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**January 20, 2006  Volume 30, Issue 3**

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1) **Heading of the Part**: Definitions

2) **Code Citation**: 8 Ill. Adm. Code 20

3) **Section Number**: Proposed Action: 20.1 Amend


5) **A Complete Description of the Subjects and Issues Involved**: Update references to the Code of Federal Regulations; add definition of "Milk ELISA"; and expand upon the definition of "Premises identification number" to include a number assigned to a livestock production unit or any place where livestock can be located or co-mingled by the United States Department of Agriculture under the National Animal Identification System.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking**: None

7) **Will this rulemaking replace any emergency rulemaking in effect?** No

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: A 45-day written comment period will begin on the day the Notice of
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

Proposed Amendment appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

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

217/785-5713
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock producers, livestock facility owners or shippers of livestock

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

C) Types of professional skills necessary for compliance: No additional skills necessary.

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 20
DEFINITIONS

Section 20.1 Definitions


Section 20.1 Definitions

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture.

"Animal and Plant Health Inspection Service" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.
"Approved eartag" means an eartag that is tamper resistant, has been approved for use either by the U.S. Department of Agriculture or the Illinois Department of Agriculture, and conforms either with a nine digit alphanumeric system starting with "33" (the postal code for Illinois) followed by three letters and four numbers or with a three letter and four number system on one side and either "Illinois" or "IL" on the reverse side. Information concerning manufacturers of approved eartags may be obtained from the Department.

"Approved health certificate" means one that has been so endorsed by the Animal Health Official of the state of origin.

"Approved identification" or "official identification" means an approved eartag, a tattoo conforming to the six-character alphanumeric National Tattoo System that provides a unique identification for each herd or lot of animals, or microchip.

"Approved laboratory" means one of the animal disease laboratories operated by the Department, the State-Federal Serology Laboratory, the Laboratories of Veterinary Diagnostic Medicine at the College of Veterinary Medicine, University of Illinois, or a laboratory approved by the Animal Health Official of the exporting state to conduct official tests.

"Auction market" means a licensed livestock facility (stockyard or livestock market under State and Federal veterinary supervision) where livestock are assembled and sold.

"Brucellosis" means the disease wherein an animal is infected with Brucella micro-organisms irrespective of the occurrence or absence of clinical signs.

"Certified Brucellosis-Free Herd" means one in which at least two annual negative official tests for brucellosis have been conducted on all animals in the herd 6 months of age or over and for which a certificate has been issued by the Animal Health Official of the state of origin and the Animal and Plant Health Inspection Service.

"Consignment" means a document issued by the owner or shipper of livestock, designating the name of the owner and/or shipper; place of origin; stockyard, auction market, or packing plant of destination; date of shipment; and number and description of livestock, certified to by the owner or shipper, kept in possession of the carrier and delivered to a stockyard, auction market, or packing plant of destination upon acceptance. This consignment shall be held by the stockyard, auction market, or packing plant for a period of not less than 6 months for
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

inspection by the legally authorized officials of the United States Department of Agriculture and the Department and other officials having police powers.

"Contagious disease" means a specific infectious disease which is readily transmitted from host to host by direct contact or by means of intermediate hosts.

"Department" or "Department of Agriculture", unless otherwise indicated, means the Department of Agriculture of the State of Illinois.

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

"Federal Inspector" means an Animal Health Technician employed by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

"Feeder female cattle" means female bovines of the beef breeds 6-18 months of age that have not been tested for brucellosis prior to sale.

"Feeder swine" or "feeding swine" means swine under 4 months of age, weighing less than 180 pounds and not requiring testing as breeding swine or swine consigned directly to slaughter.

"Health certificate" or "certificate of health" or "interstate health certificate" or "certificate of veterinary inspection" means a legible record, made on an official form of the state of origin, or the Animal and Plant Health Inspection Service, and issued by an accredited veterinarian of the state of origin, a veterinarian in the employ of the Animal and Plant Health Inspection Service, or a veterinarian in the employ of the United States Armed Services, which shows that the animals or birds listed thereon meet the health requirements of the state of destination. The health certificate shall contain the name and complete mailing address of the consignor, the name and complete mailing address of the consignee, and an accurate description or identification of the animals or birds involved, and shall also indicate the health status of the animals or birds, including the dates and results of required tests and dates of vaccination, if any. A health certificate is valid for 30 days after issuance, except when specific exemptions are made for exhibition livestock. The 2 copies of the health certificate that are labeled "Division Copy" shall be submitted to the Department within 30 days after issuance. No alteration of any type is allowed on a health certificate.

