Assistance Program
Section 140.15 Recovery of Money
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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
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140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Terminated, Suspended or Barred 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
140.55 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
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140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

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140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95 Hospital Services Trust Fund
140.96 General Requirements (Recodified)
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)
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NOTICE OF ADOPTED AMENDMENT

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)
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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.486 Illinois Healthy Women Limitations on Medichek Services (Repealed)

a) Benefit coverage under Illinois Healthy Women is available to women meeting the eligibility requirements set forth in 89 Ill. Adm. Code 120.540.

b) Covered medical services under Illinois Healthy Women are limited to the following reproductive health and family planning services:
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1) Physical examination and health history for family planning purposes;

2) Brief and intermediate follow-up office visits related to family planning;

3) Pap smears, at least annually, or as medically indicated;

4) Necessary family planning or women’s health related lab and diagnostic tests;

5) Birth control drugs and devices, including the inserting, implanting or injecting of a birth control drug and removing of a birth control device;

6) Sterilization services, pursuant to Section 140.483;

7) Testing and treatment for sexually transmitted infections (STIs) diagnosed during a family planning visit;

8) Testing for HIV, when ordered by a physician during a family planning visit;

9) Generic prenatal vitamins, or generic multi-vitamins with folic acid, or folic acid; and

10) Mammograms, when ordered by a physician during a family planning visit.

c) Payment of services under this Section shall be made to participating providers in accordance with this Part.

(Source: Old Section repealed at 15 Ill. Reg. 298, effective December 28, 1990; new Section added at 28 Ill. Reg. 11162, effective August 1, 2004)
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1) Heading of the Part:  Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation:  77 Ill. Adm. Code 300

3) Section Number:  300.120  Adopted Action:  Amended

4) Statutory Authority:  Nursing Home Care Act [210 ILCS 45]

5) Effective date of amendment:  July 22, 2004

6) Does this rulemaking contain an automatic repeal date?  No

7) Does this rulemaking contain any incorporations by reference?  No

A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.


10) Has JCAR issued a Statement of Objection to this amendment?  Yes

   A)  Statement of Objection:  April 9, 2004; 28 Ill. Reg. 5929

   B)  Agency Response:  May 21, 2004; 28 Ill. Reg. 7336

   C)  Date Agency Response Submitted for Approval to the Joint Committee:  May 4, 2004

11) Difference between proposal and final version:  The following changes were made in response to comments received during the first notice or public comment period:

   1.  In the Main Source Note, the entry for “July 1, 2003” was changed to “June 30, 2003”.

   2.  In the Main Source Note, “emergency expired August 21, 2003” was added.

   3.  In the Main Source Note, “15855” was added in the first blank and “September 25, 2003” was added in the second.
DEPARTMENT OF PUBLIC HEALTH

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4. The following entries were added to the Main Source Note: “amended at 27 Ill. Reg. 18105, effective November 15, 2003; amended at 28 Ill. Reg. _________, effective ______________________.”

5. In the Section Source Note, “27” was changed to 28.

6. In Section 300.120(e), “class” was changed to “Class”.

The following changes were made in response to comments and suggestions of the JCAR:

- In the Main Source Note, entry for August 15, 2003, “emergency expired January 11, 2004;” was added after “days”; after the entry for November 15, 2003, “expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003” was added.

- 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 adopted amendment replace any emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the amendments: Section 300.120 (Application for License) is being amended to implement P.A. 93-0032, effective July 1, 2003, which amended Section 3-103 of the Nursing Home Care Act to increase licensing fees for long-term care facilities. The new fees are based on the licensed capacity of the facility. The legislation also eliminated the fee exemption for homes for the aged. Homes for the aged are defined in Section 300.330 as long term care facilities operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986; or by a county; or pursuant to a trust or endowment established for nonprofit, charitable purposes. Section 3-110 of the Nursing Home Care Act allows the Department to pro-rate licensure fees based on the portion of the year for which a license is issued.

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

Susan Meister
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois  62761
217/782-2043
e-mail:  rules@idph.state.il.us

The full text of the Adopted Amendment begins on the next page:
# DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENT

### TITLE 77: PUBLIC HEALTH

### CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

### SUBCHAPTER c: LONG-TERM CARE FACILITIES

## PART 300

### SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 300.120 Application for License

a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. Application forms and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.

b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1151 et seq.) [20 ILCS 3960].

c) Application for a license to establish or operate an intermediate care facility, or skilled nursing facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department. (Section 3-103(1) of the Act)

d) All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of $500; 50-99 licensed beds, a flat fee of $750; and for any facility with 100 or more licensed beds, a fee of $1,000 plus $10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)

e) All applications, except those of homes for the aged, shall be accompanied by an application fee of $200 for an annual license and $400 for a 2-year license. The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:

1) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name
DEPARTMENT OF PUBLIC HEALTH

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and address of its chief executive officer;

2) The name and location of the facility for which a license is sought;

3) The name of the person or persons under whose management or supervision the facility will be conducted;

4) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and

5) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)

Ownership Change or Discontinuation

1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold, or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)

The Department may issue licenses or renewals for periods of not less than six (6)
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months nor more than eighteen (18) months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act) The pro-rated fees will be as follows:

1) Six (6) months to less than twelve (12) months—$150.00;
2) Twelve (12) months to less than eighteen (18) months—$200.00;
3) Eighteen (18) months to less than twenty-four (24) months—$350.00;
4) Twenty-four (24) months to thirty (30) months—$400.00.

(Source: Amended at 28 Ill. Reg. 11180, effective July 22, 2004)
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1) **Heading of the Part**: Sheltered Care Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 330

3) **Section Number**: 330.120
   **Adopted Action**: Amended

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **Effective date of rulemaking**: July 22, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain any incorporations by reference?** No

A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: August 29, 2003; 27 Ill. Reg. 14164

10) **Has JCAR issued a Statement of Objection to this rulemaking?** Yes
    A) **Statement of Objection**: 28 Ill. Reg. 5830; April 9, 2004
    B) **Agency Response**: 28 Ill. Reg. 7337; May 21, 2004
    C) **Date Agency Response Submitted for Approval to the Joint Committee**: May 4, 2004

11) **Difference between proposal and final version**: The following changes were made in response to comments received during the first notice or public comment period:

    1. **In the Main Source Note**:

       The entry for July 1, 2003 was changed to June 30, 2003.

       After the entry for March 25, 2003, “emergency expired August 21, 2003;” was added.
DEPARTMENT OF PUBLIC HEALTH

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“15880” was added in the first blank and “September 25, 2003” was added in the second blank.

The following was added “amended at 27 Ill. Reg. 18130, effective November 15, 2003; amended at 28 Ill. Reg. __________, effective _________________.

2. In Section 330.120(e), “class” was changed to “Class”.

3. In the Section Source Note, “27” was changed to “28”.

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Main Source Note, “emergency expired January 11, 2004;” was added after the entry for August 15, 2003.

2. In the Main Source Note, “expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003;” was added after the entry for November 1, 2003.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rulemaking: Section 330.120 (Applicable for License) is being amended to implement P.A. 93-0032, effective July 1, 2003, which amended Section 3-103 of the Nursing Home Care Act to increase licensing fees for long-term care facilities. The new fees are based on the licensed capacity of the facility. The legislation also eliminated the fee exemption for homes for the aged. Homes for the aged are defined in Section 330.330 as long-term care facilities operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986, or by a county; or pursuant to a trust or endowment established for non-profit, charitable purposes. Section 3-10 of the Nursing Home Care Act allows the Department to pro-rate licensure fees based on the portion of the year for which the license is issued.
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NOTICE OF ADOPTED AMENDMENT

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

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us

The full text of the Adopted Amendment begins on the next page
**DEPARTMENT OF PUBLIC HEALTH**

**NOTICE OF ADOPTED AMENDMENT**

**TITLE 77: PUBLIC HEALTH**

**CHAPTER I: DEPARTMENT OF PUBLIC HEALTH**

**SUBCHAPTER c: LONG-TERM CARE FACILITIES**

**PART 330**

**SHELTERED CARE FACILITIES CODE**

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330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
330.APPENDIX C Forms for Day Care in Long-Term Care Facilities
330.APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
330.APPENDIX E Guidelines for the Use of Various Drugs
330.TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 330.120 Application for License

a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate a sheltered care facility shall submit application information on forms provided by the Department. The Department shall be
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furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.

b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1991, ch. 111 ½, par. 1151 et seq.) [20 ILCS 3960].

c) Application for a license to establish or operate a sheltered care facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department. (Section 3-103(1) of the Act)

d) All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of $500; 50-99 licensed beds, a flat fee of $750; and for any facility with 100 or more licensed beds, a fee of $1,000 plus $10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)

e) All applications, except those of homes for the aged, shall be accompanied by an application fee of $200 for an annual license and $400 for a 2 year license—The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:

1) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;

2) The name and location of the facility for which a license is sought;

3) The name of the person or persons under whose management or supervision the facility will be conducted;

4) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and
5) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)

Ownership Change or Discontinuation

1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold, or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)

The Department may issue licenses or renewals for periods of not less than six (6) months nor more than eighteen (18) months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act) The pro-rated fee will be as follows: 1) Six (6) months to less than twelve (12) months = $150.00; 2) Twelve (12) months to less than eighteen (18) months = $200.00; 3) Eighteen (18) months to less than twenty-four (24) months = $350.00;
DEPARTMENT OF PUBLIC HEALTH

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4) Twenty-four (24) months to thirty (30) months — $400.00.

(Source: Amended at 28 Ill. Reg. 11195, effective July 22, 2004)
DEPARTMENT OF PUBLIC HEALTH

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1) Heading of the Part: Illinois Veterans’ Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3) Section Numbers: Adopted Action:
   340.1120 Amended

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective date of rulemaking: July 22, 2004

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department’s principal office and is available for public inspection.


10) Has JCAR issued a Statement of Objection to this rulemaking? Yes

   A) Statement of Objection: 28 Ill. Reg. 5931; April 9, 2004

   B) Agency Response: 28 Ill. Reg. 7338; May 21, 2004

   C) Date Agency Response Submitted for Approval to the Joint Committee: May 4, 2004

11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

   1. In the Table of Contents, “340.” was added before “Table A” and “Table B”.

   2. In the Main Source Note, entry for “January 1, 1996”, “amendments” was changed to “amendment”.

   3. In the Main Source Note, “emergency expired June 30, 2003;” was added after the entry for “February 1, 2003”.

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4. In the last entry in the Main Source Note, “15904” was added in the first blank and “September 25, 2003” in the second.

5. The following was added at the end of the Main Source Note: “amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg. __________, effective _________________.”

The following changes were made in response to comments and suggestions of the JCAR:

1. The following was added in the Main Source Note after the entry for “August 15, 2003”: “emergency expired January 11, 2004;”.

2. “SUBPART A: GENERAL PROVISIONS” was added between the Source Note and the Section heading.

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 amendment currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the amendment: Section 340.1120 (Application for License) is being amended to implement P.A. 93-0032, effective July 1, 2003, which amended Section 3-103 of the Nursing Home Care Act to increase licensing fees for long-term care facilities. The new fees are based on the licensed capacity of the facility. The legislation also eliminated the fee exemption for homes for the aged. Homes for the aged are defined in Section 340.1000 as long-term care facilities operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986, or by a county; or pursuant to a trust or endowment established for non-profit, charitable purposes. Section 3-10 of the Nursing Home Care Act allows the Department to pro-rate licensure fees based on the portion of the year for which the license is issued.

16) Information and questions regarding this adopted amendment shall be directed to:
DEPARTMENT OF PUBLISH HEALTH

NOTICE OF ADOPTED AMENDMENT

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois  62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the Adopted Amendment begins on the next page:
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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

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340.TABLE A Heat Index Table/Apparent Temperature
340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].


SUBPART A: GENERAL PROVISIONS

Section 340.1120 Application for License

a) Application for a license to establish or operate a facility shall be made in writing
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

and submitted, with other such information as the Department may require, on forms provided by the Department.

b) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when a new license is issued to operate the facility; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

c) All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of $500; 50-99 licensed beds, a flat fee of $750; and for any facility with 100 or more licensed beds, a fee of $1,000 plus $10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)

d) The Department may issue licenses or renewals for periods of not less than six months nor more than 18 months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. Fees for such licenses shall be prorated on the basis of the portion of a year for which they are issued. (Section 3-110 of the Act) The prorated fee will be as follows:

1) Six months to less than 12 months = $150;
2) Twelve months to 18 months = $200;
3) Eighteen months to less than 24 months = $350;
4) Twenty-four months to 30 months = $400.

e) The licensee shall qualify for issuance of a two-year license if the licensee has met the criteria contained in Section 3-110(b) of the Act for the last 24 consecutive months.

f) A renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act [220 ILCS 4] and Section 340.1125 of this Part, if applicable. (Section 3-115 of the Act)

(Source: Amended at 28 Ill. Reg. 11209, effective July 22, 2004)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Intermediate Care for the Developmentally Disabled Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 350

3) **Section Number**: 350.120  **Adopted Action**: Amended

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **Effective date of rulemaking**: July 22, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain any incorporations by reference?** No

A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department’s principal office and is available for public inspection.

9) **Notice of Proposal was published in Illinois Register**: August 29, 2003; 27 Ill. Reg. 14168

10) **Has JCAR issued a Statement of Objection to this amendment?** Yes

   A) **Statement of Objection**: April 9, 2004; 28 Ill. Reg. 5932

   B) **Agency Response**: May 21, 2004; 28 Ill. Reg. 7337

   C) **Date Agency Response Submitted for Approval to the Joint Committee**: May 4, 2004

11) **Difference between proposal and final version**: The following changes were made in response to comments received during the first notice or public comment period:

   1. In the Main Source Note, the entry for “July 1, 2003” was changed to “June 30, 2003”.

   2. In the Main Source Note, “emergency expired August 21, 2003;” was added after the entry for March 25, 2003”.


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NOTICE OF ADOPTED AMENDMENT

3. In the Main Source Note entry, after “August 15, 2003”, “5924” was added in the first blank and “September 15, 2003;” was added in the second.

4. The following was added in the Main Source Note after the entry for “September 25, 2003”: “amended at 27 Ill. Reg. 18160, effective November 15, 2003; amended at 28 Ill. Reg. __________, effective __________________.”.

5. In Section 350.120(e), “class” was changed to “Class”.

6. In the Section Source Note, “27” was changed to “28”.

The following changes were made in response to comments and suggestions of the JCAR:

1. In the table of contents, 350.Table D, “Sixteen” and the parentheses were stricken.

2. In the Main Source Note, after the entry for “August 15, 2003”, “emergency expired January 11, 2004;” was added.

3. In the Main Source Note, “5924” was changed to “15924” in the entry for “September 25, 2003”.

4. In the Main Source Note, the following was added after the entry for “November 15, 2003”: “expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003;”.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rulemaking: Section 350.120 (Applicable for License) is being amended to implement P.A. 93-0032, effective July 1, 2003, which amended Section 3-103 of the Nursing Home Care Act to increase licensing fees for long-term care facilities. The new fees are based on the licensed capacity of the facility. The legislation also
eliminated the fee exemption for homes for the aged. Homes for the aged are defined in Section 350.330 as long-term care facilities operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986, or by a county; or pursuant to a trust or endowment established for non-profit, charitable purposes. Section 3-10 of the Nursing Home Care Act allows the Department to pro-rate licensure fees based on the portion of the year for which the license is issued.

16) **Information and questions regarding this adopted amendment shall be directed to:**

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us

The full text of the Adopted Amendment begins on the next page:
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NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 350.120 Application for License

a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.

b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1991, ch. 111 ½, par. 1151 et seq.) [20 ILCS 3960].

c) Application for a license to establish or operate an intermediate care facility for persons with developmental disabilities shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department. (Section 3-103(1) of the Act)
d) All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of $500; 50-99 licensed beds, a flat fee of $750; and for any facility with 100 or more licensed beds, a fee of $1,000 plus $10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)

e) All applications, except those of homes for the aged, shall be accompanied by an application fee of $200 for an annual license and $400 for a 2-year license. The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:

1) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;

2) The name and location of the facility for which a license is sought;

3) The name of the person or persons under whose management or supervision the facility will be conducted;

4) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and

5) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)

Ownership Change or Discontinuation

1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold; or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an
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individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

g) Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility’s location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)

h) The Department may issue licenses or renewals for periods of not less than six (6) months nor more than eighteen (18) months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act) The pro-rated fee will be as follows:

1) Six (6) months to less than twelve (12) months = $150.00;

2) Twelve (12) months to less than eighteen (18) months = $200.00;

3) Eighteen (18) months to less than twenty-four (24) months = $350.00;

4) Twenty-four (24) months to thirty (30) months = $400.00.

(Source: Amended at 28 Ill. Reg. 11217, effective July 22, 2004)
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1) **Heading of the Part**: Long-Term Care for Under Age 22 Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 390

3) **Section Number**: 390.120
   **Adopted Action**: Amended

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **Effective date of rulemaking**: July 22, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: August 29, 2003; 27 Ill. Reg. 14170

10) **Has JCAR issued a Statement of Objection to this amendment?** Yes

   If "yes," please complete the following:

   A) **Statement of Objection**: 28 Ill. Reg. 5933 - April 9, 2004

   B) **Agency Response**: 28 Ill. Reg. 7340 – May 21, 2004

   C) **Date Agency Response Submitted for Approval to the Joint Committee**: May 4, 2004

11) **Difference between proposal and final version**: The following changes were made in response to comments received during the first notice or public comment period:

   1. In the Main Source Note, the entry for “February 1, 2003”, “at” was added after “amendment”; after this entry, “emergency expired June 30, 2003”; was added.

   2. In the Main Source Note, after the entry for “January 11, 2004”, “15949” was added in the first blank and “September 25, 2003” was added in the second. After this entry, the following was added: “amended at 27 Ill. Reg. 18204, effective
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November 15, 2003; amended at 28 Ill. Reg. __________, effective ________________.”

3. In Section 390.120(e), “class” was changed to “Class”.

4. In Section 390.120(h), “of” was added after “3-110”.

5. In the Section Source Note, “27” was changed to “28”.

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Main Source Note, “emergency expired August 21, 2003;” was added after the entry for “March 25, 2003”.

2. In the Main Source Note, “emergency expired January 11, 2004;” was added after the entry for “August 15, 2003”.

3. In the Main Source Note, “expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003;” was added after the entry for November 15, 2003.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rulemaking: Section 390.120 (Applicable for License) is being amended to implement P.A. 93-0032, effective July 1, 2003, which amended Section 3-103 of the Nursing Home Care Act to increase licensing fees for long-term care facilities. The new fees are based on the licensed capacity of the facility. The legislation also eliminated the fee exemption for homes for the aged. Homes for the aged are defined in Section 390.330 as long-term care facilities operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986, or by a county; or pursuant to a trust or endowment established for non-profit, charitable purposes. Section 3-10 of the Nursing Home Care
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Act allows the Department to pro-rate licensure fees based on the portion of the year for which the license is issued.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.150 Issuance of an Initial License Due to a Change of Ownership
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390.1420 Compliance with Licensed Prescriber's Orders
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390.1610  Resident Record Requirements
390.1620  Content of Medical Records
390.1630  Confidentiality of Resident's Records
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390.3220 Medical and Personal Care Program
390.3230 Restraints (Repealed)
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390.3250 Communication and Visitation
390.3260 Resident's Funds
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390.3280 Contract With Facility
390.3290 Private Right of Action
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SUBPART P: DAY CARE PROGRAMS

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390.APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C Guidelines for the Use of Various Drugs
390.TABLE A Infant Feeding
390.TABLE B Daily Nutritional Requirements By Age Group
390.TABLE C Sound Transmissions Limitations
390.TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E Sprinkler Requirements
390.TABLE F Heat Index Table/Apparent Temperature
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NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

DEPARTMENT OF PUBLIC HEALTH

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SUBPART A: GENERAL PROVISIONS

Section 390.120 Application for License

a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.

b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1151 et seq.) [20 ILCS 3960].

c) Application for a license to establish or operate an intermediate care facility or skilled nursing facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department. (Section 3-103(1) of the Act)

d) All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of $500; 50-99 licensed beds, a flat fee of $750; and for any facility with 100 or more licensed beds, a fee of $1,000 plus $10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)

e)(d) All applications, except those of homes for the aged, shall be accompanied by an application fee of $200 for an annual license and $400 for a 2-year license. The application shall be under oath and the submission of false or misleading
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Information shall be a Class A misdemeanor. The application shall contain the following information:

1) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;

2) The name and location of the facility for which a license is sought;

3) The name of the person or persons under whose management or supervision the facility will be conducted;

4) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and

5) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)

Ownership Change or Discontinuation

1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold or leased; when operation is discontinued; when operation is moved to a new location; when the licensee (if an individual) dies; when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of
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local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)

h)g) The Department may issue licenses or renewals for periods of not less than six (6) months nor more than eighteen (18) months for facilities with annual licenses and not less than 18 months for facilities with 2-year licenses in order for the Department to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act) The pro-rated fee will be as follows:

1) Six (6) months to less than twelve (12) months—$150.00;
2) Twelve (12) months to less than eighteen (18) months—$200.00;
3) Eighteen (18) months to less than twenty-four (24) months—$350.00;
4) Twenty-four (24) months to thirty (30) months—$400.00.

(Source: Amended at 28 Ill. Reg. 11231, effective July 22, 2004)
ILLINOIS REGISTER

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Licensing

2) Code Citation: 11 Ill. Adm. Code 502

3) Section Numbers: Adopted Action:
   502.104   Amend
   502.230   Amend

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective date of amendments: August 1, 2004

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporation by reference? No

8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection


10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace any emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

   Section Number: Proposed Action   Illinois Register Citation
   502.350   Amendment   28 Ill. Reg. 9219

15) Summary and purpose of amendments: The proposed rulemaking in Section 502.104 complies with Section 16 of the Horse Racing Act. The rulemaking in Section 502.230 changes the age of an apprentice jockey to 16 to correspond with Section 1411.140(a).

16) Information and questions regarding these adopted amendments shall be directed to:
NOTICE OF ADOPTED AMENDMENTS

Mickey Ezzo
Illinois Racing Board
James Thompson Center
100 W. Randolph St., Suite 11-100
Chicago IL  60601
312/814-5107

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

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 502
LICENSING

SUBPART A: PROCEDURE

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502.10 Submission of Application
502.20 Complete Application
502.30 License Fees
502.40 Duration and Extent of Occupation Licenses
502.50 Rulings and Hearings
502.55 Denial of License
502.58 License to Participate

SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

Section
502.60 Denial of a License for Criminal Conviction
502.72 First-Time Applicant Who Has Been Convicted of a Crime
502.76 Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision
502.78 Probationary Nature of Licenses
502.80 Unqualified to Perform the Duties
502.90 Falsifying Answers or Omitting Facts
502.100 Just Cause
502.102 Burden of Going Forward
502.104 Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

SUBPART C: GENERAL CRITERIA

Section
502.110 Criteria for Determining Eligibility
502.115 Standards Required of All Applicants

SUBPART D: OWNERS
ILLINOIS RACING BOARD

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Section 502.120 Owners

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

Section 502.200 Trainers and Assistant Trainers
502.210 Prospective Trainers or Assistant Trainers
502.220 Workers' Compensation

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section 502.230 Jockeys and Apprentice Jockeys
502.235 Apprentice Jockeys, Criteria for Eligibility
502.238 Apprentice Contract or Certificate

SUBPART G: DRIVERS

Section 502.250 Harness Driver
502.260 Prospective Harness Drivers
502.270 "Q" Licenses
502.280 "P" Licenses
502.290 "A" Licenses

SUBPART H: OTHER LICENSEES

Section 502.300 Veterinarians
502.320 Veterinary Assistant
502.350 Farriers (Blacksmiths)
502.380 Exercise Riders
502.400 Pony Person
502.450 Stable Foreman
502.500 Jockey Agents
502.600 Authorized Agents
502.650 Tack Shop Operators and Other Vendors
502.660 Vendor Helper
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502.680 Thoroughbred Grooms
502.690 Harness Grooms
502.700 Hotwalker
502.790 Totalizator Employee

SUBPART I: CONFLICTS OF INTEREST

Section
502.800 General Provisions
502.820 Dual Licensing
502.830 Limitations on License
502.840 Husbands and Wives
502.850 Transfer of a Horse

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


SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

Section 502.104 Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

a) Pursuant to Sections 15(c)(4) and (5) of the Act, the Board shall deny an application for a license for just cause if:

1) The applicant's license in another racing jurisdiction has been suspended or revoked; or
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2) The applicant has been excluded by another racing jurisdiction; or

3) The applicant has violated the Board's rules or the Act.

b) Pursuant to Section 16(a) of the Act, the Board may refuse to issue or may suspend the occupation license of any person who fails to file a tax return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied.

cb) Just cause shall not include any cause based solely on race, color, creed, national origin or sex.

(Source: Amended at 28 Ill. Reg. 11247, effective August 1, 2004)

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section 502.230 Jockeys and Apprentice Jockeys

An applicant for a license as a jockey or apprentice jockey shall:

a) be at least 16 years of age or have been licensed as a jockey in this or another racing jurisdiction prior to the effective date of these rules; and

b) have been licensed previously as a jockey or apprentice jockey by the Board or by another racing jurisdiction;

c) be found physically able to ride in competitive horse races by a licensed practicing physician prior to the first Illinois race meeting at which the applicant intends to ride; and

d) have ridden fewer than 40 winners within the periods specified in 11 Ill. Adm. Code 1411.140(a).

(Source: Amended at 28 Ill. Reg. 11247, effective August 1, 2004)
1) **Heading of the Part:** Medication

2) **Code Citation:** 11 Ill. Adm. Code 603

3) **Section Number:** 603.70  
   **Adopted Action:** Amend

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **Effective date of amendment:** August 1, 2004

6) **Does this amendment contain an automatic repeal date?** No

7) **Does this amendment contain incorporation by reference?** No

8) A copy of this adopted amendment, including any material incorporated by reference, is on file in agency's principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** 28 Ill. Reg. 6015; 4/16/04

10) **Has JCAR issued a Statement of Objection to this amendment?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this amendment replace any emergency amendment currently in effect?** No

14) **Are there any other amendments pending on this Part?** Yes

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<td>603.70</td>
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15) **Summary and purpose of amendment:** This rulemaking inserts the phrase “a minimum of” in Section 603.70(b)(1) due to the fact that in a few instances, a racehorse may bleed for the second time in a calendar year and the current rule does not permit the State Veterinarian to assign more than 14 days.

16) **Information and questions regarding this adopted amendment shall be directed to:**
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo
Illinois Racing Board
James Thompson Center
100 W. Randolph St., Suite 11-100
Chicago IL 60601
312/814-5107

The full text of the Adopted Amendment begins on the next page:
NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section
603.10 Pre-Race Saliva Tests
603.20 Racing Soundness Exam
603.30 Foreign Substances and Pharmaceutical Aids Banned
603.40 Twenty-four Hour Ban
603.50 Trainer Responsibility
603.55 Prima Facie Evidence
603.60 Permitted Use of Foreign Substances and Threshold Levels
603.70 Furosemide
603.80 Needles, Syringes and Injectables
603.90 Drugs, Chemicals and Prescription Items
603.100 Detention Barn
603.110 Test Samples
603.120 Referee Samples
603.130 Laboratory Findings and Reports
603.140 Distribution of Purses and Retention of Samples
603.150 Post Mortems
603.160 Penalties
603.170 Veterinarian's Records
603.180 Carbon Dioxide Tests

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

Section 603.70  Furosemide

a) The Board recognizes that Exercise Induced Pulmonary Hemorrhage (EIPH) is almost universal in performance horses. The Board also recognizes that the diuretic furosemide is helpful in the management of the EIPH syndrome; this includes horses that already had a bleeding episode as well as horses that have not yet exhibited the epistaxis. In regulating the race day use of furosemide, the Board has placed strict controls on the dose, route and time the medication is administered. Additionally, Board security personnel monitors these horses during and after the administration. Advances in drug testing techniques permit the Board laboratory to quantitate post-race serum samples for furosemide, providing a thorough regulation of the drug. All of these measures are designed to prevent the misuse of furosemide.

b) Veterinarian's List

1) When a horse is added to the furosemide list, it shall be placed on the veterinarian's list and shall be ineligible to race for a minimum of 14 days. The 14 day ineligibility period begins on the certification date defined in subsections (c)(1)(A), (B), (C), and (D). During this 14 day period, the horse shall not be permitted to race with or without furosemide. Before the horse shall be permitted to enter a race, it must qualify on furosemide by participating in a qualifying race or by performing an official workout without bleeding, to the satisfaction of the State Veterinarian. Horses must wait 9 days following the certification date before participating in a qualifying race.

2) A horse bleeding while racing with furosemide shall be barred from racing for a minimum of 30 days.

3) A horse bleeding a second time in any 12 month period while racing with furosemide shall be barred from racing for a minimum of 60 days.

4) A horse bleeding a third time in any 12 month period while racing with furosemide shall be barred from racing for a minimum of 180 days or the remainder of the 12 month period, whichever is greater.

5) After the expiration of the barred periods in subsections (b)(2), (3) and (4), a horse must qualify on furosemide by participating in a qualifying race or
performing an official workout without bleeding to the satisfaction of the State Veterinarian. Prior to the workout, a blood sample may be collected by the State Veterinarian and sent to the Board laboratory for testing. After the workout, the State Veterinarian may witness an endoscopic examination of the horse to confirm that it has not bled.

c) Eligibility for Furosemide Treatment

1) A horse is eligible to race with furosemide if at least one of the following occurs:

A) It bleeds internally or externally in the presence of an official veterinarian, or if a veterinarian licensed by the State of Illinois attests in writing that he/she witnessed a bleeding episode. The State Veterinarian will then issue a bleeder certificate and place the horse on the furosemide list. The certification date shall be the day the bleeding episode was witnessed by or reported to the State Veterinarian;

B) A veterinarian licensed by the Board concludes that it will be in the best interest of a horse's health to race with furosemide. The trainer shall submit to the State Veterinarian a certificate signed by the licensed veterinarian requesting approval to place the horse on the furosemide list. The certification date shall be the day the State Veterinarian grants approval. This subsection (c)(1)(B) applies to thoroughbred horses only;

C) The trainer provides the Board or its designee with evidence that the horse bled in another racing jurisdiction. Acceptable evidence shall be a valid bleeder certificate approved by an official veterinarian. The certification date shall be the date shown on the bleeder certificate;

D) The trainer provides the Board or its designee with evidence that the horse has been running consistently, up to its last start, with furosemide in other racing jurisdictions as shown on the official past performance lines. Acceptable past performance lines for thoroughbreds and/or quarter horses shall be Equibase and/or Racing Form. Acceptable past performance lines for harness horses shall be the official past performances of the United States
NOTICE OF ADOPTED AMENDMENT

Trotting Association (USTA) or Canadian Trotting Association (CTA) or the eligibility papers. The certification date shall be the earliest available date the horse shows running with furosemide on the official past performance lines. If the past performance lines of a horse show that the horse has been running on and off furosemide in other racing jurisdictions, the horse shall not be permitted to run with furosemide in Illinois, unless the occasions the horse ran without furosemide were due to rule restrictions imposed on the horse by those particular racing jurisdictions.

2) Signing a Furosemide Certification Affidavit

A) The stewards may permit a horse to be treated with furosemide for one race if the certification described in subsection (c)(1)(A), (B), (C) or (D) is not available at the time the horse must be treated with furosemide. The trainer or his/her representative shall sign a Furosemide Certification Affidavit.

B) Within 10 days after the race, the trainer of the horse shall produce for the stewards or their designee written certification from a state where the horse has bled or a statement in an official chart that the named horse bled following a race or a workout in that state. The certification date must comply with the 14 day requirement specified in subsection (b)(1).

C) Any purse money earned by the horse in the race shall be held during the 10 day period.

D) If the trainer fails to produce the evidence required in subsection (c)(2)(B), or if the certification date does not comply with the 14 day ineligibility period specified in subsection (b)(1), the stewards shall impose a fine of not less than $200 and not more than $1500 and/or suspend the trainer's license and shall redistribute the amount of any purse money earned by the horse.

d) Removal from Furosemide List

1) Once a horse is placed on the furosemide list, it must continue to race with furosemide unless the removal from the list is approved by the stewards. The stewards may remove a horse from the furosemide list upon the
written request of the trainer if the horse's performance is negatively affected by the use of furosemide, or upon the recommendation of the State Veterinarian if a horse has an adverse physiological reaction to furosemide.

2) Once removed from the furosemide list, a thoroughbred horse shall be ineligible to participate in a race for a minimum of 30 days. A harness horse shall be ineligible for a minimum of 14 days. The ineligibility period shall be counted from the day the stewards approve the removal of the horse from the furosemide list. Prior to starting in a race, a horse must participate without furosemide in a qualifying race or perform an official workout without bleeding. Prior to the qualifying race or workout, a blood sample may be collected by the State Veterinarian and sent to the Board laboratory for testing. After the qualifying race or workout, the State Veterinarian may witness an endoscopic examination of the horse to confirm that it has not bled.

e) Administration of Furosemide

1) All horses on the furosemide list must be treated with furosemide in order to be permitted to participate in a race.

2) Furosemide shall be administered between 4 hours and 15 minutes and 3 hours and 45 minutes before post time of the race in which a horse is entered.

3) A Board licensed veterinarian shall administer not less than 150 mg and not more than 250 mg of furosemide intravenously and shall verify the administration on prescribed affidavits before the post time of the first race.

4) The trainer or his/her licensed employee shall witness the furosemide administration.

5) The furosemide administration may take place in the horse's own stall or in a centralized location.

6) For violations of this subsection (e), the stewards shall scratch a horse from the race and the trainer may be fined not less than $200 and not more than $500.
f) Absence of Furosemide
In the event a horse listed on the furosemide list races without furosemide, the horse shall be disqualified and any purse money earned by the horse redistributed. In addition, the stewards may suspend or fine the trainer and/or veterinarian not less than $200 and not more than $1500.

g) Excessive Use of Furosemide

1) The test level for furosemide shall not be in excess of 60 nanograms (ng) per milliliter (ml) of serum or plasma.

2) The first two times the laboratory reports an amount of furosemide between 61 ng-85 ng/ml, inclusive, the trainer shall receive a written warning. For each subsequent overage at this level by the same trainer, the trainer shall be fined no more than $200.

3) The first time the laboratory reports an amount of furosemide between 86 ng-99 ng/ml, inclusive, the trainer shall receive a written warning. For each subsequent overage at this level by the same trainer, the trainer shall be fined no more than $500 and suspended not more than 30 days.

4) In the event a post-race sample contains an amount of furosemide greater than 99 ng/ml, the trainer shall be fined no more than $1000 and suspended not less than 30 days and the purse shall be redistributed.

h) Trainer's Responsibilities for Horses on the Furosemide List

1) The trainer shall be responsible for:

A) providing the racing office at the time of entry with accurate information regarding the use of furosemide on horses he/she enters to race;

B) providing the information required for furosemide approval of his/her horses to Board staff coordinating the administration of furosemide;

C) notifying his/her veterinarian of furosemide horses and the date and times for race day treatment;
D) having horses on the furosemide list stabled at the barn and in the stall assigned by the Racing Secretary or his/her designee;

E) posting a "Security Stall" sign on the stalls of his/her horses entered to race (see 11 Ill. Adm. Code 436);

F) ensuring horses are treated with furosemide on race day at the prescribed time, witnessing the administration of furosemide and guarding the horse until the horse is taken to the paddock (see 11 Ill. Adm. Code 436).

2) The stewards may suspend the trainer or assess a fine of no less than $200 and no more than $500 for violation of this subsection (h).

i) Veterinarian's Responsibilities

1) The practicing veterinarian shall be responsible for:

A) administering the proper furosemide medication and dose at the proper time to the proper horse.

B) providing Board staff, upon request, with any documentation related to horses that are stabled on approved facilities and medication samples and/or paraphernalia used to administer any medication to a horse. Samples and/or paraphernalia may be sent to the Board laboratory for testing.

2) The stewards may suspend the veterinarian or assess a fine of no less than $200 and no more than $500 for violations of this subsection (i).

j) Security

1) Each horse racing with furosemide shall be detained in a stall assigned by the Racing Secretary at least 4 hours and 15 minutes before the post time of the race in which it is entered, and shall remain in the stall until taken to the paddock to be saddled or harnessed for the race, except that the stewards may permit horses to leave the "security stall" to engage in exercise blow-outs or warm-up heats.
ILLINOIS RACING BOARD

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2) The barn area is a secure area and shall be under the supervision of the Board.

3) No unauthorized person shall approach the security area. If any unauthorized person does approach the security area, a report of the incident is to be made immediately to one of the State Veterinarians, the stewards or a Board investigator.

4) Board staff may direct a veterinarian to take a blood sample immediately prior to the administration of furosemide to be submitted to the Board's laboratory for analysis.

5) Board staff may collect from a veterinarian the syringe containing any medication about to be administered to a horse for testing at the Board laboratory.

k) This Section shall apply to all horses entering in and competing in race meetings as defined in Section 3.07 of the Act [230 ILCS 5/3.07], as well as all horses shipping in from other racing jurisdictions, domestic or foreign.

(Source: Amended at 28 Ill. Reg. 11253, effective August 1, 2004)
NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Race Track Operators and Their Duties

2) **Code Citation:** 11 Ill. Adm. Code 1305

3) **Section Number:** 1305.320  
   **Adopted Action:** Repealed

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **Effective date of rulemaking:** August 1, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection at the Illinois Racing Board's Central Office, 100 West Randolph, Suite 11-100, Chicago, Illinois, during the hours of 9:00 a.m. and 5:00 p.m.

9) **Notice of Proposal published in Illinois Register:** 28 Ill. Reg. 6025; 4/16/04

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Difference between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and purpose of rulemaking:** This rulemaking is being proposed due to an amendment to Section 20.1 of the Illinois Horse Racing Act that permits racetracks to determine prices charged for good and services.

16) **Information and questions regarding these adopted amendments shall be directed to:**

   Mickey Ezzo
NOTICE OF ADOPTED AMENDMENT

Illinois Racing Board
James Thompson Center
100 W. Randolph St., Suite 11-100
Chicago, Illinois  60601
312/814-5107

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

NOTICE OF ADOPTED AMENDMENT

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

PART 1305
RACE TRACK OPERATORS AND THEIR DUTIES

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1305.340  Lottery Events at Race Tracks
1305.350  Off-Track Betting Agencies of Other States
1305.370  Reporting of Horsemen's Purse Account
1305.380  Notification of Change

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


Section 1305.320 Admissions (Repealed)

No operator shall charge any price for admission to any part of the race track enclosure at which its meeting is conducted or for any goods or services offered for sale by it unless such price has been approved by the Board.

(Source: Repealed at 28 Ill. Reg. 11263, effective August 1, 2004)
# NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Officials of Meeting  

2) **Code Citation:** 11 Ill. Adm. Code 1403  

3) **Section Number:** 1403.10  
   **Adopted Action:** Amended  

4) **Statutory Authority:** 230 ILCS 5/9(b)  

5) **Effective date of rulemaking:** August 1, 2004  

6) **Does this rulemaking contain an automatic repeal date?** No  

7) **Does this rulemaking contain incorporations by reference?** No  

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection at the IRB's Central Office, 100 West Randolph, Suite 11-100, Chicago, Illinois, during the hours of 9:00 a.m. and 5:00 p.m..  

9) **Notice of Proposal published in Illinois Register:** 28 Ill. Reg. 6029; 4/16/04  

10) **Has JCAR issued a Statement of Objection to this amendment?** No  

11) **Difference between proposal and final version:** None  

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes  

13) **Will this rulemaking replace any emergency rulemaking currently in effect?** No  

14) **Are there any amendments pending on this Part?** No  

15) **Summary and Purpose of Rulemaking:** This rulemaking eliminates a requirement, which should have been repealed in 1993, that thoroughbred racetracks provide a physician during racing hours and a nurse during racing and training hours.  

16) **Information and questions regarding this adopted amendment shall be directed to:** Mickey Ezzo
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Illinois Racing Board
James Thompson Center
100 W. Randolph St., Suite 11-100
Chicago, Illinois 60601
312/814-5107

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

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1403
OFFICIALS OF MEETING

Section
1403.10 Designation of Officials
1403.20 Wagering Prohibited
1403.30 Patrol Judges
1403.40 Leaving Employment
1403.60 State Veterinarians Report Examinations
1403.63 Veterinarians' List
1403.66 Reports at Close of Meeting
1403.68 Dental Work on Horse (Repealed)
1403.70 Paddock Judge
1403.74 Inspection of Bandages
1403.77 Ice Bandages
1403.80 Jockey Room Custodian

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


Section 1403.10 Designation of Officials

In addition to the stewards, officials of a race meeting shall include the following: three placing judges, patrol judges (at least three at tracks of one mile or over), clerk of the scales, jockey room custodian, racing secretary, timer, paddock judge, and veterinarians (two of whom shall be appointed by the Board and designated as the state veterinarians), a track physician who shall be on duty at least one hour before post time each day and a nurse who shall be on duty during racing and exercising hours.
ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 28 Ill. Reg. 11267, effective August 1, 2004)
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Retailers' Occupation Tax

2) **Code Citation:** 86 Ill. Adm. Code 130

3) **Section Numbers:**
   - 130.120  Amendment
   - 130.320  Amendment
   - 130.325  Amendment
   - 130.331  Amendment
   - 130.332  Amendment
   - 130.335  Amendment
   - 130.340  Amendment
   - 130.345  Amendment
   - 130.350  Amendment
   - 130.351  Amendment
   - 130.551  Amendment

4) **Statutory Authority:** 35 ILCS 120

5) **Effective date of amendments:** July 21, 2004

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** 28 Ill. Reg. 3753; February 27, 2004

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

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 these amendments replace any emergency amendments currently in effect?** No
DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? Yes

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15) Summary and purpose of amendments: This rulemaking amends the Retailers’ Occupation Tax regulations to reflect the repeal of the Manufacturer’s Purchase Credit and several exemptions. The repealed exemptions include the Graphic Arts Machinery and Equipment Exemption; Automatic Vending Machines Exemption; Pollution Control Facilities Exemption; Oil Field Exploration, Drilling and Production Equipment Exemption; Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment Exemption; and Aggregate Manufacturing Exemption. (P.A. 93-0024) Provisions regarding the prepayment of tax on Motor Fuel and Biodiesel are also included. (P.A. 93-0017 and P.A. 93-0032) Minor date changes are made to Section 130.120 as a matter of clarification.

16) Information and questions regarding these adopted amendments shall be directed to:

Terry D. Charlton
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
217/782-2844

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

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

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SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
b) of real property, such as lands and buildings that are permanently attached to the land;

c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);

d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);

e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);

f) that are isolated or occasional (see Section 130.110 of this Subpart);

g) of newspapers and magazines (see Section 130.2105 of this Part);

h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);

i) that are made to any governmental body (see Section 130.2080 of this Part);

j) through June 30, 2003, of pollution control facilities (see Section 130.335 of this Part);

k) of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of
DEPARTMENT OF REVENUE

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persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part);

l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);

m) of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605);

n) until December 31, 2001 January 1, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, the exemption applies to merchandise in bulk when sold from a vending machine for $.0.50 or less (see 35 ILCS 120/1 and Section 130.2135 of this Part);

o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;

p) of farm chemicals (see Section 130.1955 of this Part);

q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;

r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;

s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].
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1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.

2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;

t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);

u) through June 30, 2003, of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];

v) through June 30, 2003, of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);

w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];

x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);
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y) through June 30, 2003, of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];

z) of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];

aa) of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (aa) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part);

bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);

c) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless the items are transferred as jewelry and therefore subject to tax;

d) through June 30, 2003, of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);

ff) through June 30, 2003, of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);
NOTICE OF ADOPTED AMENDMENTS

kk) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);

hh) of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks,
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waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

kk) of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)];

ll) until June 1, 2000, of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes [35 ILCS 120/2-5(27)];

mm) effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);

nn) effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification
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number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);

oo) of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];

pp) through June 30, 2003, of aggregate exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];

qq) beginning July 20, 1999, game or game birds purchased at:

1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or

3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

rr) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:

1) for the benefit of private home instruction; or

2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the
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purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];

ss) of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. “High impact service facility” means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:

1) will make an investment in a business enterprise project of $100,000,000 or more;

2) will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and

3) is certified by the Department of Commerce and Community Affairs as contractually obligated to meet the requirements specified in subsection (11)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];

tt) of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of
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the Act. [35 ILCS 120/1j.2] The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];

uu) of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, “a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes” means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)] Exemption certifications must be executed by the purchaser. The certificate must include: the seller’s name and address; the purchaser’s name and address; the purchaser’s registration number with the Department, if applicable; the purchaser’s signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee’s sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

vv) of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and
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needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 120/2-5 (36)];

ww) beginning January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)] (See Section 130.332 of this Part.)

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.320  Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel

a) Effective January 1, 1990 and prior to July 1, 2003, sales of "gasohol" (a motor fuel that is no more than 90% gasoline and at least 10% denatured ethanol that contains no more than 1.25% water by weight [35 ILCS 105/3-40] containing at least 10% alcohol which alcohol contains no more than 1.25% water by weight) are subject to tax, based upon 70% of the proceeds of sales. On and after July 1, 2003 and on or before December 31, 2013, tax shall be based upon 80% of proceeds from sales of gasohol. On and after January 1, 2014, tax shall be based upon 100% of the proceeds of sales of gasohol. However, from July 1, 1997 to June 30, 1998, the rate was 85% for gasohol sold in this State during the 12 months beginning July 1 following any calendar year for which the Department determined that the percentages in Section 10 of the Gasohol Fuels Tax Abatement Act were not met. The Gasohol Fuels Tax Abatement Act was repealed effective July 1, 1998. Effective July 1, 2003, if at any time the tax under the Act on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by the Act applies to 100% of the proceeds of sales of gasohol made during that time. (Section 2-10 of the Retailers' Occupation Tax Act (ROTA))

b) With respect to majority blended ethanol fuel, as defined in Section 3-44 of the Use Tax Act, the tax imposed by ROTA does not apply to the proceeds of sales
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made on or after July 1, 2003 and on or before December 31, 2013, but applies to
100% of the proceeds of sales made thereafter. (Section 2-10 of ROTA)

c) With respect to biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by ROTA applies to 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013 and 100% of the proceeds of sales made thereafter. If at any time, however, the tax under ROTA on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by ROTA applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time. (Section 2-10 of ROTA)

d) With respect to 100% biodiesel, as defined in Section 3-41 of the Use Tax Act, and biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013, but applies to 100% of the proceeds of sales made thereafter. (Section 2-10 of ROTA)

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

Section 130.325 Graphic Arts Machinery and Equipment Exemption

a) General. Through June 30, 2003, notwithstanding the fact that sales may be at retail, the Retailers' Occupation Tax does not apply to the sale of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production. Taxpayers must certify the use of the equipment they are purchasing to their suppliers. (See subsection (i) of this Section.)

b) Graphic Arts Production. Provisions effective August 13, 1999 through June 30, 2003:

1) Graphic arts production has the following meanings and applications:

A) Graphic arts production means printing, including ink jet printing, by one or more of the processes described in Groups 323110
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through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System ("NAICS") published by the U.S. Office of Management and Budget, 1997 edition (no subsequent amendments or editions are included). Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audio-books. (Section 2-30 of the Act)

Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 include printing upon apparel and textile products, paper, metal, glass, plastics, and other materials except fabric (grey goods). Printing upon grey goods is part of the process of finishing fabric and is included in the NAICS Textile Mills subsector in Industry 31331, Textile and Fabric Finishing Mills.

B) The North American Industry Classification System referenced in subsection (b)(1) can be obtained from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (Phone: 1-800-553-6847). The Department also maintains a copy of this information, which may be obtained upon request and at cost, from the Legal Services Office, 5-500, 101 West Jefferson Street, Springfield, Illinois 62794.

C) The exemption applies to machinery and equipment used in graphic arts production processes, as those processes are described in the NAICS. While the NAICS subsectors referenced in subsection (b)(1)(A) describe types of graphic arts establishments that typically engage in graphic arts production, the exemption is not limited to qualifying machinery and equipment used by the establishments described in the NAICS, but rather, to qualifying machinery and equipment used in the printing processes described in the NAICS (for example, lithography, gravure, flexography, screen printing, quick printing, digital printing and trade services such as prepress and binding and finishing services). The tangible personal property produced by graphic arts production need not be sold at retail in order for the exemption to apply. For instance, a company's purchase of qualifying graphic arts equipment used to
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produce its own printed materials qualifies for the exemption, even though the company is not in the business of selling printed materials at retail.

D) The exemption includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick, and digital printing. It also includes the printing of manifold business forms, blankbooks, looseleaf binders, books, periodicals and newspapers. Included in the exemption are prepress services described in Subsector 323122 of the NAICS (e.g., the creation and preparation of negative or positive film from which plates are produced, plate production, cylinder engraving, typesetting and imagesetting). The exemption also includes trade binding and related printing support activities set forth in Subsector 323121 of the NAICS (e.g., tradebinding, sample mounting and postpress services, such as book or paper bronzing, edging, embossing, folding, gilding, gluing, die cutting, finishing, tabbing and indexing).

E) "Digital printing and quick printing" mean the printing of graphical text or images by a process utilizing digital technology, as provided in subsection (b)(4) of this Section. It also includes the printing of what is commonly known as "digital photography" (e.g., use of a qualifying integrated computer and printer system to print a digital image). The exemption extends only to machinery and equipment, including repair and replacement parts, used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.

2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery. Beginning August 23, 2001, equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.
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A) The exemption does not include hand tools, supplies such as rags, lubricants, adhesives, solvents, ink, dyes, chemicals except as described in this subsection (b)(2), negatives, acids or solutions, fuels, electricity and steam or water. The exemption also does not include items of personal apparel, such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks.

B) This exemption does not include the sale of materials to a purchaser who manufactures those materials into an otherwise exempted type of graphic arts machinery or equipment.

C) Machinery and equipment does not include foundations or special purpose buildings to house or support graphic arts machinery and equipment.

D) Machinery and equipment does not include computer software unless purchased preinstalled in qualifying computer equipment. Computer software not purchased preinstalled in qualifying computer equipment, including upgrades or new software, is subject to tax.

3) Primary Use. The law requires that machinery and equipment be used primarily in graphic arts production.

A) Therefore, machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify for the exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the exemption.

B) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.

4) By way of illustration and not limitation, the following activities will generally be considered graphic arts production:

A) Prepress or preliminary processes. Prepress or preliminary
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processes include the steps required to transform an original into a state that is ready for reproduction by printing. Prepress or preliminary processes include typesetting, film production, color separation, final photocomposition (e.g., image assembly and imposition (stripping)), and platemaking. Prepress or preliminary processes include the manipulation of images or text in preparation for printing for the purpose of conforming those images to the specific requirements of the printing process being utilized. For example, the images must be conformed for a specific signature layout and formatted to a specific paper size. In addition, colors must be calibrated to the specific type of paper or printing process utilized, so that they conform to customer specifications. Prepress or preliminary processes do not, however, include the creation or artistic enhancement of images that will later be reproduced in printed form by a graphic arts process. For example, the creation of an advertisement pursuant to customer direction, or enhancement of a photograph received from a customer by adding a border, text or rearranging the placement of images in the photograph, is not the performance of a qualifying prepress or preliminary process. Prepress or preliminary processes can be performed at the printing facility, a separate prepress or preliminary facility, the customer's location, or other location. The following are examples of equipment used in qualifying prepress or preliminary activities:

i) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates; film processors; scanners; imposeters; RIP (raster image processor) equipment; proofing equipment; imagesetters, plate processors, helioklischographs and computer-to-plate and computer-to-press equipment.

ii) Computers that qualify include computers used primarily to receive, store and manipulate images to conform them to the requirements of a specific printing process that will later be performed. Computers used in connection with what is commonly referred to as "digital photography" will qualify if used primarily to format the graphic image that will be printed (e.g., used to format the size and layout of images to be printed). If such computers are primarily
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used, however, to apply background colors, borders or other artistic enhancements, or to view and select particular digital images to be printed, they will not qualify for the exemption.

iii) Digital cameras do not qualify if they are used primarily to create an original image that will later be reproduced by a graphic arts process.

iv) Servers used primarily to transfer images and text to qualifying equipment qualify, but do not qualify if used primarily in a non-exempt activity (for example, servers used to maintain an in-house email system).

v) Scanners used primarily to input previously created images or text that will be reproduced by a graphic arts process qualify for the exemption.

B) The transfer of images or text from computers, plates, cylinders or blankets to paper or other stock to be printed. This process begins when paper is introduced on the press. Examples of qualifying equipment used in this activity include printing plates, printing presses, blankets and rollers, automatic blanket washers, scorers and dies, folders, punchers, stackers, strappers used in the pressroom for signatures, dryers, chillers and cooling towers. Laser or ink jet printers used to print on paper or other stock are also included in this exemption.

i) Equipment used to handle or convey printed materials between production stations in an integrated on-line graphic arts process is included in the exemption (e.g., a forklift or bindery cart will qualify for the exemption if it is primarily used to convey book covers that have been printed and cut to binding and finishing equipment).

ii) Computer equipment used to operate exempt graphic arts equipment also qualifies for the exemption.

iii) Equipment, such as transformers, used primarily to provide power to qualifying printing presses or bindery lines,
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qualifies for the exemption. Similarly, heating and cooling machinery or equipment used to produce an environment necessary for the production of printed material qualifies for the exemption. For example, humidity-control equipment used to reduce static during the printing process qualifies for the exemption.

C) Activities involving the binding, collating or finishing of the graphic arts product. Equipment used in these activities includes, for instance, binders, packers, gatherers, joggers, trimmers, selectronic equipment, blow-in card feeders, inserters, stitchers, gluers, spiral binders, addressing machines, labelers and ink-jet printers.

i) Machinery or equipment used to convey materials to packaging areas after the graphic arts product has been printed, bound and finished qualifies for the exemption. Such equipment includes, for instance, conveyor systems, hoists or other conveyance mechanisms used to direct the final printed product into packaging areas.

ii) Machinery or equipment used to package materials after the graphic arts product has been printed, bound and finished qualifies for the exemption. Such packaging equipment includes, for instance, cartoning systems, palletizers, stretch wrappers, strappers, shrink tunnels and similar equipment.

5) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:

A) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment. This includes hand tools, welding tools, racks, and other machinery and equipment used in the maintenance area.

B) The use of machinery and equipment (e.g., fork lifts, roll clamps and roll grabbers) to convey raw materials to the press does not qualify for the exemption.

C) The use of machinery or equipment to convey materials to final
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storage or shipping areas. Such equipment includes, for instance, fork lifts used primarily to place the packaged printed product into final storage or shipping areas.

D) The use of machinery or equipment to gather information, track jobs or to perform data-related functions prior to a qualifying prepress activity (e.g., computers used primarily to edit or create text, data, or other copy). Such equipment includes items such as inventory tracking devices and bar-code readers.

E) The use of machinery or equipment to photocopy printed matter. A copier that is capable of printing images or text transmitted to it in digital form will qualify. However, a copier that produces photocopies by means of xerographic technology is subject to tax.

F) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, marketing, or personnel recruitment, selection or training. Waste disposal equipment (e.g., equipment used to contain and recapture paper dust) does not qualify for the exemption. However, for information regarding the pollution control exemption, see Section 130.335 of this Part. Similarly, baling equipment used to recycle paper waste does not qualify under this exemption. However, the manufacturing machinery and equipment exemption may be applicable. (See Section 130.330 of this Part.)

G) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, respirators, first-aid kits, gloves, coveralls and goggles, or for safety, accident protection or first-aid, even though that machinery or equipment may be required by federal, State or local law.

H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, except when the machinery or equipment is used to produce an environment necessary for the production of printed material.

6) An item of machinery or equipment that initially is used primarily in
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graphic arts production and having been so used for less than one-half of the useful life and is converted to primarily nonexempt uses will become subject to the tax at the time of the conversion. The tax will be collected on that portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

7) Sales to Lessors of Graphic Arts Equipment. The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease that machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude these sales from his taxable gross receipts provided that the purchaser-lessee provides to him a properly completed exemption certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.

8) Exemption Certification. Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain the certificates in their books and records. The use of blanket certificates of exemption will be permitted. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production. So long as the retailer obtains a certificate of exemption that contains all the information required in this subsection (b)(8), the retailer need not verify that the equipment he sells is actually used as graphic arts production equipment. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return.

c) Graphic Arts Production. Provisions in effect until August 13, 1999:

1) Graphic arts production means printing by one or more of the common processes or graphic arts production services as those processes and
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services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual. (Section 2-30 of the Act) The exemption includes printing by letterpress, lithography, gravure, screen, engraving and flexography and includes such printing trade services as typesetting, negative production, plate production, bookbinding, finishing, looseleaf binder production and other services set forth in Major Group 27. The exemption extends only to machinery and equipment used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.

2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment or parts of machinery. The exemption does not include hand tools, supplies, lubricants, adhesives or solvents, ink, chemicals, dyes, acids or solutions, fuels, electricity, steam or water, items of personal apparel such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks, or such items as negatives, one-time use printing plates as opposed to multiple use cylinders or lithographic plates, dies, etc. which are expendable supplies. This exemption does not include the sale of materials to a purchaser who manufactures such materials into an otherwise exempted type of graphic arts machinery or equipment.

3) Machinery and equipment does not include foundations for or special purpose buildings to house or support graphic arts machinery and equipment.

4) Primary Use.

A) The law requires that machinery and equipment be used primarily in graphic arts production. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner, would qualify for the exemption. However, the purchaser must be able to establish adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the deduction.
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B) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.

C) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:

i) Machinery and equipment to directly produce typesetting, negatives and plates including final photo-composition and color separation processes.

ii) The use of machinery and equipment to transfer images or text from type or plates or image carriers to paper or other stock to be printed.

iii) Equipment to collate, bind or finish the graphic arts product covered in subsection (c)(2), above.

iv) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates.

D) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:

i) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment.

ii) The use of machinery or equipment to store, convey, handle or transport materials.

iii) The use of machinery or equipment to place the printed product in the container package or wrapping in which such property is normally sold to the ultimate consumer thereof.

iv) The use of machinery or equipment to gather information, photograph, transmit data, edit text, prepare drafts or copy
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or perform other date-related functions prior to final composition, typesetting, engraving or other preparation of the image carrier.

v) Xerographic or photocopying machines do not qualify for the exemption.

vi) Word processing, text editing machinery or computerized equipment unless it is an integral part of a final graphic arts operation such as a computer-controlled typesetting machine or equivalent that is used primarily in graphic arts production.

vii) Computers used to store data and generate text, maps, graphs or other print-out formats unless the product is an image carrier to be used to repetitively transfer images by printing. For example, a computer which generates an image which may later be reproduced by a graphic arts process would not qualify while a computer-controlled engraving system which produces printing cylinders and computer-controlled digital typesetting equipment would qualify.

viii) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including disposal of waste, inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training.

ix) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, gloves, coveralls and goggles or for safety, accident protection or first-aid even though such machinery or equipment may be required by law.

x) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination.
E) An item of machinery or equipment which initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses, will become subject to the tax at the time of the conversion. Such tax will be collected on such portion of the purchase price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

5) Sales to Lessors of Graphic Arts Equipment.
The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease such machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided that the purchaser-lessee provides to him a properly completed exemption certificate and the information contained therein would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.

6) Exemption Certification.
Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain such certificates in their books and records. The use of blanket certificates of exemption will be permitted. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production.