"Infected animal", "positive animal" or "reactor" means an animal which has given a positive reaction to any official test or in which evidence of the disease
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

has been found in the body or in the body discharges, when the animal has been classified as such by a State or Federal epidemiologist.

"Infectious disease" means the reaction resulting from the introduction into the body of a specific disease-producing organism or its toxic product.

"Infestation" or "infested with" means the invasion of the body by animal parasites.

"Market Cattle Identification Program" means the brucellosis testing program of market cattle that is part of the National Brucellosis Eradication Program (9 CFR 78 (2005 2002)). Incorporation by reference does not include any later amendments or editions beyond the date specified. In accordance with the authority stated in the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/2], the Department has entered into a cooperative agreement with the United States Department of Agriculture to identify brucellosis infected herds.

"Marketing center " means an approved livestock facility (stockyard or livestock market under State and Federal veterinary supervision) where livestock are assembled and sold and that has been approved under 9 CFR 71.20 (2005 2002). Incorporation by reference does not include any later amendments or editions beyond the date specified.

"Milk ELISA" means the diagnostic test using milk to detect the presence of any disease, such as brucellosis, in a herd through an enzyme-linked immunosorbent assay.

"Negative exposed cattle" means a test negative animal in an infected herd.

"Official test" means any test for the detection of a reportable disease in Illinois as defined in 8 Ill. Adm. Code 85.10, approved by the Department and the Animal and Plant Health Inspection Service, which is based on a standard test that is approved by the American Association of Veterinary Laboratory Diagnosticians and the United States Department of Agriculture and conducted in an approved laboratory.

"Premises identification number" means a unique number assigned by the Department or the United States Department of Agriculture to a livestock production unit that is epidemiologically distinct from other livestock production units. A premises identification number consists of IL followed by the assigned premises number, or a number assigned by USDA under the National Animal
NOTICE OF PROPOSED AMENDMENT

Identification System, to a livestock production unit or any place where livestock can be located or co-mingled. A premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal.

"Public stockyard" means a stockyard where trading in livestock is conducted, where yarding, feeding, and watering facilities are provided by the stockyard, transportation, or similar company, and where State and/or Federal inspection is maintained for the inspection of livestock for communicable disease, such as Peoria Union Stockyards located at Peoria.

"Quarantine" means a condition in which one or more animals shall be kept separate and apart from and not allowed to come in contact in any way with other animals.

"Recognized slaughtering establishment" means an establishment where slaughtering is conducted under Federal or State inspection.

"Restriction" or "restricted" means a condition in which one or more animals shall be kept on certain designated premises and shall not be allowed to come in contact in any way with animals from other premises.

"Ring test" or "brucellosis ring test (BRT)" means the diagnostic test of milk or cream to detect the presence of brucellosis in the herd in which such milk or cream sample was produced.

"State Inspector" means an Animal and Animal Products Investigator employed by the Illinois Department of Agriculture.

"Suspicious animal" or "suspect" means an animal that has given a positive reaction to an official test and whose test results are less than that which would result in a classification of reactor.

"Tuberculosis-Free Accredited Herd" means one for which a certificate of accreditation has been issued by the Animal Health Official of the state of origin and the Animal and Plant Health Inspection Service.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Animal Welfare Act

2) Code Citation: 8 Ill. Adm. Code 25

3) Section Numbers: Proposed Action:
   25.20   Amend
   25.30   Amend
   25.50   Amend
   25.90   Amend
   25.110  Amend


5) A Complete Description of the Subjects and Issues Involved: Update references to the Code of Federal Regulations. The Department is amending Section 25.90 to include a new subparagraph (d) that indicates any male dog standing for service at kennels will be required to have an annual negative test for canine brucellosis.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Linda Rhodes
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Springfield, IL 62794-9281

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In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Licensed breeders and veterinarians

B) Reporting, bookkeeping or other procedures required for compliance: Veterinarians will perform an annual test for brucellosis that must be kept by the licensee for a period of two years.

C) Types of professional skills necessary for compliance: No additional skills necessary.

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 25
ANIMAL WELFARE ACT

Section
25.10 Definitions
25.15 Incorporations By Reference
25.20 Buildings and Premises
25.30 General Care of Animals
25.40 Dogs and Other Companion Animals Brought into Illinois
25.45 Importation of Exotic or Non-Domestic Animals; Permit
25.50 Shipment of Mammals and Birds
25.60 Health of Animals at Time of Release
25.70 Department May Restrict The Sale of Animals
25.80 Quarantine
25.90 Records
25.100 Consent Statement and Inspection
25.110 Animals Prohibited from Sale
25.115 Guard and Sentry Dogs
25.120 Boarding and Training
25.130 Animal Control Facilities and Animal Shelters
25.140 Foster Homes
25.150 Illinois Diseased Animals Act

AUTHORITY: Implementing and authorized by the Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50].


Section 25.20 Buildings and Premises
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

a) All buildings and premises shall be maintained in a sanitary condition and the licensee shall:

1) Have covered, leak-proof containers available for storage of waste materials before disposal to control vermin and insects. Such containers shall be maintained in a sanitary condition.

2) Dispose of dead animals in compliance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and rules enacted pursuant to that law (8 Ill. Adm. Code 85) or the Companion Animal Cremation Act [815 ILCS 381]. Compliance with this State Law shall not exempt licensee from compliance with local ordinances.

3) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin.

4) Provide water from a source having sufficient pressure to properly sanitize and clean kennels, runs, equipment, and utensils.

5) Provide hand washing facilities.

b) All buildings shall be constructed so as to provide adequate shelter for the comfort of the animals and shall provide adequate facilities for isolation of diseased animals and their waste to avoid exposure to healthy and salable animals.

c) Floors of buildings housing or displaying animals shall be of permanent construction to enable thorough cleaning and sanitizing. Dirt and unfinished wood floors are unacceptable. Cleaning shall be performed daily, or more often if necessary, to prevent any accumulation of debris, dirt or waste.

d) Cages shall be constructed of a material that is impervious to urine and water and able to withstand damage from gnawing and chewing.

1) The cages must be cleaned and sanitized at least once daily, or more often if necessary.

2) All empty cages shall be kept clean at all times.

3) Cages shall be of sufficient size to allow the animal to comfortably stand, sit, or lie, and offer freedom of movement.
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

4) An ambient temperature as defined in the rules for the Federal Animal Welfare Act (9 CFR 3.2; 2005-2004) shall be maintained for warmblooded animals. In the case of coldblooded animals, the temperature that is compatible to the well-being of the species shall be maintained.

e) Runs shall be constructed of material of sufficient strength and design to confine the animals.

1) They shall be kept in good repair and condition.

2) For new construction or remodeling, the licensee shall provide runs surfaced with concrete or other impervious material.

3) Surface of the run shall be designed to permit the surface to be cleaned and kept free from excessive accumulation of animal waste.

4) Provisions must be made for adequate drainage, including gutters and discharge of any fluid or content into a sewer, septic tank or filter field, and shall comply with any local zoning.

f) Cages or aquariums for housing of small animals, birds, or fish shall provide space not less than 2½ times the body volume of living creatures contained therein.

g) If animals are group-housed, they shall be maintained in compatible groups without overcrowding. No female animal in estrus shall be placed in a pen with male animals, except for breeding purposes.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 25.30  General Care of Animals

a) All persons or establishments licensed under this Act shall comply with all Sections of the Humane Care for Animals Act [510 ILCS 70].

b) Sufficient clean water and fresh food shall be offered to each animal daily as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.5-3.7; 2005-2004). In the case of young animals, they shall be fed more than once daily. Reptiles, fish or amphibians shall be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

c) The licensee or his representative shall be present for general care and maintenance of the animals at least once daily.

d) Aquariums containing fish shall be kept in a clean healthful condition. Live algae shall not be considered an unhealthful condition. Any dead fish shall be removed from aquariums.

e) Adult cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily or more often if necessary.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 25.50  Shipment of Mammals and Birds

a) Animals shall be transported in crates constructed of a smooth, durable material which is easily cleaned and shall:

1) Have a solid floor which may have a false bottom above it.

2) Be so constructed as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.13-3.19; 2005 2004) as to provide maximum safety for the particular animal or animals being transported.

3) Have openings on 2 sides and the top to assure adequate ventilation.

b) In all cases, the crates shall be large enough to provide space for the animals to lie down in an extended position and to allow ease of movement when standing or turning around as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.13-3.19; 20052004). When the temperature is over 85° F., increased space shall be provided within reason.

c) The crates shall be cleaned before use for each trip.

d) Food and water containers shall be cleaned and sanitized before each trip.

e) If bedding is used it shall be clean, dry, and relatively dust-free.

f) Animals in transit for 4 or more hours shall be offered food 2 hours before loading and fresh water about 30 minutes before loading.
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

g) The person or persons responsible for the welfare of the animal or animals while in transit shall:

1) Offer the animals food at least once each 24 hours, except that newly weaned young shall be offered suitable food at 4-hour intervals.