7) For the purpose of determining the portion of the proceeds or cost which may be excluded from tax, a sale of property will be deemed to be made as of the date of delivery of such property. If a single sale of property is made which calls for multiple deliveries unrelated to payments and a portion of the sold property is delivered when one fraction of the proceeds
or cost is excludable and the remainder of the property is delivered when a different fraction of the proceeds or cost is excludable, the earliest date of delivery of any of the property will determine the portion of the proceeds or cost of the entire sale which may be excluded in computing the tax which is due on that entire sale. However, even when a contract provides for multiple deliveries, if a payment is closely related in time and quantity to the property delivered, the date of each delivery will determine the portion of the proceeds or cost which may be excluded in computing the tax that is due on that payment.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

**Section 130.331 Manufacturer's Purchase Credit**

a) Earning Manufacturer's Purchase Credit

1) Effective January 1, 1995 through June 30, 2003, a manufacturer may earn a credit when purchasing exempt manufacturing machinery and equipment. Effective July 1, 1996 through June 30, 2003, a graphic arts producer may earn a credit when purchasing exempt graphic arts machinery and equipment. The credit is known as the Manufacturer's Purchase Credit or MPC. The amount of credit is limited to a percentage of the 6.25% State rate of tax that would have been incurred on the purchase of exempt manufacturing machinery and equipment. (See Section 130.325 and Section 130.330 of this Part.)

2) The percentage of credit earned based upon exempt purchases increases over time as follows:

A) 15% for purchases made on or before June 30, 1995.

B) 25% for purchases made after June 30, 1995, and on or before June 30, 1996.

C) 40% for purchases made after June 30, 1996, and on or before June 30, 1997.

D) 50% for purchases made on or after July 1, 1997. (Section 3-85 of the Use Tax Act)
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3) The credit is earned at the time qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment is purchased. A qualifying purchase is considered to take place as of the date of invoice of that qualifying manufacturing machinery and equipment. The credit is considered to be earned on qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment that is purchased under an installment contract or progress payment contract at the time that each installment or progress payment is invoiced. The amount of credit that is earned is based on the amount of tax that would have been due on that portion of the purchase price that is invoiced.

4) No credit is earned for exempt purchases under the expanded Enterprise Zone exemption, as described in Section 130.1951 (b) of this Part, unless that purchase would also qualify as exempt under the Manufacturing Machinery and Equipment Exemption described in Section 130.330 of this Part or under the Graphic Arts Machinery and Equipment Exemption described in Section 130.325 of this Part.

5) No credit is earned for a purchase of tangible personal property that qualifies as an occasional sale, as described in Section 130.110 (a) of this Part.

6) No credit is earned for a purchase of tangible personal property that is purchased for resale. (See Section 130.210 (a) of this Part.)

b) Using Manufacturer's Purchase Credit

1) The credit may be used to satisfy Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act [35 ILCS 105/3-85] and Section 3-70 of the Service Use Tax Act [35 ILCS 110/3-70].) The credit cannot be used after September 30, 2003. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act) The credit may be applied only to the 6.25% State rate of tax incurred. Prior to the credit being earned, credit may not be used on a qualifying purchase, except as provided in subsection (e)(7)(B) below. However, the credit may be used the same day that it is earned, but must be followed by proper reporting of the credit as set out in subsections (c), (d), and (e) below. For purposes of when to use accumulated Manufacturer's Purchase Credit, a manufacturer
or graphic arts producer is always safe to use the credit in a month after
the month in which the credit was earned.

2) The credit is non-transferable and may not be used to satisfy the tax
liability of any taxpayer other than the manufacturer or graphic arts
producer that earned the credit. **Notwithstanding any other provision of
this Section, the credit cannot be used after September 30, 2003. (Section
3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)**

A) A manufacturer or graphic arts producer may enter into a written
contract with a construction contractor to authorize that
construction contractor to utilize Manufacturer's Purchase Credit
accumulated by the manufacturer or graphic arts producer for the
purchase of tangible personal property to be installed into real
estate within a manufacturing or graphic arts production facility for
use in a production related process. The written contract must
specify the specific dollar amount of Manufacturer's Purchase
Credit that the construction contractor is authorized to utilize on
behalf of the manufacturer or graphic arts producer.

B) To properly utilize the Manufacturer's Purchase Credit on behalf of
the manufacturer or graphic arts producer when purchasing
tangible personal property for installation into real estate within a
manufacturing or graphic arts production facility for use in a
production related process, the contractor must furnish the supplier
with information stating:

i) The manufacturer's or graphic arts producer's name and
address;

ii) The manufacturer's or graphic arts producer's registration or
resale number; and

iii) A statement that a specific amount of Use Tax or Service
Use Tax liability, not to exceed 6.25% of the selling price,
is being satisfied with the Manufacturer's Purchase Credit.

C) To properly utilize the Manufacturer's Purchase Credit on behalf of
the manufacturer or graphic arts producer when purchasing
tangible personal property for installation into real estate within a
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manufacturing facility, the contractor must furnish the manufacturer or graphic arts producer with information stating:

i) Each vendor's or supplier's name and address (including, if applicable, either the vendor's or supplier's registration number or Federal Employer Identification Number);

ii) The date of purchase, purchase price, and description of the tangible personal property purchased; and

iii) The amount of the Use Tax or Service Use Tax liability, not to exceed 6.25% of the selling price, that was satisfied by the Manufacturer's Purchase Credit utilized for each purchase.

D) A credit reported under a particular Illinois Business Tax number may not be transferred to a related but separately registered division or company.

3) Production related tangible personal property means:

A) All tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place.

B) All tangible personal property used or consumed in a production related process by a graphic arts producer in a graphic arts production facility in which a graphic arts production process described in Section 2-30 of the Retailers' Occupation Tax Act takes place.

C) All tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See Section 3-85 of the Use Tax Act.)

4) By way of illustration and not limitation, the following uses of tangible personal property will be considered production related:
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A) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a manufacturing facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.

B) Supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners and adhesives.

C) Hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility.

D) Tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation.

E) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property. The amount of fuel used in a qualifying manner to rotate the drum may be stated as a percentage of the entire amount of fuel used or consumed by the ready-mix truck.

F) Tangible personal property purchased by a graphic arts producer for incorporation into real estate within a graphic arts production facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a graphic arts production facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.

G) Supplies and consumables used in a graphic arts production facility, including solvents, oils, lubricants, cleaners and adhesives. Paper and ink that is transferred to a customer does not qualify as
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production related tangible personal property.

H) Hand tools, protective apparel, and fire and safety equipment used or consumed in a graphic arts production facility.

I) Tangible personal property used or consumed inside a graphic arts facility for purposes of preliminary or pre-press production, pre-production material handling, receiving, quality control, inventory control, storage, staging, sorting, labeling, mailing, tying, wrapping, and packaging.

5) By way of illustration and not limitation, the following uses of property will not be considered production related:

A) The use of trucks, trailers, and motor vehicles which are required to be titled or registered pursuant to the Illinois Motor Vehicle Code [625 ILCS 5], and aircraft or watercraft required to be registered with an agency of State or federal government.

B) Office supplies, computers, desks, copiers and equipment which are used for sales, purchasing, accounting, fiscal management, marketing and personnel recruitment or selection activities, even if such use takes place within a manufacturing or graphic arts production facility.

C) Tangible personal property used or consumed for aesthetic or decorative purposes, including landscaping and artwork.

D) Tangible personal property used or consumed outside the manufacturing or graphic arts production facility, including tangible personal property listed in subsections (b)(4)(D) and (b)(4)(I) above with the exception of tangible personal property used or consumed for research and development purposes.

E) Tangible personal property purchased by a construction contractor for incorporation into a manufacturing or graphic arts production facility, unless such purchase by the construction contractor was made on behalf of a manufacturer or graphic arts producer pursuant to a written contract described in subsection (b)(2)(A) of this Section.
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F) Except as otherwise provided in subsection (b)(2) of this Section, tangible personal property transferred to a manufacturer's customer or the customer of a person that is engaged in graphic arts production. For example, paper and ink transferred to a customer by a de minimis serviceman as described in 86 Ill. Adm. Code 140.108 that is engaged in graphic arts production is not considered production related.

6) The credit may be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability arising under audit where the liability established is the result of:

A) an erroneous claim of the Manufacturing Machinery and Equipment Exemption provided in Section 2-45 of the Retailers' Occupation Tax Act,

B) an erroneous claim of the Graphic Arts Machinery and Equipment Exemption provided in Section 2-5(4) of the Retailers' Occupation Tax Act, or

C) the manufacturer or graphic arts producer failing to self-assess and remit Use Tax or Service Use Tax on the purchase of production related tangible personal property.

(See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) The credit may only be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. Under no circumstances may the credit be used to satisfy penalty and interest or other tax liability incurred by the manufacturer or graphic arts producer.

7) Credit may be used to satisfy the State portion (6.25%) of a qualifying Use Tax or Service Use Tax liability incurred by a manufacturer or graphic arts producer on a purchase of production related tangible personal property when payment of tax must be made directly to the Department.

8) The credit expires December 31st of the second calendar year following the calendar year in which the credit was earned. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) However, for
credit earned on or after June 30, 1995, the life of unreported credit may be extended during the period of an agreed extension of the statute of limitations as provided in subsection (e)(7) below.

9) A manufacturer or graphic arts producer may use credit to satisfy Service Use Tax liability only when purchasing production related tangible personal property transferred incident to a sale of service.

10) **Notwithstanding any other provision of this Section, the credit cannot be used after September 30, 2003, including to satisfy an audit liability.** (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

**c) Reporting Manufacturer's Purchase Credit Earned or Used for Periods from January 1, 1995 through June 29, 1995**

1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or credit used on a qualifying purchase, the manufacturer must report credit earned to the Department in a timely manner. Failure to report credit earned will result in expiration of the credit as of the date earned.

2) On forms prescribed or approved by the Department, a manufacturer must report credit earned or used by the last day of the second month following the month of creation or use of the credit. No credit report is required for any month in which a manufacturer neither earned nor used credit. Original invoices or copies of original invoices are not to be filed with the Department.

3) Credit Use or Misuse Causing Expiration of Credit. Credit used, whether properly or improperly, expires upon use and cannot be recreated once used. The manufacturer may be liable for tax, penalty and interest on the purchase of production related tangible personal property where expired credit was used, in accordance with provisions of the Uniform Penalty and Interest Act [35 ILCS 735]. The following represent examples of uses of credit that will result in expiration of the credit:

   A) Failure to report credit or use of credit.
   
   B) Failure to timely report credit or use of credit.
C) Use of credit prior to actually earning credit as described in subsection (a)(3) above.

D) Return of goods to supplier for full refund including tax where credit was tendered in payment of tax. Credit expires once used and cannot be recreated once used regardless of reason for return.

4) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:

A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment; and

C) The amount of Manufacturer's Purchase Credit earned on that purchase.

5) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:

A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

B) The date of purchase, purchase price, and description of the production related tangible personal property; and

C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.

6) As determined pursuant to audit by the Department, credit earned by
purchase of exempt machinery and equipment that has not been timely and properly reported will result in expiration of the credit. Use of expired credit in this situation may result in an assessment for tax, penalty and interest on the subsequent purchase of production related tangible personal property. Credit that was properly reported when earned but was not timely and properly reported to the Department when used will likewise expire resulting in an assessment for tax, penalty and interest on the purchase of production related tangible personal property for which it was offered in payment of Use Tax or Service Use Tax liability.

d) Reporting Manufacturer's Purchase Credit Earned or Used on June 30, 1995

1) The reporting requirements for Manufacturer's Purchase Credit were changed by Public Act 89-89, effective June 30, 1995. In order to provide consistent and easier reporting requirements for manufacturers utilizing Manufacturer's Purchase Credit and the Department's Administration of the Manufacturer's Purchase Credit program, manufacturers are required to report Manufacturer's Purchase Credit earned or used on June 30, 1995, under the methods described in subsection (c) of this Section. However, the Manufacturer's Purchase Credit earned or used on that date will be subject to the provisions described in subsection (e) of this Section without the necessity of including those Manufacturer's Purchase Credits in an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used.

2) A manufacturer filing an amended Annual Manufacturer's Purchase Credit Report under subsection (e)(7) of this Section that includes Manufacturer's Purchase Credit earned or used on June 30, 1995 must disclose that such report includes Manufacturer's Purchase Credit earned or used on June 30, 1995.

e) Reporting Manufacturer's Purchase Credit Earned or Used for Periods on or after July 1, 1995

1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or exempt graphic arts machinery and equipment, the manufacturer or graphic arts producer must report credit earned to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Earned for each calendar year no later than the last day of the sixth month following the calendar year in
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which the Manufacturer's Purchase Credit is earned. The Annual Report of Manufacturer's Purchase Credit Earned shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:

A) The total purchase price of all purchases of exempt manufacturing machinery and equipment or graphic arts machinery and equipment on which the credit was earned;

B) The total State Use Tax or Service Use Tax which would have been due on those items;

C) The percentage used to calculate the amount of credit earned;

D) The amount of credit earned; and

E) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)

2) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment and graphic arts machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:

A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment and graphic arts machinery and equipment; and

C) The amount of Manufacturer's Purchase Credit earned on that purchase.

3) In order to validate credit used to satisfy the tax liability on purchases of production related tangible personal property, the manufacturer or graphic arts producer must report credit used to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Used for each calendar year no later than the last day of the sixth month following the
calendar year in which the Manufacturer's Purchase Credit is used. The Annual Report of Manufacturer's Purchase Credit Used shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:

A) The total purchase price of all production related tangible personal property purchased from Illinois vendors or suppliers;

B) The total purchase price of all production related tangible personal property purchased from out-of-State vendors or suppliers;

C) The total amount of Manufacturer's Purchase Credit used during each month; and

D) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)

4) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:

A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

B) The date of purchase, purchase price, and description of the production related tangible personal property; and

C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.

5) No Annual Report of Manufacturer's Purchase Credit Earned or Annual Report of Manufacturer's Purchase Credit Used may be filed with the Department before May 1, 1996 or after June 30, 2004. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

6) A purchaser that fails to properly file an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase
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Credit Used with the Department by the last day of the sixth month following the end of the calendar year forfeits all Manufacturer's Purchase Credit earned or used for that calendar year, unless the purchaser establishes that the purchaser's failure to file was due to reasonable cause. The reasonable cause provisions of this subsection (e)(6) do not apply after June 30, 2004.

7) Annual Manufacturer's Purchase Credit reports may be amended to report and claim credit on qualifying purchases of manufacturing machinery and equipment and graphic arts machinery and equipment not previously reported at any time before the credit would have expired, unless both the Department and the purchaser have agreed to an extension of the statute of limitations for the issuance of a Notice of Tax Liability as provided in Section 4 of the Retailers' Occupation Tax Act. However, such an agreed extension will not restore a credit that has previously been reported and has expired prior to the agreed extension. Manufacturer's Purchase Credit that had not been previously reported and is included in an amended Annual Report submitted as a result of such an agreed extension will expire as provided in subsection (b)(8) of this Section or at the end of the agreed extension period, whichever is longer. If the time for assessment or refund has been extended by agreement, amended reports for a calendar year may be filed at any time prior to the date to which the statute of limitations for the calendar year or portion thereof has been extended. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act) Manufacturer's Purchase Credit claimed on an amended report may be used to satisfy tax liability under the Use Tax Act or the Service Use Tax Act on:

A) Qualifying purchases of production related tangible personal property made after the date the amended report is filed;

B) Amounts assessed by the Department on purchases made on or after January 1, 1995 of machinery and equipment that did not qualify for the exemption described in Section 130.330 of this Part, but would have qualified as production related tangible personal
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property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability; or

C) Amounts assessed by the Department on purchases made on or after July 1, 1996 of machinery and equipment that did not qualify for the exemption described in Section 130.325 of this Part, but would have qualified as production related tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability.

8) A purchaser who used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability incurred on the purchase of property that is later determined not to qualify as production related tangible personal property may be liable for tax, penalty, and interest on the purchase of that property as of the date of the purchase. However, the purchaser is entitled to use such disallowed Manufacturer's Purchase Credit, so long as it has not expired, on qualifying purchases of production related tangible personal property not previously subject to credit usage.

9) Notwithstanding any other provision of this Section, the credit cannot be used after September 30, 2003, including to satisfy an audit liability. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

f) Retailers or Servicemen Accepting Manufacturer's Purchase Credit

1) In order to accept Manufacturer's Purchase Credit from a manufacturer or graphic arts producer, the supplier or serviceman must obtain a Manufacturer's Purchase Credit certificate from the manufacturer or graphic arts producer unless the manufacturer or graphic arts producer has incorporated its certification into the manufacturer's or graphic arts producer's purchase order as described below. The manufacturer or graphic arts producer may provide the certification on a form provided by the Department or on the manufacturer's or graphic arts producer's own form containing the appropriate information. The certificate must be kept in the supplier's or serviceman's books and records, but need not be
submitted to the Department with the supplier's or serviceman's return. A Manufacturer's Purchase Credit certificate must contain the following information:

A) A signed statement that the manufacturer or graphic arts producer is using available accumulated Manufacturer's Purchase Credit to satisfy all or part of the 6.25% portion of Use Tax or Service Use Tax liability incurred on a qualifying purchase of production related tangible personal property;

B) The manufacturer's or graphic arts producer's name and address;

C) The manufacturer's or graphic arts producer's registration number, if registered;

D) The date of purchase of the production related tangible personal property; and

E) The credit being used. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

2) A manufacturer or graphic arts producer may incorporate the Manufacturer's Purchase Credit certification into the manufacturer's or graphic arts producer's purchase order if all of the required information is contained within that purchase order.

3) Manufacturer's Purchase Credit accepted by the supplier or serviceman may be used by the supplier or serviceman to pay its liability incurred under the Retailers' Occupation Tax Act or Service Occupation Tax Act, so long as the supplier or serviceman complies with the following:

A) The supplier or serviceman may not accept credit in excess of 6.25% of the purchase price of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

B) The supplier or serviceman must properly report the credit to the Department in order to use the credit to pay Retailers' Occupation Tax or Service Occupation Tax liability. The Manufacturer's Purchase Credit (MPC) does not create an exemption or an
authorized deduction. The MPC is a means for the supplier or serviceman to pay Retailers' Occupation Tax or Service Occupation Tax, as the case may be. Therefore, the receipts from transactions in which customers have provided MPC cannot be deducted from the gross receipts reported on the Sales and Use Tax Return (Form ST-1). Receipts from transactions in which customers have provided MPC must be included in gross receipts subject to tax reported on line 1 and line 3 of the return. The resulting tax on those gross receipts can then be paid by using the credit on line 16a of the return.

4) Notwithstanding any other provision of this Section, the credit cannot be used after September 30, 2003. Manufacturer's Purchase Credit reported on any original or amended return after October 20, 2003 will be disallowed. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

g) Lessors Earning and Using Manufacturer's Purchase Credit

1) A lessor leasing exempt manufacturing machinery and equipment to a manufacturer or graphic arts machinery and equipment to a graphic arts producer may earn Manufacturer's Purchase Credit when purchasing such machinery and equipment, in the same manner as a manufacturer or graphic arts producer.

2) A lessor leasing qualifying production related tangible personal property to a manufacturer or graphic arts producer may use Manufacturer's Purchase Credit when purchasing such qualifying property in the same manner as a manufacturer or graphic arts producer. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

3) A lessor of exempt machinery and equipment and qualifying production related tangible personal property must report the accumulation and use of credit in the same manner as required for manufacturers or graphic arts producers.

4) Since the Manufacturer's Purchase Credit is a non-transferable credit, a lessor may not use credit earned by a lessee, nor may a lessor transfer credit it has earned to a lessee.
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5) Notwithstanding any other provision of this Section, the credit cannot be earned after June 30, 2003 and cannot be used after September 30, 2003. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

h) Retailers or Servicemen Accepting Manufacturer's Purchase Credit After Qualifying Purchases

1) A manufacturer or graphic arts producer that does not provide the certification or purchase order as provided in subsection (f) of this Section to a retailer or serviceman at the time of purchase of production related tangible personal property must pay the appropriate amount of Use Tax or Service Use Tax at that time to the retailer or serviceman. However, retailers and servicemen are not prohibited from accepting Manufacturer's Purchase Credit (MPC) certifications after qualifying sales of production related tangible personal property have taken place. Retailers and servicemen are not required to accept the certifications and are not required to refund the amount of Use Tax or Service Use Tax that was properly paid by the manufacturers or graphic arts producers in exchange for the certificates after the sales have taken place. Notwithstanding any other provision of this Section, the credit cannot be used after September 30, 2003. Retailers and servicemen cannot accept MPC certifications for any purchase, including certifications for prior qualifying sales, after September 30, 2003. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

2) Retailers and servicemen that choose to accept MPC certifications from manufacturers and graphic arts producers after qualifying sales of production related tangible personal property have taken place and refund the amount of Use Tax or Service Use Tax that was properly paid by those manufacturers or graphic arts producers must file amended returns or claims for credit or refund as provided in Section 130.1501 of this Part. However, to avoid the potential of retailers and servicemen filing multiple amended returns and claims for credit or refund as provided in Section 130.1501 of this Part, retailers and servicemen may elect to report the acceptance of that MPC on line 16a of the retailers' and servicemen's sales and use tax returns for the period in which those refunds occurred. The retailer's or serviceman's election to report the acceptance of the credit on their current return, in lieu of filing an amended return and claim for credit or refund, does not supersede the applicability of the statute of limitations described in Section
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130.1501(a)(4) of this Part to the claiming of that credit by the retailer or serviceman. Retailers and servicemen may only refund the 6.25% of State Use Tax or Service Use Tax paid by the manufacturers and graphic arts producers. (See subsection (b) of this Section.) Manufacturer's Purchase Credit reported on any original or amended return after October 20, 2003 will be disallowed. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

3) Manufacturers and graphic arts producers who provide MPC certifications to retailers or servicemen after qualifying sales of production related tangible personal property have taken place as provided in this subsection (h) must report the use of the credit on an Annual Report of Manufacturer's Purchase Credit Used for the calendar year in which the certification was provided listing the use of the credit in the month in which the certification is provided. No Annual Report of Manufacturer’s Purchase Credit Used may be filed with the Department after June 30, 2004. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

4) Example: A manufacturer purchased production related tangible personal property from a retailer in June 1999. The manufacturer paid Use Tax to the retailer at the time of purchase. In January 2001, the manufacturer asks the retailer to accept an MPC certification for the June 1999 purchase and refund the Use Tax (6.25%) paid previously by the manufacturer. The retailer chooses to accept the certification and refunds the amount of the Use Tax (6.25%) to the manufacturer. The retailer makes the election to report the acceptance of the credit on line 16a of the retailer's January 2001 sales and use tax return (rather than filing an amended return or claim for credit or refund). The manufacturer must report the use of the credit in the month of January on an Annual Report of Manufacturer's Purchase Credit Used for the year 2001.

i) Manufacturers or Graphic Arts Producers Reporting Use of Manufacturer's Purchase Credit After Qualifying Purchases When Use Tax or Service Use Tax Was Already Paid Directly to the Department

1) Manufacturers and graphic arts producers who self-assess Use Tax or Service Use Tax directly to the Department are not prohibited from reporting the use of Manufacturer's Purchase Credit (MPC) after the qualifying purchase of production related tangible personal property when
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those manufacturers or graphic arts producers have already paid the appropriate amount of Use Tax or Service Use Tax directly to the Department. Notwithstanding any other provision of this Section, the credit cannot be used after September 30, 2003. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

2) Manufacturers and graphic arts producers who choose to use MPC as provided in this subsection (i) must file an amended return or claim for credit or refund with the Department as provided in Section 130.1501 of this Part. However, to avoid the potential of manufacturers and graphic arts producers filing multiple amended returns and claims for credit or refund, manufacturers and graphic arts producers may elect to report the use of that credit on line 16a of their current sales and use tax returns. The manufacturer's or graphic arts producer's election to report the acceptance of the credit on the current return, in lieu of filing an amended return and claim for credit or refund, does not supersede the applicability of the statute of limitations described in Section 130.1501(a)(4) of this Part to the claiming of that credit by the manufacturer or graphic arts producer. Manufacturer's Purchase Credit reported on any original or amended return after October 20, 2003 will be disallowed. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

3) Manufacturers and graphic arts producers who report the use of MPC on their current sales and use tax return as provided in this subsection (i) must also report the use of the credit on an Annual Report of Manufacturer's Purchase Credit Used for the calendar year in which the manufacturer's or graphic arts producer's current sales and use tax return falls. No Annual Report of Manufacturer’s Purchase Credit Used may be filed with the Department after June 30, 2004. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

4) Example: A manufacturer, that self assesses Use Tax and Service Use Tax directly to the Department, made a qualifying purchase of production related tangible personal property in August 1999 and paid the Use Tax on that purchase to the Department with the manufacturer's August 1999 return. In January 2001, the manufacturer chose to use currently available MPC to satisfy the Use Tax liability that was incurred on that qualifying purchase back in August 1999. The manufacturer elected to report the use of the MPC on line 16a of the manufacturer's sales and use tax return for the month of January 2001 (rather than filing an amended return or claim
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for credit or refund). The manufacturer must also report the use of that credit in the month of January on an Annual Report of Manufacturer's Purchase Credit Used for the year 2001.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

Section 130.332 Automatic Vending Machines

a) General. Notwithstanding the fact that the sales may be at retail, effective January 1, 2000 and through December 31, 2001, the Retailers' Occupation Tax does not apply to sales of new or used automatic vending machines that prepare and serve hot food and beverages. The exemption also applies to individual replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, the Retailers' Occupation Tax does not apply to sales of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)]

b) Exempt Usage of Vending Machines – January 1, 2000 through December 31, 2001. Between January 1, 2000 and December 31, 2001, this exemption exempts from tax only automatic vending machines used in the preparation and serving of hot food and beverages. For purposes of this exemption, an automatic vending machine is an electrically operated machine into which customers insert U.S. legal tender coinage or paper money to cause a food or beverage item to be dispensed, the temperature of which is heated above the ambient temperature at the time it is removed by the customer. The use of vending machines in any other activity will not qualify for this exemption. The use of vending machines to dispense or serve unheated food or beverage products will not be an exempt use and those machines will be subject to tax. The use of vending machines to sell or dispense any non-food items is not an exempt use and those machines will be subject to tax.

c) Exempt Usage of Vending Machines – On and after January 1, 2002 and through June 30, 2003

1) After December 31, 2001 and through June 30, 2003, the exemption applies to machines and parts for machines used in commercial, coin-operated amusement and vending businesses, so long as the owner, operator or user of the machine incurs a use or occupation tax liability.
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The following are examples of situations in which the tax liability is incurred on machines:

A) Retailers' Occupation Tax is incurred on the sale of tangible personal property through a vending machine.

B) Use Tax liability is incurred on tangible personal property that is awarded as a "prize" resulting from the operation of an amusement machine.

2) For those machines or parts where a use or occupation tax is not incurred, the exemption does not apply to sales of those machines or parts for those machines. For example, a seller does not incur Retailers' Occupation Tax on gross receipts derived from sales of items through bulk vending machines. As a result, sales of bulk vending machines and parts for those machines are subject to tax. (See Section 1 of the Act.)

3) For purposes of this exemption, "parts for machines" includes replacement parts.

d) Restrictions Applicable to All Periods

1) The use of microwave ovens or other devices as units separate and apart from vending machines to heat food or beverages sold by vending machines is not an exempt use and the microwave ovens or other devices will be subject to tax.

2) Constructed foundations or other buildings or structures that support or house vending machines do not qualify for this exemption.

e) Purchaser Certification

1) The purchaser of machines or parts affected by this Section shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. Between January 1, 2000 and December 31, 2001, the certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be a vending machine or replacement part used for the preparation and serving of hot food or beverages. After December 31, 2001, the certificate must include the
seller's name and address, the purchaser's name and address and a statement that the property purchased will be a machine or part used in a commercial, coin-operated amusement or vending business where the owner, operator or user of the machine will incur a use or occupation tax liability. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

2) If all purchases are for qualifying machines or parts as described in this Section, a purchaser may provide a blanket exemption certificate that specifies that all purchases are exempt.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

Section 130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices

a) Through June 30, 2003, notwithstanding the fact that the sales may be at retail, sales of pollution control facilities are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of pollution control facilities by a contractor who retransfers the facilities to his customer in fulfillment of a contract to furnish such pollution control facilities to, and to install them for, his customer. The phrase "pollution control facilities" means any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act [415 ILCS 5], or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property. This exemption includes not only the pollution control equipment itself, but also replacement parts therefor, but does not extend to fuel used in operating any such equipment nor to any other tangible personal property which may be used in some way in connection with such equipment, but which is not an integral part of the equipment itself. If the purchaser or his contractor-installer buys an item that could reasonably qualify for exemption as a pollution control facility for use as a pollution control facility, the purchaser or his contractor-installer should certify this intended use of the item to the seller in order to relieve the seller of the duty of collecting and remitting the tax on the sale, but the purchaser who is buying the item in question allegedly for his use as a pollution control facility will be held liable for the tax by the
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Department if it is found that such purchaser does not use the item as a pollution control facility.

1) Asbestos removal systems. This exemption includes devices, materials, and equipment that are integral component parts of an asbestos removal system if the primary purpose of those items is to eliminate, reduce, or prevent pollution. These items may include, but are not limited to:

A) protective suits or clothing;

B) respirators;

C) gloves and glove bags;

D) filters and vacuum filtration equipment;

E) encapsulate materials;

F) materials, such as plastic sheeting, lumber, and adhesive tape, that are used to construct containment areas or air locks;

G) portable shower units, including water traps and filters, used to decontaminate equipment and personnel;

H) plastic bags used for disposal of asbestos; and

I) wetting agents used to remove asbestos dust from the air.

2) Chemicals used for filtration. This exemption includes any chemical that is primarily utilized for filtration purposes as an integral component of a system for eliminating, reducing, or preventing pollution. Examples of the use of such chemicals include the use of sodium hypochlorite, sodium hydroxide, hydrochloric acid, and nitric acid to filter pollutants in holding tanks and ground limestone mixed with water to remove sulfur dioxide from flue gases.

3) Equipment and materials used at landfills. This exemption includes devices, materials, and equipment that are integral component parts of a landfill operation if the primary purpose of those items is to eliminate, reduce, or prevent pollution. These items may include, but are not limited
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to:

A) membranes and liners;
B) filters;
C) materials used in constructing leachate collection systems;
D) materials used in constructing landfill gas flare and blower systems to combust and treat landfill gases;
E) litter control fences;
F) erosion control materials used to prevent water from entering the landfill site and creating water pollution;
G) sweepers used to remove debris from landfill sites; and
H) bulldozers and excavators that are used to cover waste materials.