2) Offer all animals water at 8-hour intervals at least, except that water shall be offered at 2-hour intervals when the temperature reaches 90° F.

3) Clean the crate or crates at least every 24 hours and, if bedding is used, shall provide clean bedding.

4) Inspect each animal at 4-hour intervals, or oftener.

h) No female obviously near parturition shall be transported.

i) Trucks transporting animals shall provide protection from the sun in hot weather, and protection from cold weather. Adequate ventilation shall be provided in hot weather, and the trucks shall be draft-free in cold weather. Provisions shall be made for warming an area carrying weaned young if the temperature falls below 50° F., and for unweaned young if the temperature falls below 65° F.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 25.90 Records

a) Records of each sale of a dog, cat, non-human primate, or exotic or non-domesticated animal, including prairie dogs, shall be maintained by the licensee for a minimum period of 12 months after date of sale or transfer of animal, and shall include the source of animal, date of sale, description and sex of animal sold, and the name and address of purchaser. Records of sales of small mammals (i.e., hamsters, mice, gerbils or rats that were born in the United States), birds and fish are not required. These records must be available for inspection during normal business hours by Department employees or persons designated by the Department. Each licensee must report to the Department the number of dogs, puppies, cats, kittens and exotic or non-domesticated animals sold for the previous calendar year at the time of license renewal. Shelters and animal control facilities must report to the Department the total number of dogs, cats and other animals received, adopted, euthanized or reclaimed by the owner for the previous calendar year at the time of license renewal.
b) If record of prophylactic medication is used in advertisement or is furnished the purchaser or person acquiring an animal, specific information regarding type, amount, and date of prophylactic medication shall be kept by the licensee and shall become a part of the retail sales record.

c) The licensee or his representative shall furnish the purchaser of a dog, cat or non-human primate a written statement at the time of sale.

1) The statement shall show:

A) Date of sale and date of birth, if known.

B) Name, address, and telephone number of licensee.

C) Name, address, and telephone number of purchaser.

D) Breed and description of dog, cat or non-human primate, including age, sex and weight of the animal.

E) Prophylactic immunizations and dates administered.

F) Internal parasite medications and dates administered.

G) A record of sterilization or lack of sterilization.

H) Guarantee, if offered; if none, so state.

I) If the dog or cat is being sold as being capable of registration, the name and registration numbers of the sire and dam and registry information.

2) This information may be recorded on Department Form PS-5 (Animal Welfare Release Statement), or on a similar form prepared by the licensee and approved in advance by the Department.

d) The licensee shall have any dog used as a sire to litters produced by the licensee tested annually for brucellosis. The test must be performed by a licensed veterinarian and the licensee must keep a copy of the test results for two years.

(Source: Amended at 30 Ill. Reg. ______, effective _____________)

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Section 25.110 Animals Prohibited from Sale

a) Licensees shall not offer skunks for sale as pets.

b) Licensees shall not offer for sale those animals the ownership of which would constitute a violation of Section 1 of the Illinois Dangerous Animals Act [720 ILCS 585/1]. These include the following animals and any hybrids thereof: lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarundi, civet, serval, hyena, bear, wolf or coyote, or any poisonous or life-threatening reptile. A life-threatening reptile is any member of the crocodilian family or any constricting snake six feet or over in length, such as boa, python, and anaconda. This does not include any canine or feline breeds registered by the American Kennel Club, the United Kennel Club, the Cat Fancier’s Association or the International Cat Association.

c) Licensees shall not possess or offer for sale turtle or viable turtle eggs which would constitute a violation of Section 264 of the Public Health Service Act (42 USCA 264), the rules for that Act (21 CFR 1240.62; 2005 2004) and Section 3372 of the Lacey Act (16 USCA 3372).

(Source: Amended at 30 Ill. Reg. ______, effective ___________)}
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part:  Livestock Auction Markets

2) Code Citation:  8 Ill. Adm. Code 40

3) Section Numbers:  Proposed Action:
   40.60   Amend
   40.80   Amend
   40.100  Amend
   40.120  Amend

4) Statutory Authority:  Livestock Auction Market Law [225 ILCS 640] and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/205-410].