4) Pollution control monitoring devices. Pollution control monitoring devices that do not prevent, reduce, or eliminate pollution or treat, pretreat, modify, or dispose of any pollutants do not qualify for the pollution control facilities exemption. However, if the pollution control monitoring devices directly adjust other devices that actually reduce or prevent pollution, the pollution control monitoring devices will qualify for the pollution control facilities exemption.

b) Low Sulfur Dioxide Emission Coal-Fueled Devices

1) Notwithstanding the fact that the sales may be at retail, sales of low sulfur dioxide emission coal-fueled devices are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of such a device, or materials to construct such a device which are physically incorporated into the device, by a contractor who retransfers the device to his customer in fulfillment of a contract to furnish such a device to, and install it for, his customer.

2) Low sulfur dioxide emission coal-fueled devices means any device sold or used or intended for the purpose of burning, combusting or converting
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locally available coal in a manner which eliminates or significantly reduces the need for additional sulfur dioxide abatement that would otherwise be required under State or Federal air emission standards which will be determined by evaluating the output of sulfur dioxide from the device and consultation with the Pollution Control Board to determine if the device meets their standards and could be certified as a low sulfur dioxide emission device. With respect to coal gasification facilities, such devices include all machinery, equipment, structures and related apparatus including coal-feeding equipment designed to convert locally available coal into a low sulfur gaseous fuel and to manage all waste and by-product streams. (Section 1a-1 of the Act)

3) The exemption includes only the device and replacement parts. It does not extend to chemicals, catalysts, additives or fuels used in the combustion or conversion process. For devices which are not a part of a coal gasification facility, the exemption will not apply to buildings in which the device may be located, nor to machinery and equipment which may receive, store or process coal prior to its burning, combustion or conversion, nor to machinery and equipment used to distribute coal products, steam or energy from the process or remove waste products resulting from the process. For devices which are a part of a coal gasification facility, the exemption will include all machinery, equipment, structures and related apparatus including coal-feeding equipment and equipment to manage waste and by-product streams. A device will qualify for the exemption even if it serves an industrial, manufacturing or other purpose which confers an economic benefit on the purchaser or is used for other purposes in addition to the burning, combusting or converting coal.

4) The device must use or be intended to use locally available coal, i.e., coal mined in Illinois.

5) Coal conversion includes a variety of processes which produce coal gas, liquid fuel or solid fuels. It does not encompass coal production or preparation techniques such as washing, crushing or pelletization of coal.

6) The device or the operation in which it is used must be subject to State or Federal emission control standards and must, in its operation, eliminate or significantly reduce the need for supplementary sulfur dioxide abatement that would otherwise be required.
c) Generally, vehicles, such as garbage trucks and refuse hauling trucks, whose primary purpose is to haul garbage from one point to another do not qualify for the pollution control facilities exemption. (See XL Disposal Corporation, Inc. v. Kenneth Zehnder (304 Ill.App.3d 202, 709 N.E.2d 293 (4th Dist. 1999)).) However, escort trucks that are used primarily as part of a system of preventing or reducing potential pollution in the case of a spill by a vehicle transporting pollutants may qualify for the pollution control facilities exemption. (See Beelman Truck Company v. Cosentino (253 Ill.App.3d 420, 624 N.E.2d 454 (5th Dist. 1993)).)

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

**Section 130.340 Rolling Stock**

a) *Notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce.* [35 ILCS 120/2-5(12)]  In addition, *notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire.* [35 ILCS 120/2-5(13)] For example, the exemption may also apply to lessors under leases of less than one year's duration and manufacturers who provide tangible personal property (such as shipping containers) to interstate carriers for hire when those interstate carriers use that property as rolling stock moving in interstate commerce.

b) The term "Rolling Stock" includes the transportation vehicles of any kind of interstate transportation company for hire (railroad, bus line, air line, trucking company, etc.), but not vehicles which are being used by a person to transport its officers, employees, customers or others not for hire (even if they cross State lines) or to transport property which such person owns or is selling and delivering to customers (even if such transportation crosses State lines). Railroad "rolling stock" includes all railroad cars, passenger and freight, and locomotives (including switching locomotives) or mobile power units of every nature for moving such cars, operating on railroad tracks, and includes all property purchased for the purpose of being attached to such cars or locomotives as a part
thereof. The exemption includes some equipment (such as containers called trailers) which are used by interstate carriers for hire, loaded on railroad cars, to transport property, but which do not operate under their own power and are not actually attached to the railroad cars. The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of such vehicles, and that do not participate directly in some way in the transportation process. The exemption does not include property of an interstate carrier for hire used in the company's office, such as furniture, typewriters, office supplies and the like.

c) The rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as to any tangible personal property which it purchases because it does not meet the statutory tests of being an interstate carrier for hire.

d) Except as provided in subsection (g) of this Section, the exemption applies to vehicles used by an interstate carrier for hire, even just between points in Illinois, in transporting, for hire, persons whose journeys or property whose shipments, originate or terminate outside Illinois on other carriers. The exemption cannot be claimed for an interstate carrier's use of vehicles solely between points in Illinois where the journeys of the passengers or the shipments of property neither originate nor terminate outside Illinois.

e) From August 14, 1999 through June 30, 2003, pursuant to Public Act 91-0587, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period. [35 ILCS 120/2-51] The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. The vehicle or trailer must continue to be used in a qualifying manner for each consecutive 12-month period. The Department will apply the provisions of this subsection in determining whether such items qualify for exempt status under this Section for all periods in which liability has not become final or for which the statute of limitations for filing a claim has not
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expired. A liability does not become final until the liability is no longer open to protest, hearing, judicial review, or any other proceeding or action, either before the Department or in any court of this State.

1) If a vehicle or trailer carries persons or property for hire in interstate commerce on 15 or more occasions in the first 12-month period or in a subsequent 12-month period, but then does not carry persons or property for hire in interstate commerce on 15 or more occasions in a subsequent 12-month period, the vehicle, trailer, or any property attached to that vehicle or trailer upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price. For example, if a vehicle was used in a qualifying manner for the first 12-month period, but was not used in a qualifying manner for the second 12-month period, that vehicle will be subject to tax based upon its original purchase price even if it was then used in a qualifying manner in the third 12-month period.

2) For repair or replacement parts to qualify for the rolling stock exemption, the vehicle or trailer upon which those parts are installed must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. For example, if repair parts were attached or incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and the 12-month periods thereafter in order for the parts to continue to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.

3) For vehicles, trailers, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall
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**file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month** [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (e)(3) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when such property is no longer used in a qualifying manner.


A) For example, a vehicle was purchased on January 15, 2000 and titled and registered on that date and was used in a qualifying manner for the first 12-month period ending on January 15, 2001. However, that vehicle was not used in a qualifying manner at anytime thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on June 30, 2003.

B) For example, a vehicle was purchased for lease to an interstate carrier for hire on August 15, 2000 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The qualifying lease ended on November 15, 2001, and the vehicle was no longer used in a qualifying manner. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on December 31, 2003.

f) When the rolling stock exemption may properly be claimed, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is a carrier, the purchaser must include its Interstate Commerce Commission Certificate of Authority number or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an Interstate Commerce Commission Certificate of Authority. In the latter event, the carrier must include its Illinois Commerce Commission Certificate of Registration.
number indicating that it is recognized by the Illinois Commerce Commission as an interstate carrier for hire. If the carrier is a type which is subject to regulation by some Federal Government regulatory agency other than the Interstate Commerce Commission, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser is a long term lessor (under a lease of one year or more in duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire. The giving of such a certification does not preclude the Department from going behind it and disregarding it if, in examining such purchaser's records or activities, the Department finds that the certification was not true as to some fact or facts which show that the purchase was taxable and should not have been certified as being tax exempt. The Department reserves the right to require a copy of the carrier's Interstate Commerce Commission or other Federal Government regulatory agency Certificate of Authority or Illinois Commerce Commission Certificate of Registration (or as much of the certificate as the Department deems adequate to verify the fact that the carrier is an interstate carrier for hire) to be provided whenever the Department deems that to be necessary.

\[g\] Beginning on and after July 1, 2003, Public Act 93-0023 creates a new rolling stock exemption test for motor vehicles, trailers, and repair and replacement parts for motor vehicles and trailers.

1) Motor vehicles:

A) For purposes of this Section, the term “motor vehicle” means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code. Because of the commercial distribution fee sales tax exemption provided in Section 130.341 of this Part, purchasers of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] are exempt from tax regardless of whether those vehicles are used in a manner that qualifies for the rolling stock exemption. All other motor vehicles are subject to the provisions of this Section except that such motor vehicles must meet the following test to qualify as rolling stock instead of the previous test set forth in subsection (e). A motor vehicle must, during a 12 month period, carry persons or property
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for hire in interstate commerce for 51 percent of its total trips to qualify for the exemption. [35 ILCS 120/2-51]

B) Trips by motor vehicles that are only between points in Illinois are not counted as interstate trips when calculating whether the motor vehicle qualifies for the exemption, but such trips are included in the total trips taken within the 12-month period. Such trips that are only between points in Illinois are not counted as interstate trips even if those motor vehicles are transporting, for hire, persons whose journeys or property whose shipments originate or terminate outside of Illinois on other carriers. For an interstate trip to qualify, it must be for hire. However, the total amount of trips taken by a motor vehicle within the 12-month period includes trips for hire and those not for hire. An example of a not for hire trip is when a business uses its truck to transport its own merchandise.

C) Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips taken by that motor vehicle. The Department shall use its best judgment and information to determine the number of trips represented by such mileage. A trip whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip for hire. A trip whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip for hire.

D) Examples of application of the 51% trips test:

Example 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. The carrier continues to Indianapolis, Indiana and delivers part of that property in that city. The truck
then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because it made 3 qualifying trips for hire that terminated or originated outside of Illinois and only one intrastate trip, thereby resulting in a percentage of 75% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that time first 12-month period would also have qualified for the exemption.

Example 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered. The carrier then continues to Gary, Indiana and picks up property for use by that carrier’s business. The carrier then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (g) for that 12-month period because it made no qualifying trips for hire that terminated or originated outside of Illinois.

E) Motor vehicles must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS
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110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).

F) When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (g)(1)(F) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when such property is no longer used in a qualifying manner.

2) Trailers – For purposes of this Section, the term “trailer” means a trailer as defined in Section 1-209 of the Illinois Vehicle Code. The test provided in subsection (g)(1) of this Section does not apply to trailers.

3) Repair and replacement parts for motor vehicles and trailers

A) Repair and replacement parts for motor vehicles – repair and replacement parts purchased on and after July 1, 2003 must meet the test regarding motor vehicles described in subsection (g)(1) of this Section to qualify for the rolling stock exemption.

B) Repair and replacement parts for trailers – repair and replacement parts purchased on and after July 1, 2003 are not subject to the test provided in subsection (g)(1).

4) Application of 51% test to motor vehicles and trailers that are currently in a 12-month period under the 15-trip test
A) Motor vehicles that were subject to the 15-trip test described in subsection (e) prior to July 1, 2003 will remain subject to such 15-trip test for the remainder of their current 12-month period only if the last 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003, then the new 51% test provided in subsection (g)(1) will apply for such 12-month period. Any 12-month period beginning on or after July 1, 2003 is subject to the 51% test provided in subsection (g)(1).

B) Trailers that were subject to the 15-trip test described in subsection (e) prior to July 1, 2003 will remain subject to such 15-trip test for the remainder of their current 12-month period only if the last 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003, then the 15-trip test will no longer apply beginning July 1, 2003.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

Section 130.345 Oil Field Exploration, Drilling and Production Equipment

a) General

1) Notwithstanding any other provision of this Section, the exemption provided in this Section is effective through June 30, 2003. On and after July 1, 2003, the tax applies to sales of new or used oil field exploration, drilling, and production equipment. Prior to June 25, 1996, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of new or used oil field exploration, drilling, and production equipment costing $250 or more, including rigs and parts of rigs; rotary rigs; cable tool rigs; workover rigs; pipe and tubular goods, including casing and drill strings; pumps and pump-jack units; storage tanks and flow lines; any individual replacement part for oil field exploration, drilling, and production equipment, if the replacement part costs in excess of $250; and machinery and equipment purchased for lease; but excluding motor vehicles required to be registered pursuant to the Illinois Vehicle Code. On and after June 25, 1996, the exemption is not conditioned upon the $250 purchase threshold
2) Oil field exploration, drilling and production

A) This exemption applies only to equipment used primarily in oil field exploration, drilling and production. Use of the equipment in any other type of exploration, drilling or mineral production will not be a qualified use and such equipment will be subject to tax. The equipment used in drilling, production or exploration of minerals, coal or water is not a qualified use of such equipment and will be subject to the full rate of tax. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Motor Vehicle Code [625 ILCS 5]. Special mobile equipment other than motor vehicles may qualify for the exemption if they are used primarily in oil field exploration, drilling or production. The exemption does not include supplies (such as drilling mud, well cement, acid, chemicals or explosives), coolants, lubricants, adhesives, solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, gasoline, diesel fuel, refrigerants, water or chemical additives to crude oil.

B) "Oil field exploration" means the search for oil or natural gas. Exploration includes: Seismic studies, core testing and the drilling of test wells (wildcat wells).

C) "Drilling" means the act of boring a hole through which oil or gas may be produced if encountered in commercial quantities.

D) "Production" means the act or process of producing oil or gas.

E) "Drilling rigs" include rotary, cable tool and workover rigs and parts thereof.

F) "Production lease" means the land described in a lease instrument on which drilling for the production of oil or gas occurs.

G) "Pipe and tubular goods" include casing, drill strings, rods and wire rope. Prior to June 25, 1996, "pipe and tubular goods" sold
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by the linear foot qualify for the reduction if the cost of the total length sold in an individual transaction or sale exceeds $250. On and after June 25, 1996, there is no such limitation.

H) "Production equipment" includes gasoline, diesel and electric engines used as a power source, pumps and pump-jack units and parts thereof, storage tanks, flow lines and parts thereof located on the producing lease.

I) "Kits" means kits comprised of several parts which are ordered from a manufacturer, inventoried and sold by a retailer as a single item, and items, such as a pump, which are assembled by the retailer at the time of sale from components selected by the purchaser and which are sold as a unit. Prior to June 25, 1996, kits will be treated as a single item for the purposes of the $250 per individual item limitation. On and after June 25, 1996, there is no such limitation.

b) Nonexempt Illustrations
By way of illustration and not limitation, the following activities will not be considered oil field exploration, drilling, or use of production equipment:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate. Material, such as steel, concrete, rock and other building material, will not qualify for the exemption;

2) the use of equipment in general maintenance or repair work on exploration, drilling or production equipment;

3) the use of equipment in research and development for drilling or oil field production or exploration;

4) the use of equipment off the production lease to store, convey, handle or transport oil;

5) the use of equipment, trailers or structures in management, sales or other nonproduction, nonoperational activities including inventory control, production or drilling scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and
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promotion, personnel recruitment, selection or training;

6) the use of equipment to prevent or fight fires, protective equipment such as face masks, helmets, gloves, coveralls, goggles, gas masks or for safety or accident protection or first-aid, even though such equipment may be required by law;

7) the use of equipment for ventilation, heating or illumination not required by the exploration, drilling or production process.

c) Sales to Lessors of Oil Field Exploration, Drilling and Production Equipment

1) For the exemption to apply, the purchaser need not, himself, employ the equipment in oil field exploration, drilling or production. If the purchaser leases that equipment to a lessee-explorer, driller or producer who uses it in a qualified manner, the sale to the purchaser-lessor will be eligible for the reduced rate of tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessor provides to him a properly completed certificate and the information contained therein would support an exemption if the sale were made directly to the lessee-explorer or driller or producer.

2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it in a manner that would qualify for the reduction, the purchaser-lessor will become liable for the tax which he previously did not pay.

d) Certificates of Qualified Use

Certificates must be executed by the purchaser at the time of purchase. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used for oil field exploration or oil field drilling or as oil field production equipment. Retailers may accept blanket certificates, but have the responsibility to obtain, and must maintain, all certificates as part of their books and records. An item of oil field production, oil field drilling or oil field exploration equipment, which is initially used in oil field production, oil field drilling or oil field exploration and having been so used for less than one-half of its useful life, if converted to nonqualified uses, will become subject to tax at the time of conversion.
Section 130.350  Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. Notwithstanding any other provision of this Section, the exemption provided in this Section is effective through June 30, 2003. On and after July 1, 2003, the tax applies to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. Prior to June 24, 1996, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing $250 or more. The exemption also applies to individual replacement parts for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment when the replacement part costs $250 or more. Equipment and parts sold by the linear foot or similar measurement qualify for the exemption if the cost of the total length sold in an individual transaction or sale exceeds $250. The exemption also applies to equipment and replacement parts costing $250 or more purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. On and after June 24, 1996, the exemption is not conditioned upon the $250 purchase threshold requirement.

1) This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, excavating and drilling to locate coal deposits.
3) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.

4) "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from the processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles.

5) "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

6) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

7) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

8) "Replacement Parts" means parts that are used to replace parts of qualifying equipment and that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment. Prior to June 24, 1996, there is a requirement that such replacement parts cost $250 or more. On and after June 24, 1996, there is no such limitation.

9) "Kits" means commercially-packaged sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. Prior to June 24, 1996, a kit will be treated as a single item for purposes of the $250 per item limitation. The $250 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs $250 or more. On and
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after June 24, 1996, there is no such limitation. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities
By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

1) Coal is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Equipment used to drill holes for blasting material to dislodge the overburden and to transport the blasting material.

B) Equipment used to remove overburden and other waste materials from the pit to be mined.

C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.

D) Pumps and hose used to remove water or to divert water from the active pit area.

E) Equipment used to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

F) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.
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G) Equipment used in grading, refilling and covering over a previously mined pit with the overburden removed from the next pit being mined.

H) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.

I) Equipment used in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).

J) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.

2) Coal is produced in an underground mining operation that begins with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Continuous miners used to bore the shaft, cut the coal and load it into shuttle cars.

B) Shuttle cars used to transport the coal from the continuous miner to the feeder-breaker at the end of a conveyor belt or other transportation system.

C) The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is stockpiled or transported to the processing facility.
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D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.

E) Pumps and hose used to remove water from the underground mine.

F) Equipment used to install roof bolt supports and side rib bolt supports to prevent mine collapse.

G) Equipment used to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.

H) Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and illuminating systems.

I) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures.

J) Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining will be considered as exempt, as long as, prior to June 24, 1996, the addition is valued at $250 or more. On and after June 24, 1996, there is no such limitation.

K) Longwall equipment consisting of shields, shearsers, face conveyors and related equipment.

L) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.

M) Equipment used in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).
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N) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.

O) Roof bolt supports and side rib bolt supports to prevent mine collapse.

3) By way of illustration and not limitation, the following maintenance equipment is exempt:

A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.

B) Lathes, drill presses, air compressors and welders used to work repair parts.

C) Mobile and overhead cranes.

4) By way of illustration and not limitation, the following coal exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:

A) Drill rigs used to drill exploration core holes.

B) Water trucks used in the drilling process.

C) Winch and casing trucks used in the drilling process.

D) Field maintenance trucks used to make repairs on field equipment.

E) Air compressors.

c) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real
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estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;

2) the use of equipment in research and development for new uses of coal;

3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production or extraction scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, personnel recruitment, selection or training;

4) the use of equipment to prevent or fight fires or other mining hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;

5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;

6) facilities for storing coal after extraction and processing;

7) front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers.

d) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption.

A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.
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2) Should a purchaser-lessee subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessee will become liable for the tax which he previously did not pay.

e) Purchaser Certification
Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

Section 130.351 Aggregate Manufacturing

a) General. Through June 30, 2003, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5].

1) "Aggregate" shall mean any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.
2) This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this reduction are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

3) " Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, excavating, dredging, and drilling to locate aggregate deposits.

4) " Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.

5) " Off Highway Hauling" means carrying or transporting and would include transport of overburden or waste material, including byproduct materials from the processing facility for disposal and aggregate from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles.

6) " Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

7) " Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

8) " Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to,
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backfilling, grading, seeding and planting.

9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation equipment.

10) "Kits" means commercially packaged sets of parts that are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

1) Aggregate is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:

A) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.

B) Equipment used to remove overburden and other waste materials from the deposit to be mined.

C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.

D) Pumps, hoses, piping and discharge apparatus, used in the
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movement or removal of water or to divert water from the active mine area.

E) Equipment used to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

F) Equipment used to extract aggregate from the earth.

G) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or aggregate to the processing facility.

H) Equipment used to backfill, grade, seed, plant or otherwise reclaim previously mined land.

I) Crushing, screening and other equipment used to beneficiate and size aggregate products.

J) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing is exempt if the aggregate is ultimately processed for resale and is in fact resold.

K) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.

L) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.

M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.

2) Aggregate is produced in an underground mining operation that begins with creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the
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following equipment is exempt:

A) Equipment used to create access to the aggregate deposit and load aggregate into conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.

B) Conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.

C) The feeder and crusher used to break large pieces of aggregate.

D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.

E) Pumps, hoses, piping and discharge apparatus, used in the movement or removal of water or to divert water from the underground mine area.

F) Equipment used to install roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.

G) Equipment used to coat mine walls with inert material for loose rock safety.

H) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems.

I) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.

J) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.

K) Equipment used for transporting aggregate to above-ground facilities.

L) Tangible personal property used in or for the purpose of
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temporarily storing aggregate before processing if the aggregate is ultimately processed for resale and is in fact resold.

M) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.

N) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.

O) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.

P) Roof bolt supports and side rib bolt supports to prevent mine collapse.

3) By way of illustration and not limitation, the following maintenance equipment is exempt:

A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.

B) Lathes, drill presses, air compressors and welders used to attach repair parts.

C) Mobile and overhead cranes.

D) Equipment used for dust suppression.

4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:

A) Drill rigs used to drill exploration core holes.

B) Water trucks used in the drilling process.

C) Winch and casing trucks used in the drilling process.

D) Field maintenance trucks used to make repairs on field equipment.
E) Air compressors.

c) Nonexempt Activities
By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;

2) the use of equipment in research and development for new uses of aggregate;

3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;

4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;

5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;

6) facilities for storing aggregate after extraction and processing;

7) front-end loaders, cranes and equipment used to load aggregate onto trucks, railcars or barges for delivery to customers.

d) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
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1) For the exemption to apply, the purchaser need not, himself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.

2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessor will become liable for the tax that he previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.

e) Purchaser Certification
Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

SUBPART E: RETURNS

Section 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel

a) Every distributor, supplier or other reseller of motor fuel registered under the Motor Fuel Tax Law shall remit the Retailers' Occupation Tax prepayment due from a person engaged in the business of selling any motor fuel, except liquid
propane gas, at retail and who is not a licensed distributor or supplier, as defined in Section 1.2 or 1.14, respectively, of the Motor Fuel Tax Law [35 ILCS 505/1.2 and 1.14].

b) Before July 1, 2000 and then beginning on January 1, 2001 through June 30, 2003 and thereafter, the Retailers' Occupation Tax paid to such distributor, supplier or other reseller of motor fuel shall be an amount equal to four cents per gallon of the motor fuel, except gasohol as defined in Section 2-10 of the Act which shall be an amount equal to 3 cents per gallon, purchased from such distributor, supplier or other reseller. Beginning on July 1, 2003 and thereafter, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.06 per gallon of the motor fuel; except that, for gasohol as defined in Section 2-10 of the Act, the tax shall be an amount equal to $0.05 per gallon, purchased from the distributor, supplier, or other reseller. Beginning on July 1, 2000 and through December 31, 2000, the Retailers' Occupation Tax paid to such distributor, supplier or other reseller of motor fuel shall be an amount equal to one cent per gallon of the motor fuel and of gasohol as defined in Section 2-10 of the Act.

c) The distributor, supplier or other reseller required to remit such Retailers' Occupation Tax shall file returns and deliver statements of the tax paid in accordance with Sections 2e and 2f of the Act.

d) The vendor's discount provided in Section 3 of the Retailers' Occupation Tax Act shall not apply to the amount of prepaid tax which is remitted to the Department as required by 35 ILCS 120/2d, 2e and 2f.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)
CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

1) **Heading of the Part**: Capitol Development Board Energy Code

2) **Code Citation**: 71 Ill. Adm. Code 600

3) **Section Numbers**
   - 600.100 New Section
   - 600.110 New Section
   - 600.120 New Section
   - 600.130 New Section
   - 600.140 New Section
   - 600.150 New Section
   - 600.160 New Section
   - 600.170 New Section

4) **Statutory Authority**: [20 ILCS 3105/10.09-5] (Public Act 93-190)

5) **Effective Date of Rules**: July 26, 2004

6) **If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire**: This emergency rule has no earlier expiration date specified.

7) **Date filed with the Index Department**: July 26, 2004

8) **A copy of the emergency rule, 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**: The law became effective on January 1, 2004 and needs to be implemented sooner than the general rulemaking process would allow.

10) **A Complete Description of the Subjects and Issues Involved**: The rules implement a statewide energy code for the construction or repair of State facilities, incorporating standards of the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc. (ASHRAE), to provide minimum requirements for energy-efficient design.

11) **Are there any proposed amendments 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 these rules shall be directed to:**
CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

Claire Gibson, Deputy Chief Counsel
Capital Development Board
3rd Floor William G. Stratton Bldg.
Springfield IL 62706
217/782-1392

The full text of the Emergency Rules begins on the next page:
Section 600.100 Purpose and Applicability

a) Purpose

1) The purpose of the Capital Development Board Energy Code is to implement Section 10.09-5 of the Capital Development Board Act [20 ILCS 3105/10.09-5], which requires CDB to adopt rules implementing a statewide Energy Code for the construction or repair of State facilities.
CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

described in Section 4.01. The Energy Code adopted by the Board shall incorporate standards promulgated by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE). In proposing rules, the Board shall consult with the Department of Commerce and Economic Opportunity.

2) This Code is intended to provide minimum requirements for the energy-efficient design of buildings described in Section 4.01 of the Act, e.g., State funded housing, hospitals, penitentiaries, laboratories, educational facilities, administrative facilities, recreational facilities, environmental equipment, parking facilities.

3) This Code, together with the standards incorporated by reference in Section 600.130, has the force of a building code and is administrative law applicable in the State of Illinois.

b) Applicability

1) This Code applies to all State facilities described in Section 4.01 of the Act.

2) This Code is applicable when work involving new construction, alterations, or additions in whole or in part begins after the effective date of this Code.

Section 600.110 Definitions

EMERGENCY

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

"ASHRAE 90.1" means the standards incorporated in Section 600.130, including the cited addenda.

"CDB" means the Illinois Capital Development Board.


"Council" means the CDB Energy Code Advisory Council created by Section 600.120.
"Professional Services Agreement" means the contract for services entered into by CDB and design professionals.

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

Section 600.120  Advisory Council

a) The Executive Director of the Capital Development Board shall appoint a CDB Energy Code Advisory Council. The Council shall be composed of the Executive Director or his or her authorized representative, who shall serve as chairman ex-officio, and 6 additional members appointed by the Executive Director. The appointed members shall consist of 2 licensed architects; 1 licensed mechanical engineer; 1 licensed electrical engineer; and 2 persons representing the construction contracting industry. Members of the Council shall be appointed for 4 year terms. The members appointed by the Executive Director shall serve for the term of their appointments and may be reappointed upon expiration of the term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

b) The Council shall meet as frequently as the Chairman deems necessary, but at least once each year. Additional meetings may be called by the Chairman or by 3 members of the Council upon delivery of 10 days' written notice to the mailing address of each member of the Council. Four members of the Council shall constitute a quorum.

c) The purpose of the Council shall be to consider future modifications to the CDB Energy Code.

Section 600.130  Applicable Standards

b) This incorporation includes the following addenda to ASHRAE 90.1:

<table>
<thead>
<tr>
<th>ADDENDUM</th>
<th>DATE</th>
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<tr>
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<td>2/25/04</td>
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</tbody>
</table>

c) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions, additions or amendments.

d) Modifications to ASHRAE 90.1

ASHRAE 90.1 is incorporated by this Section, but with the following modifications:

1) ASHRAE 90.1 Section 3

Paragraph 3.2: the terms "adopting authority" and "authority having jurisdiction" shall both be read to mean the Capital Development Board.

2) ASHRAE 90.1 Section 6

A) Add the following sentence to the end of paragraph 6.2.5.3.3:

Final trimming of the pump impellers shall be the responsibility of the using agency.

B) Table 6.3.3.1:
CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

Increase all horsepowers shown in the table by .5.

3) ASHRAE 90.1 Section 9

A) Replace Exception to 9.2.1.1 with the following:

Exceptions to 9.2.1.1:

i) Lighting intended for 24-hour operation.

ii) Lighting in patient care areas.

iii) Lighting required for safety or security reasons.

B) Replace Exception to 9.2.1.2 with the following:

Exceptions to 9.2.1.2:

i) Remote location shall be permitted for reasons of safety or security when the remote control device has an indicator pilot light as part of or next to the control device and it shall be clearly labeled to identify the controlled lighting.

ii) Spaces not subject to partial occupancy, such as gymnasiums, cafeterias, lecture halls, etc., shall not be required to have more than one control device.

Section 600.140 Revisions to Code

EMERGENCY

This Code may be revised from time to time by the Capital Development Board as recommended by the Advisory Council and in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

Section 600.150 Compliance

EMERGENCY

a) Compliance with the CDB Energy Code can be attained through either of 2 options, the Prescriptive Option or the Energy Cost Budget Option. Both options
require compliance with the Mandatory Provisions outlined in ASHRAE 90.1. Compliance shall be demonstrated by submission of the compliance forms published in the ASHRAE 90.1 Handbook or Compliance Certificates generated by the U.S. Department of Energy's COMCheck computer simulation program.

b) Prescriptive Option
Forms shall be completed for building envelope, HVAC systems, service water heating and lighting. Compliance forms shall be completed by the licensed professional responsible for the design of the respective system.

c) Energy Cost Budget Option
Compliance forms shall be completed by the licensed professional responsible for the overall design of the building.

1) Compliance calculations shall use a computer program sufficiently sophisticated to handle the complex simulations required to determine a building's energy consumption. Examples of such programs are COMCheck, DOE-2 and BLAST.

2) Simulations for the energy cost budget and the design energy cost shall use the same simulation program, the same climate data, the same purchased energy rates and the same schedules of operation.

3) Commercially available climate data sets will be acceptable if they provide all the hourly values for all the relevant parameters needed by the simulation program. The climate data shall represent both average and design conditions.

4) Purchased energy rates shall reflect the actual rates incurred by the facility being improved. For new facilities, estimated rates shall be developed based on consultation with the utility providers.

d) Final compliance forms shall be submitted to CDB with the 100% design review package required by the Professional Services Agreement. An in-progress set of compliance forms shall be submitted at the 50% submittal.

Section 600.160 Request for Variance Procedures

EMERGENCY

a) Who May File a Request for Variance
CAPITAL DEVELOPMENT BOARD
NOTICE OF EMERGENCY RULES

1) Any architect or engineer under contract with CDB to provide professional services for the proposed project.

2) The using agency's chief executive officer or his or her designated representative.


b) Consideration of Request for Variance
A variance from any requirement of this Part will be granted by CDB for one or more of the following reasons only:

1) Compliance would not be technically feasible.

2) Compliance would compromise the health, welfare or safety of the building occupants.

3) Compliance would prevent the building from serving its intended purpose.

4) Compliance would violate another State or federal law or code.

5) Compliance would increase the energy consumption of the building.

6) Compliance would require the use of inferior products or materials.

c) Submitting the Request for Variance

1) The request shall be submitted to the CDB Project Manager.

2) Requests should be submitted as early in the project as there is cause, but no later than 75 days prior to the anticipated bid date. Approval or denial of a variance shall be no cause for delay in the project unless the request for variance was filed by CDB or the using agency for which the project is being constructed.

3) The following shall be submitted when requesting a variance:

A) A letter from the petitioner stating the specific provisions of the Code from which the variance is requested and a detailed
CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

explanation of how compliance with the Code would result in one or more of the conditions described in subsection (b).

B) The request shall include supporting data, calculations, analysis, etc.

d) CDB Action

1) Upon receipt of the Request for Variance, the CDB Project Manager will review the request and make a recommendation to CDB's Professional Services Unit within 7 calendar days.

2) Professional Services Unit will evaluate the Request for Variance within 30 days after CDB's receipt of the Request and make a determination.

3) If it is determined that the Request for Variance would cause one of the conditions stated in subsection (b), the variance shall be approved by CDB.

4) If it is determined that the Request for Variance would not cause one of the conditions stated in subsection (b), the Agency may:

A) Deny the Request for Variance.

B) Approve the Request for Variance subject to specific conditions determined by CDB.

e) Modifications and Revisions

The petitioner may, in writing, request that the original Request for Variance be modified and resubmit the Request for Variance.

f) Revocation

CDB may revoke any variance if:

1) it is determined that the variance was obtained through fraud or deceit;

2) the petitioner has violated the specific conditions on which the variance was approved; or

3) the variance was issued in error.
CAPITAL DEVELOPMENT BOARD

NOTICE OF EMERGENCY RULES

 g) Appeals

 1) Any person whose Request for Variance is denied or approved with conditions may appeal CDB's initial determination. The appeal shall be submitted in writing and must be received within 10 days after the initial CDB action is received by the requestor. The request shall be submitted to the Chairman of the Advisory Council.

 2) The Chairman of the Advisory Council will review the request with the Advisory Council, as deemed necessary by the Chairman, within 14 days after receipt and take one of the following actions:

   A) Uphold CDB's initial determination.

   B) Reverse CDB's initial determination and issue the variance.

   C) Change the conditions applied to the variance granted by CDB.

Section 600.170  CDB Decisions

CDB determinations under this Part are not subject to Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] or CDB rules at 71 Ill. Adm. Code 100.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) **Heading of the Part:** Aid to the Aged, Blind or Disabled

2) **Code Citation:** 89 Ill. Adm. Code 113

3) **Section Numbers:**
   - 113.1 Amendment
   - 113.245 Amendment
   - 113.264 New Section

4) **Statutory Authority:** Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13] and HB 5889.

5) **Effective Date of Amendments:** July 21, 2004

6) **If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire:** Not applicable

7) **Date filed with the Index Department:** July 21, 2004

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.**

9) **Reason for Emergency:** This emergency rulemaking is necessary to comply with provisions of PA 93-741 (effective 7/15/04) that requires the Department of Human Services to provide AABD cash eligibility, effective upon approval by the Governor, to persons who have been found ineligible for SSI due to expiration of the seven year period of eligibility for refugees and asylees pursuant to 8 USC 1612(a)(2).

10) **A Complete Description of the Subject and Issues:** Pursuant to provisions of PA 93-741, this rulemaking provides AABD cash eligibility to persons who have been found ineligible for Supplemental Security Income (SSI) due to the expiration of the seven year period of eligibility for refugees and asylees pursuant to 8 USC 1612(a)(2). When these proposed amendments are adopted a special needs allowance of $500 per month will continue to be provided to these individuals until July 1, 2006.

11) **Are there any other amendments pending on this Part?** Yes

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<tr>
<th>Section Numbers</th>
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</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

13) Information and questions regarding these amendments shall be directed to:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue East
   3rd Floor Harris Bldg.
   Springfield, Illinois 62762
   (217) 785-9772

   If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

   The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section
113.1 Description of the Assistance Program
113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
113.9 Client Cooperation
113.10 Citizenship
113.20 Residence
113.30 Age
113.40 Blind
113.50 Disabled
113.60 Living Arrangement
113.70 Institutional Status
113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
113.100 Unearned Income
113.101 Budgeting Unearned Income
113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
113.103 Initial Receipt of Unearned Income
113.104 Termination of Unearned Income
113.105 Unearned Income In-Kind
113.106 Earmarked Income
113.107 Lump Sum Payments and Income Tax Refunds
113.108 Protected Income (Repealed)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

113.109 Earned Income (Repealed)
113.110 Budgeting Earned Income (Repealed)
113.111 Protected Income
113.112 Earned Income
113.113 Exempt Unearned Income
113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
113.115 Initial Employment
113.116 Budgeting Earned Income For Contractual Employees
113.117 Budgeting Earned Income For Non-contractual School Employees
113.118 Termination of Employment
113.120 Exempt Earned Income
113.125 Recognized Employment Expenses
113.130 Income From Work/Study/Training Programs
113.131 Earned Income From Self-Employment
113.132 Earned Income From Roomer and Boarder
113.133 Earned Income From Rental Property
113.134 Earned Income In-Kind
113.139 Payments from the Illinois Department of Children and Family Services
113.140 Assets
113.141 Exempt Assets
113.142 Asset Disregard
113.143 Deferral of Consideration of Assets
113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
113.156 Court Ordered Child Support Payments of Parent/Step-Parent
113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

Section
113.245 Payment Levels for AABD
113.246 Personal Allowance
113.247 Personal Allowance Amounts
113.248 Shelter
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

113.249 Utilities and Heating Fuel
113.250 Laundry
113.251 Telephone
113.252 Transportation, Lunches, Special Fees
113.253 Allowances for Increase in SSI Benefits
113.254 Nursing Care or Personal Care in Home Not Subject to Licensing
113.255 Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256 Shopping Allowance
113.257 Special Allowances for Blind and Partially Sighted (Blind Only)
113.258 Home Delivered Meals
113.259 AABD Fuel and Utility Allowances By Area
113.260 Sheltered Care/Personal or Nursing Care Rates
113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing
  Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262 Meeting the Needs of an Ineligible Dependent with Client's Income
113.263 Service Animals
113.264 Refugees Ineligible for SSI

SUBPART E: OTHER PROVISIONS

Section
113.300 Persons Who May Be Included In the Assistance Unit
113.301 Grandfathered Cases
113.302 Interim Assistance (Repealed)
113.303 Special Needs Authorizations
113.304 Retrospective Budgeting
113.305 Budgeting Schedule
113.306 Purchase and Repair of Household Furniture (Repealed)
113.307 Property Repairs and Maintenance
113.308 Excess Shelter Allowance
113.309 Limitation on Amount of AABD Assistance to Recipients from Other States
  (Repealed)
113.320 Redetermination of Eligibility
113.330 Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section
113.400 Description of the Interim Assistance Program
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

113.405 Pending SSI Application (Repealed)
113.410 More Likely Than Not Eligible for SSI (Repealed)
113.415 Non-Financial Factors of Eligibility (Repealed)
113.420 Financial Factors of Eligibility (Repealed)
113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
113.435 Medical Eligibility (Repealed)
113.440 Attorney's Fees for SSI Applicants (Repealed)
113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

DEPARTMENT OF HUMAN SERVICES

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DEPARTMENT OF HUMAN SERVICES

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SUBPART A: GENERAL PROVISIONS

Section 113.1 Description of the Assistance Program

EMERGENCY

The Aid to the Aged, Blind, or Disabled program provides financial assistance, medical assistance and social services to individuals who have been determined to be aged, blind or disabled as defined by the Social Security Administration. Financial aid is available under this program only for persons who are receiving Supplemental Security Income (SSI) or who have been found ineligible for SSI on the basis of income and who meet all other eligibility standards. In addition, financial aid is available under this program to persons who meet all other eligibility standards and who do not receive SSI who are:

a) Non-citizens age 65 or older who meet the citizenship requirements of 89 Ill. Adm. Code 113.10, were legally present in the United States on August 22, 1996, and who have been found "not disabled" by the Social Security Administration; or

b) Persons who are ineligible for SSI due to the expiration of the period of eligibility for refugees and asylees pursuant to 8 USC 1612(a)(2).
DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days)

SUBPART D: PAYMENT AMOUNTS

Section 113.245 Payment Levels for AABD

\(\text{EMERGENCY}\)

\ a) \ Payment Levels for AABD cases are determined by using individual allowances.

\ b) \ Allowances which may be included for eligible cases are contained in Sections 113.246 to 113.264.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days)

Section 113.264 Refugees Ineligible for SSI

\(\text{EMERGENCY}\)

Until July 1, 2006, an allowance not to exceed $500 is authorized to be provided to persons who are ineligible for SSI due to the expiration of the period of eligibility for refugees and asylees pursuant to 8 USC 1612(a)(2). No other allowances will be authorized.

(Source: Added by emergency rulemaking at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days)
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Hazardous Materials Transportation: General Information, Regulations and Definitions

2) **Code Citation:** 92 Ill. Adm. Code 171

3) **Section Number:** Peremptory Action:
   - 171.1000 Amend

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires This Peremptory Rulemaking:** 69 FR 34604, June 22, 2004

5) **Statutory Authority:** Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4 and 9(a)]

6) **Effective Date:** July 22, 2004

7) **A Complete Description of the Subjects and Issues Involved:** On July 31, 2003, at 68 FR 44992, US DOT’s Research and Special Programs Administration (RSPA) published a final rule that amended the hazardous materials regulations to maintain alignment with international standards by incorporating various amendments. These amendments included, but were not limited to, changes to shipping names, hazard classes, packing groups and packaging authorizations. These revisions were necessary to facilitate the transport of hazardous materials in international commerce. RSPA’s final rule of June 22, 2004, 69 FR 34604, amended certain requirements of the July 31, 2003 final rule in response to appeals submitted by affected persons. The final rule of June 22, 2004 also corrected errors in the July 31, 2003 final rule.

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Date Filed With the Index Department:** July 22, 2004

10) **A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.**

11) **This rule is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.**

12) **Are there any other proposed amendments pending on this Part?** No
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

13) **Statement of Statewide Policy Objectives:** This rulemaking affects units of local government that transport, or offer for transport, hazardous materials in commerce by highway in Illinois.

14) **Information and questions regarding this peremptory amendment shall be directed to:**

   Ms. Christine Caronna-Beard, Rules Manager
   Illinois Department of Transportation
   Office of Chief Counsel, Room 311
   2300 S. Dirksen Parkway
   Springfield, IL  62764
   (217) 782-3215

   The full text of the Peremptory Amendment begins on the next page:
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 171
HAZARDOUS MATERIALS TRANSPORTATION: GENERAL INFORMATION,
REGULATIONS AND DEFINITIONS

Section
171.1 Purpose and Scope
171.2 General Transportation Requirements
171.3 Hazardous Waste
171.4 Exemptions (Renumbered)
171.5 Agricultural Exception (Repealed)
171.6 Agricultural Exception (Renumbered)
171.7 Matter Incorporated by Reference (Repealed)
171.8 Definitions and Abbreviations (Repealed)
171.9 Rules of Construction (Repealed)
171.12 Import and Export Shipments (Repealed)
171.14 Specification Markings (Repealed)
171.15 Incident Reporting Requirements (Repealed)
171.17 Exemptions
171.18 Continuation of Effectiveness of Existing Bureau of Explosives Registrations (Repealed)
171.19 Approvals or Authorizations Issued by the Bureau of Explosives (Repealed)
171.21 Retailer Exception
171.22 Agricultural Exception
171.1000 Incorporation by Reference of 49 CFR 171

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT


Section 171.1000 Incorporation by Reference of 49 CFR 171

a) As Part 171 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 171 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 2003, as amended at 68 FR 57629, October 6, 2003, and as amended at 69 FR 34604, June 22, 2004 subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 171 are incorporated.

171.4 Marine Pollutants
171.7 Reference Material
171.8 Definitions and Abbreviations
171.9 Rules of Construction
171.10 Units of Measure
171.11 Use of ICAO Technical Instructions
171.12 Import and Export Shipments
171.12a Canadian Shipments and Packagings
171.14 Transitional Provisions for Implementing Certain Requirements
171.15 Immediate Notice of Certain Hazardous Materials Incidents
171.16 Detailed Hazardous Materials Incident Reports
171.19 Approvals or Authorizations Issued by the Bureau of Explosives
171.20 Submission of Examination Reports

b) The following interpretations of, additions to and deletions from the above
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

incorporated sections of 49 CFR 171 shall apply for purposes of this Part.

1) All references to "this part" in the incorporated federal regulations shall mean Part 171 of the Illinois Hazardous Materials Transportation Regulations.

2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.

3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

4) All references to part 176 or to sections therein shall be read to refer to that part or sections in the federal regulations.

5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.

6) All references to "these regulations" refer to the Illinois Hazardous Materials Transportation Regulations, 92 Ill. Adm. Code 107 through 180.

7) All references to a "settlement agreement", in these regulations, means a written understanding between the Department and the person being charged.

(Source: Peremptory amendment at 28 Ill. Reg. 11376, effective July 22, 2004)
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Hazardous Materials Table and Hazardous Materials Communications

2) **Code Citation:** 92 Ill. Adm. Code 172

3) **Section Number:** 172.2000  
**Peremptory Action:** Amend

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires This Peremptory Rulemaking:** 69 FR 34604, June 22, 2004

5) **Statutory Authority:** Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4 and 9(a)]

6) **Effective Date:** July 22, 2004

7) **A Complete Description of the Subjects and Issues Involved:** On July 31, 2003, at 68 FR 44992, US DOT’s Research and Special Programs Administration (RSPA) published a final rule that amended the hazardous materials regulations to maintain alignment with international standards by incorporating various amendments. These amendments included, but were not limited to, changes to shipping names, hazard classes, packing groups and packaging authorizations. These revisions were necessary to facilitate the transport of hazardous materials in international commerce. RSPA’s final rule of June 22, 2004, 69 FR 34604, amended certain requirements of the July 31, 2003 final rule in response to appeals submitted by affected persons. The final rule of June 22, 2004 also corrected errors in the July 31, 2003 final rule.

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Date Filed With the Index Department:** July 22, 2004

10) **A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency’s principal office and it available for public inspection.**

11) **This rulemaking is compliance Section 5-50 of the Illinois Administrative Procedure Act.**

12) **Are there any other proposed amendments pending on this Part?** No
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13) Statement of Statewide Policy Objective: This rulemaking affects units of local government that transport, or offer for transport, hazardous materials in commerce by highway in Illinois.

14) Information and questions regarding this peremptory amendment shall be directed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
2300 S. Dirksen Parkway
Springfield, IL 62764
(217) 782-3215

The full text of the Peremptory Amendment begins on the next page:
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 172
HAZARDOUS MATERIALS TABLE AND
HAZARDOUS MATERIALS COMMUNICATIONS

Section
172.1000 General
172.2000 Incorporation by Reference of 49 CFR 172
172.2215 Permanent Shipping Papers (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].


Section 172.2000 Incorporation by Reference of 49 CFR 172

a) As Part 172 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 172 by reference, as that part of the federal hazardous materials transportation regulations was in effect on October 1, 2003,
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as amended at 68 FR 57629, October 6, 2003, and as amended at 69 FR 34604, June 22, 2004 subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 172 are incorporated.

b) The following interpretations of, additions to and deletions from 49 CFR 172 shall apply for purposes of this Part.

1) All references to "this part" in the incorporated federal regulations shall mean Part 172 of the Illinois Hazardous Materials Transportation Regulations.

2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.

3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

4) All references to part 174, 175 or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.

5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.

6) Any changes to 49 CFR 172 made effective by U.S. DOT Rulemaking Docket HM-187 (49 FR 21933 (May 24, 1984)) covering small arms ammunition are not incorporated.

(Source: Amended by peremptory rulemaking at 28 Ill. Reg. 11381, effective July 22, 2004)
DEPARTMENT OF TRANSPORTATION

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1) Heading of the Part: Shippers General Requirements for Shipments and Packagings

2) Code Citation: 92 Ill. Adm. Code 173

3) Section Numbers: Peremptory Action:
   173.3000 Amend

4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires This Peremptory Rulemaking: 69 FR 34604, June 22, 2004

5) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4 and 9(a)]

6) Effective Date: July 22, 2004

7) A Complete Description of the Subjects and Issues Involved: On July 31, 2003, at 68 FR 44992, US DOT’s Research and Special Programs Administration (RSPA) published a final rule that amended the hazardous materials regulations to maintain alignment with international standards by incorporating various amendments. These amendments included, but were not limited to, changes to shipping names, hazard classes, packing groups and packaging authorizations. These revisions were necessary to facilitate the transport of hazardous materials in international commerce. RSPA’s final rule of June 22, 2004, 69 FR 34604, amended certain requirements of the July 31, 2003 final rule in response to appeals submitted by affected persons. The final rule of June 22, 2004 also corrected errors in the July 31, 2003 final rule.

8) Does this rulemaking contain an automatic repeal date? No

9) Date Filed With the Index Department: July 22, 2004

10) A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency’s principal office and it available for public inspection.

11) This rule is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.

12) Are there any other proposed amendments pending on this Part? No
13) **Statement of Statewide Policy Objective:** This rulemaking affects units of local government that transport, or offer for transport, hazardous materials in commerce by highway in Illinois.

14) **Information and questions regarding this peremptory amendment shall be directed to:**

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel, Room 311  
2300 S. Dirksen Parkway  
Springfield, IL  62764  
(217) 782-3215

The full text of the Peremptory Amendment begins on the next page:
Section 173.3000 Incorporation by Reference of 49 CFR 173

a) As Part 173 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 173 by reference, as that part of the federal hazardous materials transportation regulations was in effect on October 1, 2003, as amended at 68 FR 57629, October 6, 2003, and as amended at 69 FR 34604, June 22, 2004 subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 173 are incorporated.

b) The following interpretations of, additions to and deletions from 49 CFR 173
shall apply for purposes of this Part.

1) All references to "this part" in the incorporated federal regulations shall mean Part 173 of the Illinois Hazardous Materials Transportation Regulations.

2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.

3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

4) All references to part 174, 175 or 176 or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.

5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.

6) Any changes to 49 CFR 173 made effective by U.S. DOT Rulemaking Docket HM-187 (49 FR 21933 (May 24, 1984)) covering small arms ammunition are not incorporated.

7) 49 CFR 173.8(d)(3) is not incorporated by reference and is replaced by the following:

A non-specification metal tank having a capacity of less than 450 liters (119 gallons) is authorized in Illinois for the transportation of flammable liquid petroleum products by an intrastate motor carrier subject to the following conditions:

A) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.

B) Tanks shall be securely fastened to prevent separation from the vehicle.

C) Tanks shall be electrically bonded to the frame of the vehicle.
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D) Tanks shall be protected against leakage or damage in the event of a turnover.

E) Tanks may not be drained by gravity. Top mounted pumps must be designed and labeled for use with flammable and combustible liquids. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).

F) Flammable liquid petroleum products being transported on a single vehicle may not exceed 450 liters (119 gallons).

G) Flammable liquid petroleum product is offered for transportation and transported in conformance with all other applicable requirements of this Subchapter.

AGENCY NOTE: To clarify the provisions of 49 CFR 173.315(a) Note 17 (7), the transportation of anhydrous ammonia was permitted within Illinois prior to January 1, 1981 as follows: Only specifications MC-330 and MC-331 cargo tanks with a design pressure of 250 p.s.i.g., that had been in anhydrous ammonia service in Illinois prior to February 1, 1979, could continue in such service subject to continued qualification as required by all design and testing requirements specified by 49 CFR 180. Non-specification cargo tanks, other than nurse tanks (49 CFR 173.314(m)), were not authorized in Illinois for anhydrous ammonia service. All specifications MC-330 and MC-331 cargo tanks placed in such service after February 1, 1979 had to meet all requirements for the specification, including a minimum design service of 265 p.s.i.g.

AGENCY NOTE: To clarify the provisions of 49 CFR 173.315(k)(6), the transportation of liquefied petroleum gas within Illinois prior to January 1, 1981 was as follows: Non-specification cargo tanks used to transport liquefied petroleum gas were not authorized for intrastate transportation within Illinois prior to January 1, 1981.

(Source: Amended by peremptory rulemaking at 28 Ill. Reg. 11385, effective July 22, 2004)
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Specifications for Packagings

2) **Code Citation:** 92 Ill. Adm. Code 178

3) **Section Numbers:** 178.2000
   **Peremptory Action:** Amend

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires This Peremptory Rulemaking:** 69 FR 34604, June 22, 2004

5) **Statutory Authority:** Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4 and 9(a)]

6) **Effective Date:** July 22, 2004

7) **A Complete Description of the Subjects and Issues Involved:** On July 31, 2003, at 68 FR 44992, US DOT’s Research and Special Programs Administration (RSPA) published a final rule that amended the hazardous materials regulations to maintain alignment with international standards by incorporating various amendments. These amendments included, but were not limited to, changes to shipping names, hazard classes, packing groups and packaging authorizations. These revisions were necessary to facilitate the transport of hazardous materials in international commerce. RSPA’s final rule of June 22, 2004, 69 FR 34604, amended certain requirements of the July 31, 2003 final rule in response to appeals submitted by affected persons. The final rule of June 22, 2004 also corrected errors in the July 31, 2003 final rule.

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Date Filed With the Index Department:** July 22, 2004

10) **A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency’s principal office and it available for public inspection.**

11) **This rule is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.**

12) **Are there any other proposed amendments pending on this Part?** No

13) **Statement of Statewide Policy Objective:** This rulemaking affects units of local government that transport, or offer for transport, hazardous materials in commerce by highway in Illinois.
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

14) Information and questions regarding this peremptory amendment shall be directed to:

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The full text of the Peremptory Amendment begins on the next page:
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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
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PART 178
SPECIFICATIONS FOR PACKAGINGS

Section 178.321 Specification MC 300; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, or Combination of Mild Steel with High Tensile Steel, or Stainless Steel, Primarily For the Transportation of Flammable Liquids or Poisonous Liquids, Class B

178.321.0.3 [178.321-3] Thickness
178.321.0.4 [178.321-4] Joints
178.321.0.5 [178.321-5] Bulkheads, Baffles, and Ring Stiffeners
178.321.0.6 [178.321-6] Closures for Manholes
178.321.0.7 [178.321-7] Overtum Protection
178.321.0.8 [178.321-8] Outlets
178.321.0.9 [178.321-9] Vents, Valves, and Connections
178.321.1.0 [178.321-10] Protection of Fittings
178.321.1.2 [178.321-12] Shear Section
178.321.1.7 [178.321-17] Marking of Cargo Tanks
178.321.1.8 [178.321-18] Certification

178.322 Specification MC 301; Cargo Tanks Constructed of Welded Aluminum Alloy (Grade 3S), To Be Mounted On and To Form Part Of Tank Motor Vehicles for Transportation of Flammable Liquids, and Poisonous Liquids, Class B

178.322.0.1 [178.322-1] General Requirements
178.322.0.3 [178.322-3] Certification
178.322.0.5 [178.322-5] Marking of Cargo Tanks
178.322.0.9 [178.322-9] Testing Requirements
178.322.1.2 [178.322-12] Thickness of Sheets and Ring Stiffeners
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178.322.1.4  [178.322-14] Joints
178.322.1.7  [178.322-17] Tank Outlets
178.322.1.8  [178.322-18] Bulkheads, Baffles, and Ring Stiffeners
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178.322.2.0  [178.322-20] Valve and Faucet Connections
178.322.2.1  [178.322-21] Emergency Discharge Control
178.322.2.2  [178.322-22] Shear Section
178.322.2.3  [178.322-23] Protection of Valves and Faucets
178.322.2.4  [178.322-24] Overturn Protection
178.323  Specification MC 302: Cargo Tanks Constructed of Welded Aluminum Alloy (ASTM B209-57T), Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
178.323.0.1  [178.323-1] General Requirements
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178.323.1.0  [178.323-10] Protection of Fittings
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178.323.1.2  [178.323-12] Shear Section
178.323.1.3  [178.323-13] Anchoring of Tank
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178.323.1.5  [178.323-15] Pumps
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178.324  Specification MC 303: Cargo Tanks Constructed of Welded Ferrous Alloy (High-Tensile Steel), or Stainless Steel, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
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178.324.1.7 [178.324-17] Marking of Cargo Tanks
178.324.1.8 [178.324-18] Certification

178.325 Specification MC 304; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, Welded Ferrous Alloy (High-Tensile) Steel, or Aluminum, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B, Having Reid (ASTM D-323) Vapor Pressures of 18 PSIA or More at 100 degrees F., But Less Than Those Stated in 92 Ill. Adm. Code 173.300, In Defining Compressed Gases

178.325.0.1 [178.325-1] General Requirements
178.325.0.2 [178.325-2] Material
178.325.0.3 [178.325-3] Thickness of Metal
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178.325.0.5 [178.325-5] Bulkheads, Baffles, and Ring Stiffeners
178.325.0.6 [178.325-6] Closures for Manholes
178.325.0.7 [178.325-7] Overturn Protection
178.325.0.8 [178.325-8] Tank Outlets
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178.325.1.6 [178.325-16] Testing Requirements
178.325.1.7 [178.325-17] Marking of Cargo Tanks
178.325.1.8 [178.325-18] Certification

178.326 Specification MC 305; Cargo Tanks Constructed of Aluminum Alloys for High-Strength Welded Construction, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

178.326.0.1 [178.326-1] General Requirements
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178.331.0.6 [178.331-6] Closures for Manholes
178.331.0.7 [178.331-7] Overtturn Protection
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178.336 Specification MC 330; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases
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178.336.1.0 [178.336-10] Protection of Fittings
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178.336.1.7 [178.336-17] Marking of Cargo Tanks
178.336.1.8 [178.336-18] Certification

178.337 Specification MC 331; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases, As Defined In the Compressed Gas Section
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(Repealed)

178.337.0.1 [178.337-1] General Requirements (Repealed)
178.337.0.2 [178.337-2] Material (Repealed)
178.337.0.3 [178.337-3] Thickness of Tank Metal (Repealed)
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178.337.1.7 [178.337-17] Marking (Repealed)
178.337.1.8 [178.337-18] Certification (Repealed)

178.340 General Design and Construction Requirements Applicable to Specifications MC 306 (Section 178.341), MC 307 (Section 178.342), and MC 312 (Section 178.343) Cargo Tanks (Repealed)

178.340.0.4 [178.340-4] Structural Integrity (Repealed)
178.340.0.6 [178.340-6] Supports and Anchoring (Repealed)
178.340.0.7 [178.340-7] Circumferential Reinforcements (Repealed)
178.340.0.8 [178.340-8] Accident Damage Protection (Repealed)
178.340.0.9 [178.340-9] Pumps (Repealed)
178.340.1.0 [178.340-10] Certification (Repealed)

178.341 Specification MC 306; Cargo Tanks (Repealed)
178.341.0.1 [178.341-1] General Requirements (Repealed)
178.341.0.2 [178.341-2] Thickness of Shells, Heads, Bulkheads, and Baffles (Repealed)
178.341.0.3 [178.341-3] Closures for Fill Openings and Manholes (Repealed)
178.341.0.4 [178.341-4] Vents (Repealed)
178.341.0.5 [178.341-5] Emergency Flow Control (Repealed)
178.341.0.6 [178.341-6] Gauging Devices (Repealed)
DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT

178.341.0.7 [178.341-7] Method of Test (Repealed)
178.342 Specification MC 307; Cargo Tanks (Repealed)
178.342.0.1 [178.342-1] General Requirements (Repealed)
178.342.0.2 [178.342-2] Thickness of Shell, Heads, Bulkheads, and Baffles (Repealed)
178.342.0.3 [178.342-3] Closures for Manholes (Repealed)
178.342.0.4 [178.342-4] Vents (Repealed)
178.342.0.5 [178.342-5] Emergency Flow Control (Repealed)
178.342.0.6 [178.342-6] Gauging Devices (Repealed)
178.342.0.7 [178.342-7] Method of Test (Repealed)
178.343 Specification MC 312; Cargo Tanks (Repealed)
178.343.0.1 [178.343-1] General Requirements (Repealed)
178.343.0.2 [178.343-2] Thickness of Shell, Heads, Bulkheads, and Baffles of Non-Asme Code Tanks (Repealed)
178.343.0.3 [178.343-3] Closures for Manholes (Repealed)
178.343.0.4 [178.343-4] Vents (Repealed)
178.343.0.5 [178.343-5] Outlets (Repealed)
178.343.0.6 [178.343-6] Gauging Devices (Repealed)
178.343.0.7 [178.343-7] Method of Test (Repealed)
178.350 Specification 7A; General Packaging, Type A (Repealed)
178.350.0.1 [178.350-1] General Requirements (Repealed)
178.350.0.2 [178.350-2] Specific Requirements (Repealed)
178.350.0.3 [178.350-3] Marking (Repealed)
178.1000 General
178.2000 Incorporation by Reference of 49 CFR 178
178.APPENDIX C Tensile Specimen (Repealed)
178.APPENDIX D Material Thickness (Repealed)
178.TABLE A Minimum Thickness of Heads, Bulkheads, and Baffles (Repealed)
178.TABLE B Minimum Thickness of Shell Sheets (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PEREMPTORY AMENDMENT


AGENCY NOTE: In reading this Part it is necessary to read Sections 178.1000 and 178.2000 prior to reading the remaining Sections in numerical order.

Section 178.2000  Incorporation by Reference of 49 CFR 178

a) As Part 178 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 178 by reference, as that part of the federal hazardous materials transportation regulations was in effect on October 1, 2003, as amended at 68 FR 57629, October 6, 2003, and as amended at 69 FR 34604, June 22, 2004 subject only to the exceptions in subsection (f) of this Section. No later amendments to or editions of 49 CFR 178 are incorporated.

b) As Section 178.340 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.340 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.

c) As Section 178.341 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.341 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.

d) As Section 178.342 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.342 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.

e) As Section 178.343 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.343 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.

f) The following interpretations of, additions to and deletions from the 49 CFR 178
shall apply for purposes of this Part.

1) All references to "this part" in the incorporated federal regulations shall mean Part 178 of the Illinois Hazardous Materials Transportation Regulations.

2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.

3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

4) All references to part 174, 175 or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.

(Source: Amended by peremptory rulemaking 28 Ill. Reg. 11390, effective July 22, 2004)
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@legis.state.il.us
Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
   -First Notice Published: 28 Ill. Reg. 6950 – 5/14/04
   -Expiration of Second Notice: 8/14/04

Children and Family Services

2. Background Checks (89 Ill. Adm. Code 385)
   -First Notice Published: 28 Ill. Reg. 6234 – 4/23/04
   -Expiration of Second Notice: 8/21/04

   -First Notice Published: 28 Ill. Reg. 6271 – 4/23/04
   -Expiration of Second Notice: 8/21/04
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

   -First Notice Published: 27 Ill. Reg. 18290 – 12/5/03
   -Expiration of Second Notice: 9/14/04

Commerce and Economic Opportunity

5. Illinois Film Production Services Tax Credit Program (14 Ill. Adm. Code 528)
   -First Notice Published: 28 Ill. Reg. 474 – 1/9/04
   -Expiration of Second Notice: 8/15/04

   -First Notice Published: 28 Ill. Reg. 1 – 1/2/04
   -Expiration of Second Notice: 8/15/04

Community College Board

   -First Notice Published: 28 Ill. Reg. 6207 – 4/23/04
   -Expiration of Second Notice: 8/15/04

Corrections

8. County Jail Standards (20 Ill. Adm. Code 701)
   -First Notice Published: 28 Ill. Reg. 55 – 1/2/04
   -Expiration of Second Notice: 8/15/04

Educational Labor Relations Board

   -First Notice Published: 28 Ill. Reg. 7221 – 5/21/04
   -Expiration of Second Notice: 8/25/04
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

Emergency Management Agency

   -First Notice Published: 27 Ill. Reg. 14957 – 9/26/03
   -Expiration of Second Notice: 9/4/04

   -First Notice Published: 27 Ill. Reg. 14999 – 9/26/03
   -Expiration of Second Notice: 9/4/04

Financial and Professional Regulation

(Banks & Real Estate)

   -First Notice Published: 28 Ill. Reg. 6947 – 5/14/04
   -Expiration of Second Notice: 8/13/04

(Banks & Real Estate)

   -First Notice Published: 28 Ill. Reg. 7213 – 5/21/04
   -Expiration of Second Notice: 9/2/04

(Insurance)

   -First Notice Published: 27 Ill. Reg. 14751 – 9/19/03
   -Expiration of Second Notice: 9/2/04

(Insurance)

15. Managed Care Reform & Patient Rights (50 Ill. Adm. Code 5420)
   -First Notice Published: 27 Ill. Reg. 18295 – 12/5/03
   -Expiration of Second Notice: 8/19/04
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

(Professional Regulation)
   -First Notice Published: 27 Ill. Reg. 15281 – 10/3/03
   -Expiration of Second Notice: 9/5/04

(Professional Regulation)
17. Massage Licensing Act (68 Ill. Adm. Code 1284)
   -First Notice Published: 28 Ill. Reg. 5999 – 4/16/04
   -Expiration of Second Notice: 9/5/04

(Professional Regulation)
18. Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act
(68 Ill. Adm. Code 1485)
   -First Notice Published: 28 Ill. Reg. 6564 – 4/30/04
   -Expiration of Second Notice: 9/5/04

Gaming Board

   -First Notice Published: 28 Ill. Reg. 5949 – 4/16/04
   -Expiration of Second Notice: 8/25/04

   -First Notice Published: 28 Ill. Reg. 6288 – 4/23/04
   -Expiration of Second Notice: 8/25/04

Human Services

   -First Notice Published: 28 Ill. Reg. 5958 – 4/16/04
   -Expiration of Second Notice: 8/14/04

Natural Resources
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

22. Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting (17 Ill. Adm. Code 530)
   -First Notice Published: 28 Ill. Reg. 6686 – 5/7/04
   -Expiration of Second Notice: 8/21/04

   -First Notice Published: 28 Ill. Reg. 6716 – 5/7/04
   -Expiration of Second Notice: 8/21/04

   -First Notice Published: 28 Ill. Reg. 6733 – 5/7/04
   -Expiration of Second Notice: 8/27/04

   -First Notice Published: 28 Ill. Reg. 6746 – 5/7/04
   -Expiration of Second Notice: 8/26/04

   -First Notice Published: 28 Ill. Reg. 6755 – 5/7/04
   -Expiration of Second Notice: 8/26/04

Public Health

27. Hospice Programs (77 Ill. Adm. Code 280)
   -First Notice Published: 28 Ill. Reg. 5188 – 3/26/04
   -Expiration of Second Notice: 8/20/04

   -First Notice Published: 27 Ill. Reg. 17046 – 11/7/03
   -Expiration of Second Notice: 8/20/04

29. Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
   -First Notice Published: 28 Ill. Reg. 2968 – 2/20/04
   -Expiration of Second Notice: 8/20/04
Racing Board

   -First Notice Published: 28 Ill. Reg. 5627 – 4/2/04
   -Expiration of Second Notice: 8/25/04

Transportation

   -First Notice Published: 28 Ill. Reg. 6419 – 4/23/04
   -Expiration of Second Notice: 8/19/04

   -First Notice Published: 28 Ill. Reg. 6427 – 4/23/04
   -Expiration of Second Notice: 8/19/04

EMERGENCY RULEMAKINGS

Central Management Services

   -Notice Published: 28 Ill. Reg. 9677 – 7/9/04

Children and Family Services

34. Services Delivered by the Department of Children and Family Services (89 Ill. Adm. Code 302)
   -Notice Published: 28 Ill. Reg. 10405 – 7/23/04

Human Services

35. Child Care (89 Ill. Adm. Code 50)
   -Notice Published: 28 Ill. Reg. 10121 – 7/16/04
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

Public Aid

36. Medical Payment (89 Ill. Adm. Code 140)
   -Notice Published: 28 Ill. Reg. 10135 – 7/16/04

37. Hospital Services (89 Ill. Adm. Code 148)
   -Notice Published: 28 Ill. Reg. 10157 – 7/16/04

38. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)
   -Notice Published: 28 Ill. Reg. 10218 – 7/16/04

   -Notice Published: 28 Ill. Reg. 10225 – 7/16/04

Revenue

   -Notice Published: 28 Ill. Reg. 9690 – 7/9/04

PEREMPTORY RULEMAKING

Central Management Services

41. Pay Plan (80 Ill. Adm. Code 310)
   -Notice Published: 28 Ill. Reg. 9717 – 7/9/04

EXEMPT RULEMAKINGS

Pollution Control Board

42. Sewer Discharge Criteria (35 Ill. Adm. Code 307)
   -Proposed Date: 28 Ill. Reg. 6532 - 4/30/04
   -Adopted Date: 7/30/04
JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 10, 2004

43. Pretreatment Programs (35 Ill. Adm. Code 310)
   -Proposed Date: 28 Ill. Reg. 6555 - 4/30/04
   -Adopted Date: 7/30/04

   -Proposed Date: 28 Ill. Reg. 6300 - 4/23/04
   -Adopted Date: 7/30/04

   -Proposed Date: 28 Ill. Reg. 6313 - 4/23/04
   -Adopted Date: 7/30/04

AGENCY RESPONSES

Children and Family Services

46. Children's Mental Health Screening, Assessment and Support Services (59 Ill. Adm. Code 131; 28 Ill. Reg. 4826)

Transportation


52. Specifications for Packagings (92 Ill. Adm. Code 178; 28 Ill. Reg. 5237)


The following second notices were received by the Joint Committee on Administrative Rules during the period of July 20, 2004 through July 26, 2004 and have been scheduled for review by the Committee at its August 10, 2004 meeting in Chicago. 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.

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<th>Second Notice Expires</th>
<th>Agency and Rule</th>
<th>Start Of First Notice</th>
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<tr>
<td>9/2/04</td>
<td>Department of Financial and Professional Regulation, Infertility Coverage (50 Ill. Adm. Code 2015)</td>
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<td>9/2/04</td>
<td>Department of Financial and Professional Regulation, Auction License Act (68 Ill. Adm. Code 1440)</td>
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<td>9/5/04</td>
<td>Department of Financial and Professional Regulation, Electrologist Licensing Act (68 Ill. Adm. Code 1246)</td>
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<td>9/5/04</td>
<td>Department of Financial and Professional Regulation, Massage Licensing Act (68 Ill. Adm. Code 1284)</td>
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<tr>
<td>9/5/04</td>
<td>Department of Financial and Professional Regulation, Registered Surgical Assistant and</td>
<td>4/30/04</td>
<td>8/10/04</td>
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*27 Ill. Reg.*

*28 Ill. Reg.*

*27 Ill. Reg.*

*28 Ill. Reg.*
JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Registered Surgical Technologist Title 6564
Protection Act (68 Ill. Adm. Code 1485)
<table>
<thead>
<tr>
<th>1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System</th>
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<tr>
<td>2) Code Citation: 80 Ill. Adm. Code 1540</td>
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<tr>
<td>3) Section Number: 1540.80</td>
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<tr>
<td>4) Date Notice of Emergency Amendment Published in the Register: June 18, 2004; 28 Ill. Reg. 8775</td>
</tr>
<tr>
<td>5) Date JCAR Statement of Objection to Emergency Amendment Published in the Register: July 30, 2004; 28 Ill. Reg. 10793</td>
</tr>
<tr>
<td>6) Summary of Action Taken by the Agency: The filing date was in error. We filed an emergency rule more than 10 days before the rule took affect. The agency will be more diligent when filing rules in the future.</td>
</tr>
</tbody>
</table>

1) Rulemaking: Proposed rules

   A) **Description:** The proposed rules will address the implementation of and participation in a statewide automated victim notification system to assist public officials in carrying out their duties to notify and inform crime victims and witnesses. The rules will set out the scope and design of the system and the procedures, requirements, and standards for participation.

   B) **Statutory Authority:** Rights of Crime Victims and Witness Act (725 ILCS 120/8.5)

   C) **Scheduled meeting/hearing date:** None

   D) **Date agency anticipates First Notice:** January 2005

   E) **Effect on small businesses, small municipalities, or not-for-profit corporations:** The rules should not affect small businesses, small municipalities or not-for-profit corporations.

   F) **Agency contact person for information:**

      Jennifer Kuhn, Chief
      Crime Victim Services Division
      Office of the Attorney General
      100 West Randolph Street, 11th floor
      Chicago, Illinois  60601
      312/814-1427

   G) **Related rulemakings and other pertinent information:** None

b) Part (Heading and Code Citation): This will be a new part to be headed “Crime Victims Compensation” and assigned to 74 Ill. Adm. Code 500.

1) Rulemaking: Proposed Rules

   A) **Description:** The Attorney General intends to propose rules to implement the Crime Victims Compensation Act (740 ILCS 45). The rules will cover
such matters as outreach, applications, extensions, claim investigation and approval, appeals, representation, subrogation, and enforcement.

B) Statutory Authority: Section 4.1 of the Crime Victims Compensation Act (740 ILCS 45/4.1)

C) Scheduled meeting/hearing date: None

D) Date agency anticipates First Notice: January 2005

E) Effect on small businesses, small municipalities or not-for-profit corporations: Allows not for profit legal agencies to fully understand the Attorney General’s investigative process when such agencies represent claimants under the Act.

F) Agency contact person for information:

   Jennifer Kuhn, Chief
   Crime Victim Services Division
   Office of the Attorney General
   100 West Randolph Street, 11th floor
   Chicago, Illinois 60601
   312/814-1427

G) Related rulemakings and other pertinent information: None


1) 1) Rulemaking: Proposed amendment

A) A) Description: The Attorney General has prescribed a form for the filing of tax returns by publishing a copy of the form in the Appendix to Part 2000. The form needs to be updated, and the Attorney General proposes to delete the actual form and replace it with a listing of the required elements of the form that may be met by using a form provided by the Attorney General or another form that contains the same information.
ATTORNEY GENERAL

JULY 2004 REGULATORY AGENDA

B) Statutory Authority: Implementing Section 6(f) and authorized by Section 16 of the Illinois Estate and Generation-Skipping Transfer Tax Act [35 ILCS 405/6(f) and 16]

C) Scheduled meeting/hearing date: None

D) Date agency anticipates First Notice: August 2005

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

John R. Simpson
Revenue Litigation Bureau
Office of the Attorney General
500 S. Second Street
Springfield, Illinois 62706
217/782-3939

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Tobacco Products Manufacturers' Escrow Enforcement Act of 2003, 14 Ill. Adm. Code 250

1) Rulemaking: Proposed amendments

A) Description: The Attorney General's Office is considering revisions to the way in which tobacco product manufacturers that do not participate in the Master Settlement Agreement (arising out of State litigation against tobacco manufacturers) may dispute the Attorney General’s determination that they have failed to comply with escrow funding requirements.
ATTORNEY GENERAL
JULY 2004 REGULATORY AGENDA

B) Statutory Authority: Tobacco Products Manufacturer's Escrow Enforcement Act of 2003 [30 ILCS 167]

C) Scheduled meeting/hearing date: None

D) Date agency anticipates First Notice: January 2005

E) Effect on small businesses, small municipalities or not-for-profit corporations: The rules would only affect the procedures available to small manufacturers of tobacco products that wish to contest determinations that they have not met the requirements to be included on the list of compliant manufacturers.

F) Agency contact person for information:

    Phillip J. Robertson
    Public Interest Division
    Office of the Attorney General
    100 West Randolph Street
    Chicago, Illinois 60601
    312/814-3000

G) Related rulemakings and other pertinent information: None
DEPARTMENT OF EMPLOYMENT SECURITY

JULY 2004 REGULATORY AGENDA

a) Part (Heading and Code Citation): Claims, Adjudication, Appeals and Hearings; 56 Ill. Adm. Code 2720

1) Rulemaking:

A) Description: The Department intends increase the maximum amount that an attorney may charge a claimant, without prior approval from the Board of Review, for representation before the agency, from $50 per hour or 15% of the amount of benefits received to the greater of $150 per hour or 15% of the amount of benefits received. The change reflects an agreement among representatives of business, organized labor and the Illinois State Bar Association.

The Department intends to revise its rules to reflect the amendment to the Unemployment Insurance Act which expands the period in which it may reconsider a claimant’s eligibility for benefits where the claimant had received a back pay award or misstated his/her earnings from one and two years, respectively, to three years.

The Department will revise its rules to update agency addresses, as appropriate.

B) Statutory Authority: 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

C) Schedule of meeting or hearing dates: Specific criticisms, suggestions and/or comments can be forwarded to the Department of Employment Security in writing by interested persons during the First Notice Period.

D) Date agency anticipates First Notice: Unknown

E) Effect on small business, small municipalities or not-for-profit corporations: These rules would have the same potential impact on all employers in the State.

F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel
G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Notices, Records, Reports; 56 Ill. Adm. Code 2760

1) Rulemaking:

A) Description: The Department intends to promulgate a rule to specify when the Director will terminate an employer's unemployment account on her own initiative.

A proposed amendment to Section 2760.140 is intended to clarify the ramifications of an employer's failure to comply with this rule. The new example would explain that a reporting penalty is imposed monthly even if the employer submits its report on paper. When each penalty is imposed, the employer's contribution payment is reallocated to cover the penalty, and this will increase the balance of its unpaid contributions.

The second change to Section 2760.140 would clarify that, if the Internal Revenue Service grants an employer an exemption from its electronic reporting requirements for a particular year, the exemption will apply to the employer's compliance with this rule for the next year. For example, if the IRS exempts an employer from electronically filing W-2 forms for tax year 2003 (the forms must be filed in 2004), the employer need not file wage reports electronically or magnetically for any quarter in 2004.

Section 1507 of the Act no longer requires that an employer report a succession to substantially all of a predecessor's employing enterprise within 120 days of the succession in order to succeed to the predecessor's contribution rate if that rate is lower than that of the successor. Rules need to be adjusted to accommodate this amendment.

B) Statutory Authority: 820 ILCS 405/204, 234, 245, 300, 301, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208
C) **Schedule of meeting or hearing dates:** Specific criticisms, suggestions and/or comments can be forwarded to the Department of Employment Security in writing by interested persons during the First Notice Period.

D) **Date agency anticipates First Notice:** Unknown

E) **Effect on small business, small municipalities or not-for profit-corporations:** The rule on electronic reporting affects only entities with more than 250 employees. The other amendments have the same potential impact on all employers.

F) **Agency contact person for information:**

   Gregory J. Ramel, Deputy Legal Counsel
   Illinois Department of Employment Security
   33 South State Street, 9th Floor South
   Chicago IL  60603
   312/793-4240

G) **Related rulemakings and other pertinent information:** None

c) **Part (Heading and Code Citation):** Determination Of Unemployment Contributions; 56 Ill. Adm. Code 2770

1) **Rulemaking:**

A) **Description:** Pursuant to Section 2770.106(b), the Director will annually announce the mean average contribution rate for each Economic Section for use in calendar year 2005.

B) **Statutory Authority:** 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508, 1700 and 1701

C) **Schedule of meeting or hearing dates:** Specific criticisms, suggestions and/or comments can be forwarded to the Department of Employment Security in writing by interested persons during the First Notice Period.
DEPARTMENT OF EMPLOYMENT SECURITY

JULY 2004 REGULATORY AGENDA

D) Date agency anticipates First Notice: September 15, 2004

E) Effect on small business, small municipalities or not-for-profit corporations: This rule affects all newly liable employers in Economic Sectors with mean average contribution rates higher than the standard entry rate.

F) Agency contact person for information:

    Gregory J. Ramel, Deputy Legal Counsel
    Illinois Department of Employment Security
    33 South State Street, 9th Floor South
    Chicago IL 60603
    312/793-4240

G) Related rulemakings and other pertinent information: None

d) Part (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: Currently, the rules require that all applicants for unemployment insurance benefits register in person for work with the Job Service (to be redesignated as the Employment Service) except for certain specified reasons. In order to provide for the best possible referrals for employers, the Department would like to expand the reasons for exempting applicants from mandatory registration and would also like to abolish the requirement for in-person registration now that the applicant is able to register on the Internet.

    The Department intends to revise its rules to specify that the Director will "approve" an individual's training under the Workforce Investment Act under the same circumstances as she would have approved it under the Job Training Partnership Act, which was replaced by the Workforce Investment Act. A claimant who is participating in approved training is exempt from certain eligibility requirements that generally apply.
B) **Statutory Authority:** 820 ILCS 405/409, 500, 1700 and 1701

C) **Schedule of meeting or hearing dates:** Specific criticisms, suggestions and/or comments can be forwarded to the Department of Employment Security in writing by interested persons during the First Notice Period.

D) **Date agency anticipates First Notice:** Unknown.

E) **Effect on small business, small municipalities or not-for-profit corporations:** This rule has the same potential effect on all employers.

F) **Agency contact person for information:**

   **Gregory J. Ramel, Deputy Legal Counsel**
   Illinois Department of Employment Security
   33 South State Street, 9th Floor South
   Chicago IL  60603
   312/793-4240

G) **Related rulemakings and other pertinent information:** None
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE RESCINDED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks Office of Banks and Real Estate of the State of Illinois has rescinded the fine of $1,000 against EquiCredit Corporation of America, License No. 3093 of Jacksonville, FL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective July 13, 2004. For further reference link to: http://www.obre.state.il.us/
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE RESCINDED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks Office of Banks and Real Estate of the State of Illinois has rescinded the fine of $1,000 against Freedom Home Mortgage Corporation, License No. 4576 of Mt. Laurel, New Jersey, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective July 21, 2004. For further reference link to: http://www.obre.state.il.us/
Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has suspended the license of Citywide Mortgage Pros, Inc., License No. 4757 of Lockport, IL, and issued a penalty fee of $1,450.00 against Licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective July 13, 2004. For further reference link to: http://www.obre.state.il.us/
Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a penalty fee of $1,700 against Home USA Mortgage Company, License No. 5649 of Skokie, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective July 20, 2004. For further reference link to: http://www.obre.state.il.us/
Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of $500 against Midwest Mortgage Centers, Inc., License No. 6246 of Chicago, IL, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective July 20, 2004. For further reference link to: http://www.obre.state.il.us/
OFFICE OF THE TREASURER

NOTICE OF PUBLIC INFORMATION

NOTICE OF NAMES OF PERSONS APPEARING TO BE OWNERS OF UNCLAIMED PROPERTY WHOSE LAST KNOWN ADDRESSES ARE IN CERTAIN STATES

Pursuant to Public Act 91-0016, the Illinois State Treasurer's Office is publishing the names and last known addresses of unclaimed property owners whose last known addresses are allegedly in a state other than Illinois. The other state does not have a reciprocity arrangement with Illinois.

If your name or that of a person you represent appears below, you may contact this Agency for further information about the assets.

INQUIRIES MUST BE IN WRITING. The written inquiry should include the name and address as listed, and the correct name and address for reply. If inquiring about a name other than your own, you must indicate your authority to act on behalf of that person.

Address written inquiries to:

ILLINOIS STATE TREASURER'S OFFICE
UNCLAIMED PROPERTY DIVISION
P.O. Box 19495
Springfield, Illinois 62794-9495

AUTHORITY: Implementing and required by the Illinois Uniform Disposition of Unclaimed Property Act, (765 ILCS 1025/12).
## OFFICE OF THE TREASURER

### NOTICE OF PUBLIC INFORMATION

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## OFFICE OF THE TREASURER

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**Anesthesia Group P Dr Narayana**

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<td>Aspen Vision Clinic</td>
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BENTON EMERGENCY DEPARTMENT PO BOX 819044 DALLAS TX 75381
BERNARD HODES ADVERTISING 555 MADISON AVE NEW YORK NY 10022
BERRY DENISE UN
BEST STEVEN 4013 AVENUE F AUSTIN TX 78751
BH M OSCEOLA PO BOX 607 OSCEOLA AR 72370
BILAL A MIAN MD PA 310 EAST MAIN ST SOMERVILLE NJ 08876
BILLINGS CARRIE D 2714 WOLTE ST BRUNSWICK GA 31520
BIO ENTERPRISES 417 FIFTH AVE NEW YORK NY 01001
BIO REFERENCE LA BS INC 481 EDWARD H ROSS ELMWOOD PARK NJ 07407
BISHOP DEBRA 165 OAKLANE CHANNELVIEW TX 77530
BLACK ESTHER ESTHER H BLACK 630 RED OAK CUT OFF HOT SPRINGS AR 71913
BLACK MARY 3100 LINCOLN SELMA AL 36701
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BLACKWELL VOLANDA E 1102 SYLVAN ATLANTA GA 30310
BLAIR CARL 8740 4TH AVE SOUTH BIRMINGHAM AL 35206
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BLUE CORSS NATIONAL DIVISION PO BOX 247 NEWARK NJ 07101
BLUE CROSS BLUE SHIELD PO BOX 1200 PHOENIX AZ 85001
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## OFFICE OF THE TREASURER

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CHERRING RWEY HUA H TAIPEI TAIWAN FN 00000
CHESAPEAKE FAMILY PR 213 NORTH ST ELKTON MD 21921
CHESTNUT RIDGE NURSING & 125 SAMARITAN DR CUMMING GA 30130
CHIH CHOU K MIAOLI R O C NO 12 CHUNGCHENG RD FN 00000
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NOTICE OF PUBLIC INFORMATION

EDDY CLAIRE F 224 PARK ST APT 1 NEW CANAAN CT 06840
EDGECOMB HERBERT ONTARIO 74 ELLSWORTH AVE FN 00000
EDMUND SCIENTIFIC 101 E GLOUCESTER PIKE BARRINGTON NJ 08007
EDP ROUNDTABLE P O BOX 8650 ALBANY NY 01220
EDS HEALTH BENEFIT PLAN 5400 LEGACY DR PLANO TX 75024
EDUCATIONAL TESTING SERVICE ROSEDALE RD MS 75D PRINCETON NJ 08541
EDWARDS ROBT MD 1234 VAN VOORHIS RD APT C7 MORGANTOWN WV 26505
EFFEN JAMES APARICIO MR 2050 SAN PEDRO DE MONTES DEOC APARTADO 676 FN 00000
EGUIJUREN GONZALO LIRA SANTIAGO CHILE LO FONTECILLA 441 CAMINO AL AJUSCO FN 00000
EL COLEGIO DE MEXICO NO 20 CARDIGO POSTAL 10740 MEX FN 00000
EL PASO HEALTHCARE RE 10301 GATEWAY WEST BLVD O EL PASO TX 79925
ELECTRONIC PAYMENT SERVIC PO BOX 8027 FARMINGDALE NY 11735
ELI ALSON PH D 16 POCONO RD STE 201 DENVILLE NJ 07834
ELINE DIANA 6600 BOULEVARD EAST APT 21D WEST NEW YORK NJ 07093
ELLEN BLYE MD 123 W 79TH ST NEW YORK NY 01002
ELLWOOD FUND PO BOX 350 TETON VILLAGE WY 83025
EMANUEL HOSPITAL 2801 N GANTEN BEIN AVE PORTLAND OR 97227
EMC INSURANCE COMPANIES PO BOX 712 DES MOINES IA 50303
EMERGENCY MEDICAL ABSTRACTS PO BOX 600 CREAMERY PA 19430
EMERGENCY PHYSICIANS BILLS PO BOX 96328 OKLAHOMA CITY OK 73143
EMERGENCY PHYSICIAN SERVICES PO BOX 58 WOODBURY NJ 08096
EMERGENCY PHYSICIAN BILLING PO BOX 96285 OKLAHOMA CITY OK 73143
EMERGENCY PHYSICIAN BILLING PO BOX 96088 SE STATION OKLAHOMA CITY OK 73134
EMIG CHARLES ROUTE 3 BOX 237 MOUNTAIN HOME AR 72653
EMORY UNIVERSITY HOSP 1364 CLIFTON RD ATLANTA GA 30322
EMPIRE BC BS 622 3RD AVE 17TH FL NEW YORK NY 01001
EMPIRE BLUE CR 11 CORPORATE WOODS BLVD ABBANY NY 01221
EMPIRE BLUE CR 622 THIRD AVE NEW YORK NY 01001
EMPIRE BLUE CROSSBLUE P O BOX 5025 MIDDLETOWN NY 01094
EMPIRE VASCULAR INC P O BOX 330 KINGS PARK NY 01175
EMROY CLINIC 2165 N DECATOR RD PO BOX 102632 ATLANTA GA 30328
ENGLISH CINDY TORONTO M6C3G 49 GLEN CEDAR RD CAN FN 00000
ENGLISH EDNA M 14202 N 37TH PL PHOENIX AZ 85032
ENGAMD ELIZABETH M UN ENNS KAREN 558 CUMBERLAND ALLEN TX 75022
EQUICOR P O BOX 9005 UNIONDALE NY 01155
ERICH RANDOLPH 1240 JOHNSON FERRY MARIETTA GA 30068
ERUYSAL ENTERPRISES INC TORONTO ON M4Y 33 ISABELLA ST APT 2110 CAN FN 00000
ESPOSITO KIMBERLY 387 5TH ST 2 BROOKLYN NY 01121
ESTATE OF GARLA ND RAIFOR D 3646 SALEM DR LITHONIA GA 30038
ESTATE OF JEFFREY METCALF 3709 VAUCLUSE R 219 EULESS TX 75040
ESTATE OF RICHARD JR 10 HENRY ST BAYPORT NY 01170
ESTATE OF RICHARD D STONELLI 10 HENRY ST BAYPORT NY 01170
ESTATE OF RICHARD D STONELLI JR 10 HENRY ST BAYPORT NY 01170
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ESTATE OF ROBERT STONELLI JR 10 HENRY ST BAYPORT NY 01170
ESTATE OF RICHARD STONELLI JR 10 HENRY ST BAYPORT NY 01170
ESTATE OF RICHARD STONELLI JR 10 HENRY ST BAYPORT NY 01170
EUGENE EDELSTEIN 12 EDGEWOOD DR HICKSVILLE NY 01180
EVEY D. IRISH 2 MU DAN JIANG RD BAO SHAN GUEST HOUSE CHN 00000
EXECUTIVE ENTERPRISES INC PO BOX 75163 BALTIMORE MD 21275
EYDIE KIRBY FOUNDATION PO BOX 4277 ANNISTON AL 36207
FANNING ROBIN LEEANN CHIEF LOGAN STATE PARK LOGAN WV 25601
FARGIE 329 1ST ST IOWA CITY IA 52240
FARGIE BILL 329 1ST ST IOWA CITY IA 52240
FARHART EDWARD G 526 GLEN ST GLENS FALLS NY 12801
FARINO ELAINE 912 KEARNEY DR NORTH BRUNSWICK NJ 08902
FARMINGTON VALLEY PHYS TH 45 S MAIN ST STE 23 UNIONVILLE CT 06085
FAY JOHN 4820 SPRUCE ST BELLAIRE TX 77401
FAY JR HAROLD 6 HOWLAND RD MIDDLETOWN NJ 07748
FEDRICK DODD 904 PIUS LANE BETTENDORF IA 52722
FELDMAN TEMY UN
FERDINAND EST 2810 CHURCHBELL CT MOBILE AL 36695
FERG RONALD 260 W BROADWAY NY NY 01001
FERN JOHN UN
FETZER MARY T 7820 TITISEE HANSJAKOBSTR 35 TITISEE NEUSTADT W GERMANY 00000
FHP OF ILLINOIS PO BOX 35809 COLORADO SPRINGS CO 80935
FHP OF ILLINOIS PO BOX 35809 COLORADO SPRINGS CO 80949
FIRST CALL STORE 146 511 S CARRIER GRAND PRAIRIE TX 75051
FIRST IMAGE PO BOX 100589 ATLANTA GA 30384
FISCHETTI CHRISTINE 26 ROSLYN ST ISLIP TERRACE NY 01175
FISHER ARTHUR 835 W THOMSON JACKSBORO TX 76458
FISHMAN JULIE J UN
FLAGHOUSE 601 FLAGHOUSE DR HASBROUCK HEIGHTS NJ 00000
FLANAGAN Nuala SLIGO 55 OAKFIELD CRESENT IRL 00000
FLANAGAN SEAN USS COMSTOCK LSD 45 FPO AP 96662
FLEET BANK PO BOX 2864
FLEMING JR CHARLES 146 ACORN AVE CENTRAL ISLIP NY 01172
FLETCHER ALLEN H EALTH CARE PO BOX 1063 BURLINGTON VT 05402
FLETCHER CHRIS CUMBRIA LAB 0HX CROSTHWAIT KENDA GBR 00000
FLOOD HENRIETTA 124 WEST PINE ST MISSOULA MT 59802
FLORESCA ROBERT 37 SUNSET AVE FARMINGDALE NY 01173
FLORISTS TRANSWORLD 29200 NORTHWESTERN HWY SOUTHFIELD MI 48037
FLOYD JAMES 571 LUCERNE DR SPARTANBURG SC 29302
FLUSHING YMCA 13846 NORTHERN BLVD FLUSHING NY 11354
FLVET DAVID PO BOX 875 MAHER GA 30439
FODOR MICHAEL 962 US HWY 202 SOMERVILLE NJ 08876
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GIANNELLI CARLE 97 SUNSET DR SAYVILLE NY 01178
GIBALA DANIEL 5113 KNOWLES NAPLE AMES IA 50010
GILL PATRICK 313 BERCHMONT AVE BRIDGEPORT CT 6606
GISSELER WILLIAM 2909 GULL MCALLEN TX 78504
GLASROCK HOME HE ALTH CARE INC P O BOX 6177 ARLINGTON TX 76005
GLASS RICHARD 8825 ROSWELL RD ATLANTA GA 30350
GLAVIN JAMES P GU7-1PE 60544 ENGLAND OLD CHASE THE AVE FN 00000
GLAVIN SALLY A GU7-1PE 60544 OLD CHASE THE AVE FN 00000
GLEN LAKE BOAT CLUB AND R 6391 S LAKE ST GLEN ARBOR MI 49636
GLEN LAKES ORTH OPAEDIC 18738 MARSH LN 220 DALLAS TX 75252
GLEN T PEARSON MD 4701 SAMUELL BLVD STE E DALLAS TX 75228
GO CARD 73 SPRING ST STE 202 NEW YORK NY 10012
GOHLER JURGEN PO BOX 602 UNION PIER MI 49129
GOLD TALON PO BOX 971 103 MAIN ST PINE BLUFFS WY 82082
GOLDBERG ROBIN 823 ESTELLE CT UNIONDALE NY 01155
GOLDSTEIN YURFEST & BURNS 1218 W PACES FERRY RD NW ATLANTA GA 30327
GONANAODOROTHY 31 MAZER ST PITTSBURGH PA 15214
GONZALES GILBERT 4911 35TH ST DICKINSON TX 77539
GONZALEZ JUANA M UN
GONZALEZ MARISOL UN
GONZALEZ NELSON CHANGIUNOLA BOCA DEL TORO PANAMA FN 00000
GOOD SAMARITAN H OSP MED CTR P O BOX 5624 PORTLAND OR 97228
GOOD SAMARITAN H OSPITAL 1015 NW 22ND AVE PORTLAND OR 97210
GOOD SAMARITAN HOS P O BOX 5624 PORTLAND OR 97228
 GOODMAN DANIEL 452 S UNION ST BURLINGTON VT 05401
GOTTESMAN STEPHEN 40 BRIARWOOD DR HUNTINGTON NY 01251
GOURLAY MARY ANN 5405 JESSICA LN AUSTIN TX 78727
GRABMEYER ANDREA B PO BOX 385 OKemos MI 48805
GRACE HOSPITAL HUTCHINSON KS 67501
GRADY ARTHUR 270 MARYANNE DR MACON GA 31210
GRAHAM RICHARD 127 WOODS AVE ROOSEVELT NY 01157
GRANT DOROTHY 5417 35TH LOBBOCK TX 79407
GRAY JENNIFER 137 PAICHEN AVE APT 3 L BROOKLYN NY 01122
GREATER JOHANNESBURG TRAN JOHANNESBURG 2000 PO BOX 1049 FN 00000
GREEN COLETTE 145 WOODLAKE PL 2 ATHENS GA 30605
GREEN DORIS V 107 MORSE AVE GROTON CT 06340
GREEN WALTER 812 WYNNAE LANE PLANO TX 0
GREENHAW THOMAS 2106 ARGONNE DR CARROLLTON TX 75007
GREENWOOD JAMES 701 W LONGSPUR BLV AUSTIN TX 78753
GREGORY B LISTOE 3931 MUNDY MILL RD OAKWOOD GA 30566
GREGORY T LOMBAR DO MD PH D 16 QUAKER AVE CORNWALL NY 01251
GRGAS PAUL 163 WASHINGTON ST S FARMINGDALE NY 01173
GRIFFIN ANTHONY UN
GRIFFIN H W BOX 4378 BRYAN TX 77805
GRIMES PAULETTE 912 CLEVELAND ST BROOKLYN NY 01120
GROCERS SUPPLY PO BOX 14200 HOUSTON TX 77221
GROSS JR EDWARD 262 1ST AVE MASSAPEQUA NY 01175
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GRUNSHENAN SEAN          DUBLIN 3 RAHEEN DR TALLAGHT  IRL  FN  00000
GUILLERMO A PINZ ON MD    10201 GATEWAY W STE 13     EL PASO  TX  79925
GUINESSEY JOHN            232 CANDEE AVE          SAYVILLE  NY  01178
GURNEY F PEARSAL L MD PA S  6624 FANNIN ST 1400 S MED TO  HOUSTON  TX  77030
GURSCH ARTHUR            201 SCOTTWOOD DR       HOT SPGS NATL P  AR  71901
GWALA MAFIKA               AUCKLAND PARK 2006 PO BOX 924  FN  00000
H&O TRUCK TRAILER REPAIR  1561 HWY 45N         WEST POINT  MS  39773
HABET BERNARD             MINATO KU TYKO 106 JAPAN  FN  00000
HABET STAUROLA            MINATO KU TYKO 106 JAPAN  FN  00000
HAGGARD JONATHON          5EPARKAVE          DESMOINES  IA  50315
HAIG MARGARET             DOWNSVIEW ONTARIO M3H1C
                           137 BOMBAY AVE      CAN  FN  00000
HAIMOVIC ITZHAK C MD      333 EAST SHORE RD      MANHASSET  NY  11030
HAIRSTON HATTIE           1255 E3101 NUUANU AVE  HONOLULU  HI  96817
HALAND VIVIAN T           ALBERTA CANADA 18 ROSSDALE CT SE FN  00000
HALEY DIANE               616 ST GEORGES ST      REISTERSTOWN  MD  21136
HALEY MIKE                4914 WIGTON          HOUSTON  TX  77096
HALL DONNA               P O BOX 24           SHERMAN  TX  75091
HALL VICKI                PO BOX 3065        TEXARKANA  TX  75504
HAMEDL JOSEPH            28 44 42 ST          ASTORIA  NY  01110
HAMES KAREN              2907 HARDER LANE       ARLINGTON  TX  76016
HAMID MOOTABAR M D       1990 CENTRAL PARK AVE YONKERS  NY  01071
HAMILTON TRUDIE          9340 SKILLMAN 1305     DALLAS  TX  75243
HAMMELL J EST
HAMMITT EST OF GLADYS    5969 WESTGROVE CIRCLE  DALLAS  TX  75248
HAN MAN HO               4 VICTORIA RD       NORTH BABYLON  NY  11703
HANAS TERESA              80 MOREWOOD DR      SMITHTOWN  NY  01178
HANDT DC JAY              91 CENTRAL PARK WE   NEW YORK  NY  01002
HANNIBAL EMERGEN CY SERVIC P O BOX 814726     DALLAS  TX  75381
HANSON JENNIFER          UN
HARMON CHARLES           12 N GATE DR        HUNTINGTON  NY  01174
HAROLD BURTON DD S       2045 MEDICAL CENTER DR  BIRMINGHAM  AL  35209
HAROLD H VARON MD         3814 SWISS AVE       DALLAS  TX  75204
HARPER JASON J           526 RAILROAD AVE S     CRYSTAL SPRINGS  MS  39059
HARRINGTON BENEFITS      PO BOX 1386        DUNCAN  OK  73534
HARRIS GELLMAN           P O BOX 251420       LITTLE ROCK  AR  72225
HARSEY STUART             3245 PRINCETON RD   WEST COLUMBIA SC  29170
HART DONALD              34 E 25TH ST      NEW YORK  NY  0
HARTE DAVID              UN
HARTON REG MED C TR      PO BOX 89097       DALLAS  TX  75389
HASE MAKOTA              185 S ORANGE AVE     NEWARK  NJ  07103
HASSENNAUER B            2801 BRIARCLIFF RD    ATLANTA  GA  30329
HAVENTREE SOFTW ARE      PO BOX 1093       THOUSAND ISLAND P  NY  0
HAWAII MEDICAL SERVICE A S 818 KEEAUMOKU ST  HONOLULU  HI  96808
HAYSSSEN HENRY           280 PARK AVE SO APT 13H   NEW YORK  NY  01001
HCA ARLINGTON ME DICAL CENTER  3901 W 15TH ST    PLANO  TX  75075
HCA DENTON COMMU NITY    207 BONNIE BRAE    DENTON  TX  76201
HCA HEALTH SERV OF      4401 BOOTH CALLOWAY RD N RICHLAND HILL  TX  76180
HCA NORTH HILLS MED CNTER  4401 BOOTH GALLOWAY RD N RICHLAND HILLS  TX  76180
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### NOTICE OF PUBLIC INFORMATION

- **HOLY CROSS HOS**: DRAW CS100990, ATLANTA, GA 34424
- **HOLY NAME RADIOLOGICAL ASSOC**: PO BOX 219, TEANECK, NJ 07666
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- **HOMEDCO INC**: 1140 E KIMBERLY RD, DAVENPORT, IA 52807
- **HONG SOONTARK**: 188 SINGYUNGDONG, KOR, FN 00000
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- **HORAK HOWARD**: 3534 MAIN APT 4, DAVENPORT, IA 52806
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- **HOYNE ANTHONY**: 1900 W WATERLOO RD, EDMOND, OK 73034
- **HUANG CHEN WEN W**: 10F 4 626, TAIPEI, FN 00000
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- **HUDDLESTON ELIZABETH**: 1105 SE 9TH ST, MINERAL WELLS, TX 76067
- **HUFF H**: 74 BRIARWOOD RD, FAIRHAVEN, NJ 07704
- **HUG CTR OF AL IN C**: PO BOX 910110, DALLAS, TX 75391
- **HUMANA HOSP HUNT**: 1777 NE LOOP 410 STE 700, SAN ANTONIO, TX 78217
- **HUMANA HOSP MED CITY DALLAS**: 7777 FOREST LANE, DALLAS, TX 75230
- **HUMPHREY RICKY**: RT 2 BOX 352, MARLIN, TX 76661
- **HUNTER JAMES**: BLACK COAL DR BLDG 29, FORT WASHAKIE, WY 82514
- **IAZZO JOHN**: 500 COLLEGE POINT BLVD, FLUSHING, NY 01135
- **IASD HEALTH SVCS C**: I 29 & HAMILTON BD, SIOUX CITY, IA 51102
- **IBM DEDICATED**: P O BOX 5012, MIDDLETOWN, NY 01094
- **IH CLEAR LAKE REGIONAL**: 400 MEDICAL CNTR BLVD 103, WEBSTER, TX 77598
- **IMAGING INSTITUTE OF TEXA**: 8411 WEST BELLFORT 100A, HOUSTON, TX 77071
- **IMOEDHME DANIEL**: JEDDAH 21461 SOLIMAN FAKEEH HOSP
  - PO BOX 2537, FN 00000
- **INDEPENDENT INS AGENTS OF AMERICA**: FORT WORTH, TX 76101
- **INDUSTRIAL PRESS INC**: DEPT D600, NEW YORK, NY 10016
- **INFANCY & EARLY CHILDHOOD**: 4938 HAMPDEN LANE STE 229, BETHESDA, MD 20814
- **INGARTURO TRIANA M**: BANCOMER LOS MOCHIS SINALOA
  - LEVAY AVE AND JUAREZ ST, FN 00000
- **INT HEALTHCARE**: PO BOX 998, BIRMINGHAM, MI 48012
- **INTERFAITH MEDICAL CTR**: 555 PROSPECT PL, BROOKLYN, NY 01123
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<td>JONATHAN K SCHWA RTZ MD</td>
<td>63 N GROSS RD STE 202 KINGSLAND GA 31548</td>
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<td>JONATHAN KOLTZ MD</td>
<td>PO BOX 5200 MANHASSET NY 01103</td>
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JONES ANDREW 23 W 9TH ST 3F NEW YORK NY 01001
JONES ANDREW 23 W 9TH ST 3F NY NY 01001
JONES DONALD 414 E MONROE HARLINGEN TX 78550
JONES GLENNA PO BOX 2708 ADA OK 74820
JONES JOSEPH L UN
JONES MARK 715 KING AUGUSTA AR 72006
JONES WARNER 211 MONMOUTH WAY CLIFTON PARK NY 01206
JORDAN BRUCE P O BOX 2021 HARPERSBERRY IA 52414
JOE A MONTES MERCADO MD MANATI 674 MARGINAL 1 EXT SAN SALVA FN 00000
JOSEPH P MERLINO MD MPA 130 E 7TH ST NEW YORK NY 01002
JOSEPHINE RADIOLOGY ASSOC 1430 EAST MCANDREWS RD MEDFORD OR 97504
JOURNAL OF ANTIBIOTICS SHINAGAWA KU TOKYO 141 2 20 KAMIOSAKI JPN FN 00000
JUANITA AGATUCCI 1798 FAIRLANE KEOKUK IA 61614
JUAREZ VICTOR 166 W 75TH ST ROOM 520 NEW YORK NY 01002
KAREN DICK VICTORIA BC V8V 4A7 CANADA 21 CAMBRIDGE ST FN 00000
KAREN SCHORN MD 100 MANETTO HILL RD STE 306 PLAINVIEW NY 01180
KARL E RENEA 5616 SPRING VALLEY APT 172 DALLAS TX 75240
KARL EDITH 6706 POPPY CT FT WORTH TX 76137
KATE TERRY UN
KATHRYN HERndon 530 SPRING ST GAINESVILLE GA 30501
KAVATHAS CHRISTOS 123 EAST 54TH ST APT 4A NEW YORK NY 01002
KAWANABE KI YOKO 8540540 AKASAKA JPN FN 00000
KEATON ROBERT 2222 LUCAS ST WEATHERFORD TX 76086
KEELEY KIRSTEN 2205 BOTANICAL 215 KILLEEN TX 76542
KEF MEDIA ASSOCIATES INC 426 TRABERT AVE ATLANTA GA 30309
KELLEY ANNE PO BOX 10861 EUGENE OR 97401
KELNER ANN 802 TREERIDGE PKY ALPHARETTA GA 30202
KEMPER COUNTY HOSPITAL HWY 39 N DE KALB MS 39328
KENNEDON KATHLEEN 677 CHURCH ST MARIETTA GA 30060
KENNETH SANDFORD MD PO BOX 7539 MARIETTA GA 30065
KENZIE ANNE 3205 WILLOW RIDGE RD MARION IA 52302
KEUGH PAUL K VPI WC 210 FPO AP 96601
KERNAN MARY 5503 SE 94TH PORTLAND OR 97206
KETELSEN CURTIS P O BOX 339 DAVENPORT IA 52805
KEVIN M CAHILL M D 850 5TH AVE NEW YORK NY 01002
KEZEL ELIZABETH 2093 SECOND AVE N MERRICK NY 01156
KHAN MUHAMMAD I MD PO BOX 4001 HUNTSVILLE TX 77342
KILLIAN VICKI 402 SOUTH LINCOLN AVE DAVENPORT IA 52804
KIMBALL MARY ANN 340 ILKA RD SEGUN TX 0
KIMBALL MARY ANN 340 ILKA RD SEGUN TX 78155
KIMBERLY HOME HEALTH CAR E P O BOX 29142 SHAWNEE KS 66216
KIMURA JAMES H 2799 E GRAND BLVD DETROIT MI 48202
KINDRICK ROBBYN 1604 WEYHAND 1019 FORT WORTH TX 76190
KINDRICK R D 1300 FULTON DENTON TX 76201
KING ELISABET H 7 PEARL ST HUDSON FALLS NY 01283
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KINNU JAMES E 1400 EASTWICK LANE PLANO TX 75093
KINSLEY STEPHEN JAY PO BOX 195002 KODIAK AK 99619
KIRBY SANDRA 4808 532 HAVERWOOD DALLAS TX 75287
KIRK SPERBER MD 1 GUSTAVE LEVY PL BOX 300 NEW YORK NY 01002
KIRKWOOD JOHNATHAN 1212 METZE RD APT 20C COLUMBIA SC 29210
KITTICHIKARN PHOOCHIT SAKLRON 7400 MAHACHAI MUNG SAMUT 923180 EAGADIAI RD FN 00000
KIVLIGHN JR HERBERT P O BOX 262 BETHPAGE NY 01171
KLEIN ROBERT 41 BAR BEACH RD PT WASHINGTON NY 01105
KLEINE ALBERT TURKS & CAICOS ISLANDS TURTLE COVE PROVIDENCIALES FN 00000
KLING BEATRICE C O L BLOOMFIELD 3275 FIELDSIKE DR BETTENDORF IA 52722
KLOP MARTIN 12 BIRCHWOOD DR P O BOX 7 GREAT RIVER NY 01173
KLUGE NORMAN 1900 GREGORY AVE MERRICK NY 01156
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KODAK 23 DEER TRACK LANE BROCKPORT NY 14420
KOLAR MARIE 230 E RIDGEWOOD AVE PARAMUS NJ 07652
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KOLNER HELEN G P O BOX 2902 SETAUKEK NY 01173
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KORACH JOAN M 2920 W BIRCHWOOD AVE CHICAGO IL 10895
KRAUSE CHILDRENS TREATMENT 5638 MEDICAL CENTER DR KATY TX 77494
KRAUSS ANNE T RAIGEMONT CHALET LES PIVOINES 1838 FN 00000
KREGG THOMAS 515 ST CLAIR AVE SPRING LAKE NJ 07762
KRENEK SHEILA P O BOX 6817 KATY TX 77491
KRISKO LORNA ONTARONTARIO L5A 2G5 35102-7500 2465 HURONTARO ST 803 MISSISSAUGA FN 00000
KROBLIN ROBERT 2145 N ELWOOD TULSA OK 74106
KROCHMAL MAURICE M 77 W 15TH ST APT 6F NEW YORK NY 10011
KUCINSKI AMY PO BOX 7 FORT WASHAKIE WY 82514
KUNTZ JOHN 784 COLUMBUS 14I NEW YORK NY 01002
KUROWSKI LUKASZ HAMILTON, ON 446 KING WILLIAM ST FN 00000
KURZAWS L EST UN
KWICK TICK 109 S MT VERNON AVE UNIONTOWN PA 15401
L I J MEDICAL C ENTER PO BOX 7017 NEW HYDE PARK NY 01104
LA CROIX COTONOU BP 105 FN 00000
LAB CORP OF AMERICA 51 CHARLES LINDBER  UNIONDALE NY 01155
LAB FOR MALE REPRODUCTIVE 440E ONE BAYLOR PLAZA HOUSTON TX 77030
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LEWIS L S 23 LAFAYETTE AVE DUNKIRK NY 01404
LI LETITIA VANCOUVER BC V6J 2- 2011633 W 10TH AVE FN 00000
LIBERTY MUTUAL PO BOX 1525 DOVER NH 03820
LIDDELL MICHAEL 1210 W SAGINAW ST LANSING MI 48915
LIEB ELEANOR 9 WHIPPOORWILL RD ARMONK NY 01050
LIFE PERFORMANCE CENTER 66 TOWNE CTR STE 208 SUCCASUNNA NJ 07876
LIFE TECH INC PO BOX 4346 HOUSTON TX 77210
LIFECHEM 230 PEGASUS AVE NORTHVALE NJ 07647
LILIEHOLM GEORGE 158 MENDHAM RD EAST MENDHAM TWP NJ 07945
LILIEHOLM GEORGE 6 LINDEN LANE MENDHAM TWP NJ 07945
LIN AMY 9402 SHARPVIEW LN HOUSTON TX 77036
LIPFORD ROCQUE 1 CHARLES ST 2 NEW YORK NY 10014
LIPPINCOTT WILLIAMS & WILKINS PO BOX 1610 HAGERSTOWN MD 21741
LIPPITZ HERBERT 632 THORNTON RD LITHIA SPRINGS GA 30122
LITHO GUINAN 510 JERICO TURNPIKE SYOSSET NY 11638
LITHOTRIPSY ASSO C P O BOX 609 WEST HAVERSTAW NY 01099
LITTLEFORD EDWARD 150 E 42 ST NEW YORK NY 01001
LITTLETON PHYLIS APT 202 DAVENPORT IA 52807
LIVINGSTON MEMORIAL HOSP I 504 SOUTH 13TH ST LIVINGSTON MT 59047
LLORCA NATHALIE GERMAINE 25 IMPASSE ST PIERRE SANARY SUR MERE FN 00000
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LOCKRIDGE MICHAEL 2530 ENGEL AVE DALLAS TX 75233
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LONG MERRIE 9224 LYON VALLEY RD NEW TRIPOLE PA 18066
LONG STEPHEN ZZ 00000
LOOSVLT DEREK 236 5TH NEW YOPRK NY 01000
LORD DWAYNE PO BOX 422 CHESTER VT 05143
LOS GALLEROS 10621 CANDELWOOD EL PASO TX 79925
LOUIS CLARENCE B ROWN MD 750 MARTIN L KING ATLANTA GA 30310
LOUIS M ALPERN M D 2201 N STRANTON EL PASO TX 79902
LOVINGGOOD BRECK 313 DORAL PL GARLAND TX 75042
LRP PUBLICATIONS PO BOX 980 DEPT 178 HORSHAM PA 19044
LU RICHARD TACHUNG TA FN 00000
LUCAS MARY PO BOX 364 BUFFALO NY 01420
LUNDY CHARLES 501 RECOID RD WALTERBORO SC 29488
LUTHER CANDICE A 1407 PROVINCETOWN LANE C O THEO E LUTHER JR RICHARDSON TX 75080
LUTHER KRISTI L 1407 PROVINCETOWN LANE C O THEO E LUTHER JR RICHARDSON TX 75080
LUTHERAN CENTER 7 ROUTE 25A SMITHTOWN NY 11787
LUTZ EST OF JOSEPHINE 2903 TARBOBO DOTHAM AL 36303
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LYNN DONNA 1930 W 75TH PL DAVENPORT IA 52806
LYONS JAMES FN 00000
M MAHBUDEL ISLAN MD 3801 N MARQUETTE ST 301 DAVENPORT IA 52806
MACK GENEVIEVE 46 COLUMBIA ST SCHENECTADY NY 12308
MACPHEE ELIZABETH 111 YORKVIEW DR 42901-1900 WILLOWDALE ON M2R 1J9 FN 00000
MADDEN ALBERT 15 JEFFERSON AVE AMITYVILLE NY 01170
MADLOCK CYNTHIA 4207 WEMBLETON ALLISON PARK PA 15101
MADLOCK DOUGLAS 4207 WEMBLETON ALLISON PARK PA 15101
MADLOCK SARA 4207 WEMBLETON ALLISON PARK PA 15101
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MAGNOLI VICKI 4 GREENBROOK AVE APT 2B TORONTO FN 00000
MAIER CLAUS D72574 BAD URACH SEEWIEN FN 00000
MAIER FRANK 52 EDWARD AVE BABYLON NY 01170
MAKANIN VLADIMIR MOSCOW KV14
MALCOLM DULOCK 121069 NOVINSKY BULVAR 161 FN 00000
MALCOLM RONALD 6920 JIMMY CARTER BLVD NORCROSS GA 30071
MALLARY ROBBIE 9303 SLAYTON AUSTIN TX 78753
MALVASIA CORPORATION MOTERREY 64030 CO BASE INTL SA DE CU SIMON BOLIVAR FN 00000
MAMADOU SOW DAKAR LE TEMOIN BP 384 FN 00000
MANAGED BENEFIT ADMINISTRATORS 4606 S GARNETT STE 501 TULSA OK 74146
MANLEY LORRIE 3206 HEATHERTON DR DAVENPORT IA 52804
MANSKE SHEEFFIEL D RADGY G R 3617 PROFESSIONAL DR BX 2847 PORT ARTHUR TX 77643
MANZ ELSA 8000 ZURICH BAHNHOFSTR 9 FN 00000
MARC RUVINSTEIN MD 115 E 64TH ST NEW YORK NY 01002
MARCUS S BARKER MD 3005 NW 63RD ST OKLAHOMA CITY OK 73116
MARIA L WING M D 175 MEMORIAL HIGHWAY NEW ROCHELLE NY 01002
MARILAO ST MICHAEL FAMILY HOSP PHILLIPINES FN 00000
MARK ELARDO RD 1 BOX 714 SUSSEX NJ 07461
MARR BENITA DELTA BRITISH COLUMBIA CANADA V4C 7 10310 SHEAVES PL FN 00000
MARR RICHARD DELTA BRITISH COLUMBIA CANADA V4C 7 10310 SHEAVES PL FN 00000
MARRILL PATRICK 1928 FOXFIRE RD MOBILE AL 36618
MARRILL SUZANNE 2140 KUHIO AVE A2411 HONOLULU HI 96815
MARTIN BIJAN HEIDELBERG BERCHALDE 74 6900 DEU FN 00000
MARTIN EMILY 25 MACDONALD DR HANOVER NH 03755
MARTIN RICHARD 15816 EL ESTADO DALLAS TX 75248
MARTIN SALES 1513 N HWY 377 PILOT POINT TX 76258
MARTIN TOM 8383 138TH ST BURLINGTON IA 52601
MARTINEZ ANNA 1101 WOODLAND DR 16 KNOXVILLE IA 50138
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MED CLINIC HOUSTON PO BOX 200830 HOUSTON TX 77216
MEDICAL ALLIANCE PO BOX 941002 DALLAS TX 75284
MEDICAL ALLIANCE INC P O BOX 841002 DALLAS TX 75284
MEDICAL CENTER HOS 504 MEDICAL CENTER CONROE TX 77304
MEDICAL CLINIC OF HOUSTON 1707 SUNSET BLVD HOUSTON TX 77005
MEDICAL COLLEGE P O BOX 251420 LITTLE ROCK AR 72225
MEDICAL DEVICE REGISTER 5 PARAGON DR MONTVALE NJ 07645
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MEDICAL LETTER 1000 MAIN ST AUGUSTA GA 30901
MEDICAL PART P O BOX 802201 DALLAS TX 75265
MEDICARE P O BOX 200830 HOUSTON TX 77216
MEDICARE PART P O BOX 10066 AUGUSTA GA 30909
MEDICINE CENTER OF ATLANTA 3635 CHAMBLEE TUCKER RD CHAMBLEE GA 30341
MEDLER BRADLEY 114 TERRACE RD SANGER TX 76266
MEDSTAT INC PO BOX 802201 DALLAS TX 75380
MEDTECH P O BOX 2519 WACO TX 76702
MEERKIK M T 13036 MICHIGAN AVE DEARBORN MI 48126
MEHTA ZARINA 14525 PIERREFONDS BLVD FIN 00000
MELAS & ASSOCIATES 25900 DEQUINDRE WARREN MI 48091
MELVIN CLEVELEND OD 279 SOUTHWEST PLAZA ARLINGTON TX 76016
MEM HOSP SYSTEM P O BOX 100900 HOUSTON TX 77251
MEMORIAL MEDIC 1275 YORK AVE 232 NEW YORK NY 10002
MEMORIAL PATHOLOGY ASSOC 1275 YORK AVE BOX 416 NEW YORK NY 10002
MEMORIAL SLOAN KETTERING 1275 YORK AVE BOX 520 NEW YORK NY 10002
MEMORIAL SLOAN KETTERING 633 THIRD AVE 4TH FL NEW YORK NY 10001
MENCHACA SUE UN
MENDOTA EMERGENCY PHYSICIAN PO BOX 816385 DALLAS TX 75381
MENNINA PASQUALE 28 EKLUND BLVD NESCONSET NY 11767
MERCHANT MALIK 122 BARBERRY LN PEACHTREE CITY GA 30329
MERCY HOSPITAL 500 E MARKET IOWA CITY IA 52245
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METPATH ONE MALCOLM AVE TEBERBOBO NJ 07608
METPATH INC PO BOX 1928 SO HACKENSACK NJ 07606
METPATH LAB ONE MALCOLM AVE TEBERLOBO NJ 07608
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MEYER WILLIAM A CAMBRIDGE ONTARIO N3H3S
MEYERSON ALEX 2155 CORONATION BLVD CAN FN 00000
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332 PONCE DE LEON
ATLANTA, GA 30308

MIDWEST RADIOLOGY ASSOCIATES
8121 NATIONAL AVE
MIDWEST CITY, OK 73110

MIDWEST USERS GROUP
12736 S RIDGEWAY AVE
ALSIP, IL 60658

MIDWOOD HOSPITAL
19 WINTHROP ST
BROOKLYN, NY 11222

MILFORD CHRISTOPHER
13440 N 44TH ST APT 360
PHOENIX, AZ 85032

MILISCH TIMOTHY
223 S RESLER
EL CORONADO, TX 79912

MILLER B
PO BOX 370406
EL PASO, TX 79925

MILLER SIDNEY
1061 BRENTWOOD WAY APT A
DUNWOODY, GA 30350

MILLER SYLVIA
13 SOUNDVIEW LANE
PORT WASHINGTON, NY 11050

MILLHOFF RYAN
106 ONONDAGA AVE
SYRACUSE, NY 13201

MILLS FRANCES
P O BOX 164
CENTRAL ISLIP, NY 11721

MINGIN HOWARD
2630 ARLINGTON AVE
DAVENPORT, IA 52803

MINISTRY OF HEALTH
KUALA LUMPUR, MALAYSIA
CENDERASARI 50590
FN 00000

MITCHELL BELINDA
182 PINE CONE CR
ARLINGTON, TX 76011

MITCHELL SIMONE
P O BOX 9401
TULSA, OK 74157

MODI ARMIN
HELLENIC REPUBLIC OF GREECE
VIA AIR MAIL
FN 00000

MONGANE WALLY SEROT
CAPE TOWN 8000 PO BOX 15
FN 00000

MONTEFIO MEDICAL CENTER
111 EAST 210TH ST
BRONX, NY 10461

MONTREAL GENERAL HOSPITAL
MONTREAL QC H3G 1A4 CANADA
1650 CEDAR AVE
FN 00000

MONUMENTAL GENERAL INS
1111 N CHARLES ST
BALTIMORE, MD 21201

MOONEY MORMA
118 LAWRENCE CRESCENT
TORONTO, ON  M3C 1J7

MOORE JIMMIE
306 ELBERTA RD LOT 4
WARNER ROBINS, GA 31093

MOORE TOMAS
USS ROBERT BRADLEY
FPO AE 09565

MOREAU LINDA
POINTE-CLAIRE H9R 5E9
3535 TRANSCANADA HIWAY
FN 00000

MORETON WALTER P
1729 KISSINGBOWER RD
AUGUSTA, GA 30904

MORR ROBERT
614 ROLAND
CHARLOTTE, NC 28217

MORRIS BRUCE
MARKHAM ONTARIO L3S4A
48 PRIMROSE PATH CRESCENT
CAN  FN 00000

MORRISON MAYNARD
DARTMOUTH B3A2R
10 BROOKDALE CRESCENT
FN 00000

MORRISTOWN MEMORIAL HOSPITAL
P O BOX 252
PARSIPPANY, NJ 07054

MORSE ELEANOR
121 W 75TH ST 2B
C O SUSAN MORSE
NEW YORK, NY 10021

MOUNT VERNON HOSPITAL
12 N SEVENTH AVE
MOUNT VERNON, NY 10550

MOYERS III WILLIAM
3002 GREEN HOLLOW DR
ISLINGTON, NJ 08830

MOYNIHAN MARY
5 OLIVA RD
PORT JEFFERSON, NY 11777

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NICHOLS CHARLES
10 GREY LEAF CT
SIMPSONVILLE SC 29680

NICHOLS JEFFERY
308 TRINITY CT 3
PRINCETON NJ 08543

NICOLAS SANEZ MD
417 FIFTH AVE
NEW YORK NY 01001

NIEDEL JASPER
BAD BRAMSTEDT RHEUMAKINIK D24572
FN 00000

NIELYN ELECTRONIC INSTIT
1275 BARRACKS RD
CHARLESTON SC 29405

NISHIMURA MUNEAKI
KYOTO SAKYOKU 13 BOYAMA
KAMITAKANO 606
JPN FN 00000

NISSEN THOMAS
249 HOLLAND DR
SAVANNAH GA 31419

NO FULTON HOSPITAL
1121 LAKE COOK RD STE M
ROSWELL GA 30076

NO SHORE RADIATION CARE
PO BOX 4317
MANHASSET NY 01103

NOLAN TAMMY
6452 W THOMAS
PHOENIX AZ 85033

NORRELL HEALTH CARE
3535 PIEDMONT RD NE
ATLANTA GA 30305

NORRIS MELVIN M
1929 12 PERSHING
DAVENPORT IA 52801

NORTH AMERICAN LIFE ASSURANCE CO
M2M 4G4 5650 YONGE ST
FN 00000

NORTH SHORE ALLEGED RYG & ASTHMA
1380 NORTHERN BLVD
MANHASSET NY 01103

NORTH SHORE LUI
PO BOX 24247
HOUSTON TX 77229

NORTH SHORE UNIVERSITY
PO BOX 4318
MANHASSET NY 01103

NORTH SHORE UNIVERSITY HOSPITAL
300 COMMUNITY DR
MANHASSET NY 01103

NORTH SHORE UNIVERSITY HOSPITAL
PO BOX 4318
MANHASSET NY 01103

NORNE EAST GEORGE
PO BOX 104054
ATLANTA GA 30335

NORTH SHORE HOSPITAL
1000 JOHNSON FERRY RD N E
ATLANTA GA 30304

NORTHWEST TEXAS HOSPITAL
BOX 9633
AMARILLO TX 79105

NORTON FRANK
1100 7TH AVE
ESCANABA MI 49829

NORTON MICHAEL
515 1 2 ST CLAIR AVE
SPRING LAKE NJ 07762

NOUZA WILLIAM T
6 AZALEA DR
SYOSSET NY 11791

NRPH FOUND BKLYN S
265 14TH ST
BKLYN NY 01123

NSUH AT GLEN C
PO BOX 4317
MANHASSET NY 01103

NSUH AT GLEN CO VE
PO BOX 4317
MANHASSET NY 01103

NSUH AT PLAINVIEW W
888 OLD COUNTRY RD
PLAINVIEW NY 01180

NUGENT GEOFFREY J
VERNON BC V1T 8- CAN 1505 37TH ST
FN 00000

NUNO JORGE
MACAU 255 AVE DA AMIZADE
FN 00000

NYEGAARD & CO A S
NORWAY 0485 OSLO 4 NYCOVEIEN 2
FN 00000

NYLCARE
PO BOX 30769
JAMAICA NY 11430

NYMC MHC FP RADI OLOGY
PO BOX 6081
MT VERNON NY 01055

O FARRELL ROBERT
116 BEATRICE AVE
W ISLIP NY 01179

OATES ROBERT
15 OLDWOOD RD
PORT WASHINGTON NY 01105

OB GYN SPECIALISTS PC
2322 E KIMBERLY RD
DAVENPORT IA 52807

OCANA JORGE
RT 4 BOX 480
MISSION TX 78572
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PEDIATRIC HEALTH CENTER 10501 VISTA DEL SOL EL PASO TX 79925
PEDIATRIC SERV O F AMEICA P O BOX 930832 ATLANTA GA 31193
PELL THERESA 172 ANCHOR LANE W BAYSHORE NY 01170
PELLERIN TABITHA T 707 WAILEPO PL #2 KAILUA HI 96734
PENG XIE BEIJING PEOPLES REPUBLIC OF CH FN 00000
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PERSSON TORSTEN FN 00000
PETEFISH REBECCA 505 HONEYDALE RD 81 BROWNSVILLE TX 78520
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PIISKORZ GEORGE 2517 MEADOW PARK CIRCLE 14C BEDFORD TX 76021
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PLANNED PARENT HOOD 810 SEVENTH AVE NEW YORK NY 10019
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PONDISCO LEONARD 52 LOVE CT NUTELLY NJ 07110
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SHADY REST MOTEL 1900 S OCEAN BLVD MYRTLE BEACH SC 29577
SHANNON R SCHRAD ER MD 4101 GREENBRIAR 200 HOUSTON TX 77098
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SHARP CHARLES 7 HARBOR DR MONTGOMERY TX 77356
SHASHIKANT R PA TEL M D PO BOX 772 PARAMUS NJ 07652
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SHEVIN PATRICK J GASLgow 270 ALLISON ST FN 00000
SHEVIN PATRICK J GLASGOW 270 ALLISON ST FN 00000
SHIELD WILLIAM 2203 COLONY DR HONDO TX 78861
SHELS ANN CAN
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SIFFORD KATHLEEN 73 4352 KAILANA PL KAILUA KONA HI 96740
SIMMONS DAVID 3203 S 147TH E AVE C TULSA OK 74134
SINAI TODD M UN
SINGH CHATTERPA 148 50 HILLSIDE AVE JAMAICA NY 01143
SINGH GURCHARAN PROVIDENCIALES NIL PO BOX 250 FN 00000
SINGLETON ASSOC IAATES P A 3355 W ALABAMA HOUSTON TX 77098
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SOTO NERIDA
PRI CIALES PO BOX 255
FN 00000

SOUND HLT CTR
731 WHITE PLAINS
BRONX NY 01047

SOUTH TX MEDICAL CLINICS
P O BOX 3006
WHARTON TX 77488

SOUTHERN HOSPITAL
PO BOX 1019
SPRING VALLEY NY 01097

SOUTHEASTERN SURGICAL
5505 PEACHTREE DUNWOOD
ATLANTA GA 30342

SOUTHWEST TEXAS PATHOLOGY
P O BOX 40429
SAN ANTONIO TX 78229

SPAGAT JEFFREY
410 3RD STR APT 2
BROOKLYN NY 01121

SPARLING JOYCE
11 B GLEN HOLLOW DR
HOLTSVILLE NY 01174

SPARTANBURG MEDICAL GROUP
100 E WOOD ST STE 401
SPARTANBURG SC 29303

SPEARS LATANYA
4133 CHURCH ST
CLARKSTON GA 30021

SPEARS LATANYA
4159 CHURCH ST 12E
CLARKSTON GA 30021

SPELLMON WILLIE
115 HALSEY AVE
SOUTHERN HAMPTONS NY 01196

SPRAVICKI
6 EAST NECK RD
HUNTINGTON NY 01174

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306 MAGNOLIA AVE
JERSEY CITY NJ 07306

SPREMBERG CARSTEN
Hellenic Republic Greece
VIA AIR MAIL
FN 00000

SPRINKLE BIANCA
4495 W RENO
OKLAHOMA CITY OK 73127

SRDAN JELIC
MUNCHEW FUZSTEUNEDEZ ST
97 80686
FN 00000

ST CLARES HOSPITAL
600 MC CLELLAN ST
SCHENECTADY NY 01230

ST ELIZABETH H
P O BOX 844154
DALLAS TX 75284

ST FRANCIS FAMILY CARE
4835 NORTH OCONNER 134 515
IRVING TX 75062

ST JOHN HOSPITAL L
18300 ST JOHN DRICE
NASSAU BAY TX 77058

ST JOHN HOSPITAL
ROUTE 25A
SMITHTOWN NY 01179

ST JOHNS HOSPITAL
1923 S UTICA AVE
TULSA OK 74104

ST JOSEPH HOSPITAL ACUTE
PO BOX 5367
BRYAN TX 77805

ST JOSEPH HOSPITALS
301 PROSPECT AVE
SYRACUSE NY 01320

ST LUKES BAPTIST HOSPITAL 2
PO BOX 2928
SAN ANTONIO TX 78299

ST LUKES HOSPITAL L
1227 E RUSHOLME ST
DAVENPORT IA 52803

ST LUKES HOSPITAL L
AMSTERDAM AVE AND
NEW YORK NY 01002

ST LUKES LUTHERAN HOSPITAL
PO BOX 1079
NEW YORK NY 01002

ST MARYS UNIVERSITY SCHOOL
PO BOX 479
UTICA NY 01350

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PO BOX 479
UTICA NY 01350

ST VINCENT HOSPITAL
153 WEST 11 ST
NEW YORK NY 01001

ST VINCENTS HOS
P O BOX 12407
BIRMINGHAM AL 35202

ST VINCENTS HOSPITAL ITAL AND MEDICA
153 W 111TH ST
NEW YORK NY 01002

STABLES HOWARD C
400 S SERVICE RD
MELVILLE NY 11747

STAFFORD BETH
21 FRANKLYN PL
MONTCLAIR NJ 07042

STAFFORD BETH
45 CHURCH ST APT B 16
MONTCLAIR NJ 07042

STAFFORD BETH
56 HIGH ST
SUMMIT NJ 07901

STABIL ALAN
146 EATON LANE
W ISLIP NY 01179

STANLEY DAN
IBZ 18 WIEBADENER ST STE 011
FN 00000

STANLEY J SCHNE CLER INC
161 FORT WASHINGTON AVE
NEW YORK NY 01003

STANLEY MAGIC DOOR INC
P O BOX 101803
ATLANTA GA 30392

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3211 POWERS FORD
MARIETTA GA 30067

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<td>CV63 AIR DEPARTMENT FPO-AP</td>
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P O BOX 1797 ALL RE  
TOMBALL  
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77377

TOREY WAKER  
8231 BROOKWOOD VALLEY  
ATLANTA  
GA  
30309

TORRES MARIE  
PO BOX 134  
AXTELL  
TX  
76624

TOSCANINI MARIO  
LAS PIEDRAS DOR POUEY 886  
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TOWER FINANCIAL CORP  
417 FIFTH AVE  
NEW YORK  
NY  
01001

TOWER FINANCIAL CORP  
417 5TH AVE  
NEW YORK  
NY  
01001

TOWER FINANCIAL CORP  
417 FIFTH AVE  
NEW YORK  
NY  
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TOWER FINANCIAL CORP  
417 FIFTH AVE  
NEW YORK  
NY  
01001

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1436 ST LOUIS DR  
HONOLULU  
HI  
96816

TRANS PACIFIC INS CO  
101 PARK AVE  
NEW YORK  
NY  
10178

TRAPP ELIZABETH  
26 D-80799 MUENCHEN GE  
FN  
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TRAUB DEWIS  
NORTH YORK ON M2M 3  
6021 YONGE ST STE 907  
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TRINITY IND  
2525 STEMMONS FREEWAY  
DALLAS  
TX  
75207

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12 CH 8024 ZURICH  
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TROTT PAUL  
8218 WISCONSIN AVE  
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MD  
20814

TULUMELLO JACQUELIN  
64 MC CUE LA  
BABYLON  
NY  
01170

TURNER CHRISTOPHER A  
PSC 561 BOX 701  
FPO  
AP  
96310

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4829 KELSO PL  
GARLAND  
TX  
75043

TURNER MINDY  
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AP  
96310

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1ST FL EURO CANADIAN CTR  
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TWIGGS LEROY  
25 VANDENBURG LANE  
LATHAM  
NY  
01211

TYLER RUTH  
44 ADA PL  
BUFFALO  
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01420

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PLACE DE L UNIVERSITE 1  
UN

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214 ENGLE ST  
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NJ  
07631

ULRICH JAMES  
2525 W PLEASANT RUN  
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75146

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PO BOX 1927  
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85252

UNITED HEALTH CARE ADMIN  
116 WASHINGTON AVE  
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CT  
6473

UNITED HEALTHCARE  
PO BOX 10066  
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GA  
30999

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P O BOX 13999  
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PA  
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WYNNE  
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72396

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SYOSSET WOODBURY RD  
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01179

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555 GRIFFIN SQ BLDG 100  
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TX  
75202

UNITED WHOLESALE GROCERY  
PO BOX 8700  
GRAND RAPIDS  
MI  
49518

UNIV OF IOWA HOSP & CLINIC  
200 HAWKINS DR  
IA  
52242

UNIV OF MISSISSIPPI  
7558 WICKLOW PL  
RIDGEFIELD  
MS  
39157

UNIV OF MISSISSIPPI  
755B WICKLOW PL  
RIDGEFIELD  
MS  
39157

UNIV OF OKLAHOMA  
1312 CONCORD LANE  
EDMOND  
OK  
73003

UNIV OF OKLAHOMA  
2120 CONCORD LANE  
EDMOND  
OK  
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PO BOX 18153
NEWARD NJ 07191

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200 HAWKINS DR
IOWA CITY IA 52242

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619 S 19TH ST
BIRMINGHAM AL 35233

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619 S 19TH ST
BIRMINGHAM AL 35233

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1015 E ANN ST APT 2
ANN ARBOR MI 48104

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PO BOX A
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PITTSBURGH PA 15250

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3970 CO RD 2 PO BOX
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USA TODAY
5201 PARK HEIGHTS AVE
BALTIMORE MD 21215

UTHSCSA ORTHOPAEDIC
PO BOX 867
SAN ANTONIO TX 78293

UTICA MEMORIAL HOSPITAL
UTICA NY 0

VAIL VALLEY MED CTR
181 W MEADOW DR
VAIL CO 81657

VALLIER ROBERT
PARIS 15 RUE KELLER
FRA FN 00000

VALORES OESTE
BUENOS AIRES 1043

SOCIEDAD DE BOLSA CORRIENTES
531 7TH FL
FN 00000

VAN BUREN HMA
E MAIN & S 20TH ST
VAN BUREN AR 72956

VAN NAME ROBERT
194 WOODBURY RD
HUNTINGTON NY 01174

VANCOUVER STOCK EXCHANGE
VANCOUVER BC PO BOX 10333
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VANLENT VIRGINIA M
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SIoux CITY IA 51104

VANROERMUND PETER
AMSTERDAM
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VANTIL SUSAN N
101 QUAIL RUN
C O ROBERT VANTIL
BEDFORD TX 76021

VARCA JOSEPH
2414 KINGS FOREST DR
HUMBLE TX 77339

VARGAS CELEDONIA
102 SALINAS
CARRIZO SPRINGS TX 78834

VASILINDA DARRYL E
8600 N 620 1032
AUSTIN TX 78726

VEERIYA PUVANENDRAN
SCARBOROUGH, ON
153 VALLEY STREAM DR
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VELA DEBORAH
GUAYAQUIL CASILLA 090477
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VENTURA DANIEL
DOWNSVIEW ON M3K 1 38 MANIZA RD
FN 00000

VENTURA JESSE
DOWNSVIEW ON M3K 1 38 MANIZA RD
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VERONIQUE DESAUL NIER
P O BOX 1819
PERRY GA 31069

VEYTSMA N SERGEY
8212 AVE M
BROOKLYN NY 01123

VEYTSMAN SERGEY
8212 AVE M
BROOKLYN NY 01123

VIACOM OUTDOOR TRANSPORTATION DISPLAYS
PO BOX 33074
NEWARK NJ 07188

VICTORY MEM
699 92ND ST
BROOKLYN NY 01122

VINCENT CATHERINE
1726 KESSLER PKY
DALLAS TX 75208

VISION MRI OF OAK BROOK
P O BOX 277377
ATLANTA GA 30384

VISTA HILLS MEDICAL CENTER
PO BOX 371410
EL PASO TX 79937

VIVA HEALTH
1401 S 21ST ST
BIRMINGHAM AL 35205
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2004-192 (Revised)
National Child Support Awareness Month

WHEREAS, the full and timely payment of child support is essential to providing for our children’s needs and ensuring that they have the best possible opportunities to lead fulfilling lives; and
WHEREAS, child support is not only a financial issue but is also a means of including both parents in the lives of their children; and
WHEREAS, in Fiscal Year 2004, Illinois increased total child support collections by 10 percent to $950 million, and the state’s improvement in this area can be tied in part to the fact that in December 2003, the Federal Office of Child Support Enforcement formally certified that Illinois’ KIDS child support database meets all federal standards for reliability, accuracy and automation; and
WHEREAS, the Illinois Department of Public Aid works closely with the Departments of Human Services, Public Health, Children and Family Services, Corrections, Aging, Revenue, other state and county agencies, and various community groups, to help identify children’s natural fathers, and thereby ensure that child support services are sufficiently provided to those children; and
WHEREAS, my administration has actively worked to improve child support enforcement mechanisms by establishing successful partnerships with the federal government, and by creating the “Deadbeat Parents” web site (http://www.ilchildsupport.com/deadbeats/), which aims to extract outstanding child care payments from delinquent parents:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim August 2004 as NATIONAL CHILD SUPPORT AWARENESS MONTH in Illinois, and encourage all citizens to recognize the importance of child support in helping our children have better futures.

Issued by the Governor July 19, 2004
Filed by the Secretary of State July 20, 2004

2004-214
SPECIAL SESSION PROCLAMATION

WHEREAS, the Illinois Constitution requires the General Assembly to make appropriations for the expenditure of public funds for the fiscal year for State departments, authorities, and public agencies; and
WHEREAS, the General Assembly has not made appropriations for fiscal year 2005 for the expenditure of public funds for the Abstinence Education Program within the Department of Human Services; and
WHEREAS, abstinence is a proven safe method of family planning and to avoid transmission of sexually transmitted disease; and
WHEREAS, the Abstinence Education Program informs citizens throughout the State of Illinois of the health and safety benefits of abstinence;
THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 93rd General Assembly in a special session to commence on July 20, 2004, at 11:00 a.m., to consider any legislation (new or pending), which will address directly the budget of the Department of Human Services for the Abstinence Education Program for fiscal year 2005.

Issued by the Governor July 19, 2004
Filed by the Secretary of State July 19, 2004

2004-215
Illinois Teen Institute Day

WHEREAS, the Illinois Alcoholism and Drug Dependence Association’s (IADDA) members work to increase public understanding of substance abuse and addiction. For 37 years, IADDA has advocated for public policy that will create healthier families and safer communities; and

WHEREAS, the vision of IADDA is to have a healthy society predominantly free of alcohol and drug abuse. To help achieve this vision, the organization has instituted two programs – Operation Snowball and Illinois Teen Institute (ITI); and

WHEREAS, Operation Snowball is a community-based substance abuse prevention program that focuses on youth leadership development as a means for leading drug free lives; and

WHEREAS, ITI is a week long prevention program that empowers and provides youth the resources to make healthy decisions, to be advocates for their peers and to make a difference in their homes, schools, and communities; and

WHEREAS, ITI promotes positive attitudes and offers teenagers as well as adults the opportunity to learn leadership and communication skills, build self-esteem, learn about social concerns (such as AIDS and violence), learn how to make healthy choices, and analyze current alcohol and other drug prevention programs in their communities; and

WHEREAS, those involved with ITI are encouraged to share the knowledge and information they have received with their communities, so that other teens will learn how to make healthy choices, and also show how communities can build and rebuild prevention programs:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim July 26, 2004 as ILLINOIS TEEN INSTITUTE DAY in Illinois, and on this 30th Anniversary of ITI, encourage all citizens to recognize the contributions IADDA has made towards helping our youth live drug free.

Issued by the Governor July 19, 2004
Filed by the Secretary of State July 20, 2004

2004-216
Peru Day
PROCLAMATIONS

WHEREAS, on July 28, 1821, Jose de San Martin, an Argentine soldier, liberated the country of Peru from Spanish rule; and

WHEREAS, this day is internationally recognized as Peruvian Independence Day, and 2004 marks the 183rd Anniversary of Peruvian Independence; and

WHEREAS, there are approximately 35,000 Peruvians living in the state of Illinois, more than 15,000 of which live in the Chicagoland area, according to information provided by Peru’s Consulate General; and

WHEREAS, Peruvian-Americans have greatly added to the rich cultural diversity of Chicago through their vibrant presence in the Little Village neighborhood, and their many art exhibitions throughout city museums and galleries; and

WHEREAS, Peruvians have a strong and organized presence in the city of Chicago with 11 ethnic organizations including the Peruvian American Medical Society and the Peruvian Chamber of Commerce among others:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim July 28, 2004 as PERU DAY in Illinois, and encourage all citizens to recognize the importance of cultural diversity and inclusiveness to the betterment of our great State.

Issued by the Governor July 19, 2004
Filed by the Secretary of State July 20, 2004

2004-217
Parents’ Day

WHEREAS, no other job is more rewarding, challenging, or important as that of raising a child. The maternal and paternal, foster, adoptive, and relative parents that provide for the needs of these children are truly a special gift to our society; and

WHEREAS, as a parent myself, I understand the critical role parents play in their child’s upbringing, instilling core values such as respect and integrity, that the child will eternalize for the rest of their lives; and

WHEREAS, research has found that a strong parent-child relationship increases the likelihood that a child will be able to resist peer pressure, become more academically and economically successful, and decrease the chances that they will become involved with youth violence; and

WHEREAS, in 1994, the United States Congress unanimously passed Public Law 103-362, creating a national observance for parents. On October 14 of that year, former President Bill Clinton signed the bill into law, thereby establishing National Parents’ Day:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim July 25, 2004 as PARENTS’ DAY in Illinois, and on this 10th Anniversary, encourage all citizens to honor the individuals who have provided them with positive guidance, and who have been the parental figures in their lives.

Issued by the Governor July 19, 2004
Filed by the Secretary of State July 20, 2004
PROCLAMATIONS

2004-218
Career and Technical Organizations Week

WHEREAS, career and technical education, also known as vocational education, complement formal education programs, and provide students with an opportunity to gain hands-on experience in their future profession or trade; and

WHEREAS, in Illinois, there are at least 10 organizations recognized as career and technical student organizations (CTSOs), which contribute to the development of character and leadership ability in students; and

WHEREAS, these organizations promote occupational excellence, leadership, and citizenship among its members, build confidence and knowledge in students, and encourage them to become productive citizens; and

WHEREAS, for more than 26 years, organizations such as the Illinois Coordinating Council for Career and Technical Student Organizations (ICCCTSO) have emphasized the importance of career and technical student organizations as an integral part of the educational curriculum; and

WHEREAS, the ICCCTSO works with other career and technical education initiatives like the State Board of Education’s – Education to Careers Program (ETC) and the Illinois Association for Career and Technical Educators programs; and

WHEREAS, the ICCCTSO is dedicated to ensuring that skills such as leadership and employability are included in the state wide curriculum:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 3 – 9, 2004 as CAREER AND TECHNICAL ORGANIZATIONS WEEK in Illinois, and encourage all citizens to recognize the importance of these organizations to the educational experience.

Issued by the Governor July 20, 2004
Filed by the Secretary of State July 21, 2004

2004-219
Carcinoid Cancer Awareness Month

WHEREAS, carcinoid tumors result from neuroendocrine cells, cells that produce the hormone serotonin. When these cells become cancerous, they begin releasing normal hormones at abnormally high levels, resulting in slow growing tumors called carcinoids; and

WHEREAS, carcinoid tumors tend to have slow maturation, therefore, individuals that are afflicted with these tumors usually live for many years. Unfortunately, if not detected, the end result is usually fatal; and

WHEREAS, the occurrence of small, medically insignificant carcinoids is fairly common, occurring in 1 out of every 100 individuals. However, other types of carcinoids can suggest the onset of cancer; and

WHEREAS, the size of a carcinoid tumor once first diagnosed is critical, because the likelihood of a tumor spreading is directly proportional to its size. For instance, there is more than a 50 percent chance of a tumor spreading if it is larger than 2 cm in diameter; and
WHEREAS, the danger of cancer usually lies in the way cancer cells damage organs as they spread through the body, but in the case of carcinoid syndrome, it’s not the cancer cells, but rather the hormones and proteins they produce, that cause problems for the patient; and

WHEREAS, the large amounts of hormones carcinoid cancers produce cause a cluster of symptoms, including: red flushing of the face, diarrhea, and wheezing attacks, similar to that of asthma, but if you are experiencing any of these symptoms, please consult a physician for proper diagnosis; and

WHEREAS, early diagnosis is key for successfully recovering from carcinoid and other forms of cancer. In most cases, with surgery and proper medical treatments, carcinoid cancer patients can maintain a good quality of life:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2004 as CARCINOID CANCER AWARENESS MONTH in Illinois, and encourage all citizens to become aware of the harmful effects of carcinoid cancer, and to support organizations like the Carcinoid Cancer Foundation as they work to cure this rare disease.

Issued by the Governor July 20, 2004
Filed by the Secretary of State July 21, 2004

2004-220
Honor James R. Thompson

WHEREAS, on September 11, 2001, the worst terrorist attacks in our nation’s history resulted in the deaths of thousands of Americans, including police officers, firefighters, military personnel and citizen heroes who gallantly laid down their lives to save others; and

WHEREAS, in the wake of those terrorist attacks it became clear that a fair, impartial and thorough investigation was necessary to help the United States understand how these attacks were planned and executed, what precautionary steps might have been taken to avert them, and what must be done to prevent future terrorist attacks on American soil; and

WHEREAS, the National Commission on Terrorist Attacks Upon the United States (also known as the 9-11 Commission), an independent, bipartisan ten-member commission, was created by Congressional legislation and the signature of President George W. Bush, and chartered to prepare a full and complete account of both the circumstances that led up to the September 11, 2001 terrorist attacks and the immediate response to those attacks; and

WHEREAS, the 9-11 Commission was also empowered to present its best recommendation on the most effective means to secure our nation’s borders, bring our attackers to justice, and protect the people of the United States against any future terrorist action; and

WHEREAS, the former Governor of the State of Illinois, James R. Thompson, has had a long and illustrious career in public service and the law, and established himself as an intrepid prosecutor, first in the Cook County State’s Attorney’s Office and then as the U.S. Attorney for the Northern District; and

WHEREAS, James R. Thompson was appointed to the 9-11 Commission and has played a key leadership role in its inquiry; and

WHEREAS, over the last 20 months, James R. Thompson has worked tirelessly with the
Commission as it reviewed more than 2 million pages of documents and heard testimony from more than 1,000 individuals in ten countries in an effort to render an objective and authoritative report; and

WHEREAS, the 9-11 Commission issued its final report on Thursday, July 22, 2004;

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, hereby honor James R. Thompson for his public service on the 9-11 Commission.

Issued by the Governor July 23, 2004
Filed by the Secretary of State July 23, 2004
ILLINOIS ADMINISTRATIVE CODE
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