5) A Complete Description of the Subjects and Issues Involved:  Update references to the Code of Federal Regulations and Brucellosis Eradication Uniform Methods and Rules; amend Section 40.60 so that cattle that are classified as reactors to the official test of brucellosis may also be returned to the farm of origin under quarantine until the status of the animal is determined through additional testing; adds another subsection in Section 40.80 that states cattle consigned by the seller to the slaughter-only pen cannot be removed from that pen, tested or moved for any reason other than immediate slaughter.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:  None

7) Will this rulemaking replace any emergency rulemaking in effect?  No

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

9) Does this rulemaking contain incorporations by reference?  No

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

11) Statement of Statewide Policy Objectives:  This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:  A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the Illinois Register.  In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

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

217/785-5713
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock producers and buyers, livestock facilities

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

C) Types of professional skills necessary for compliance: No additional skills necessary.

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

Title 8: Agriculture and Animals
Chapter I: Department of Agriculture
Subchapter b: Animals and Animal Products
(Except Meat and Poultry Inspection Act Regulations)

Part 40
Livestock Auction Markets

Section
40.5 Definitions
40.10 Fee to Accompany Application Not To Be Refunded
40.20 Release of Livestock for Interstate Shipment
40.30 Veterinary Inspection
40.40 Veterinary Office
40.50 Detection of Diseased Animals
40.60 Bovine Brucellosis
40.70 Quarantine Pen
40.80 The Sale of Livestock for Immediate Slaughter
40.90 Test Chute
40.100 Brucellosis Test
40.110 Sale of Official Brucellosis Calfhood Vaccinates
40.120 Feeder Cattle Subject to Quarantine
40.130 Backtagging
40.140 Yarding and Housing
40.150 Display License (Repealed)
40.160 Sale Day
40.170 Swine
40.180 Swine Which React to Test for Brucellosis
40.190 Sheep and Goats
40.200 Surety Bonds and Other Pledged Security
40.210 Cancellation of Escrow Agreements (Personal Bonds) (Repealed)
40.220 Swine Movement Limitations (Repealed)
40.230 Disposition of Rejected Feeding or Breeding Swine
40.240 Director To Be Named Trustee (Repealed)
40.250 Animals Designated for Slaughter Only

Authority: Implementing and authorized by the Livestock Auction Market Law [225 ILCS 640] and Section 205-410 of the Civil Administrative Code of Illinois [20 ILCS 205/205-410].

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Section 40.60 Bovine Brucellosis

a) Cattle which, upon being tested for brucellosis at a livestock auction market, are classified as reactors to the official test shall be placed in the quarantine pen and sold for immediate slaughter or returned to the farm of origin under quarantine until the status of the animal is determined through additional testing.

b) The reactors, when sold for slaughter, shall be delivered to a public stockyard or recognized slaughtering establishment and be positively identified and branded, as provided by Section 5 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/5]. The purchaser of the reactors shall sign a VS Form 1-27, "Permit For Movement of Animals." Illinois brucellosis reactors disclosed at other than a livestock auction market may be consigned to a marketing center if accompanied by official VS Form 1-27, "Permit For Movement of Animals". A new VS Form 1-27 shall be prepared by the livestock auction market veterinarian and shall accompany the reactor to slaughter and shall not be diverted en route and shall go only to the destination listed on the VS Form 1-27. No change of ownership of any reactor or suspect animal after the animal has been bought shall be allowed without the approval of the Department.

c) When one or more brucellosis reactors are disclosed in a group of cattle, the negative cattle which have been in contact with the reactors for more than 24 hours shall be either returned to the farm of origin under quarantine OR shipped directly to a recognized slaughtering establishment or a public stockyard, accompanied by VS Form 1-27 to be sold for slaughter only and shall not be diverted en route and shall go only to the destination listed on the VS Form 1-27. No change of ownership of any reactor or suspect animal after the animal has been bought shall be allowed without the approval of the Department. Unless cattle are being returned to the farm of origin, they shall be identified by an ear
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tag provided by the Department and by branding with a hot iron the letter "S" on the left hip in letters not less than 2 nor more than 3 inches in height, before the cattle leave the livestock auction market.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 40.80 The Sale of Livestock for Immediate Slaughter

a) The purchaser of all livestock for immediate slaughter shall sign an official certificate of "Quarantine and Certification of Slaughter or Shipment" (Form C-37) or purchaser's invoice. Livestock shall be:

1) slaughtered on the purchaser's premises, OR

2) be taken directly to a recognized slaughtering establishment, OR

3) be taken to a public stockyard for resale to a recognized slaughtering establishment.

b) All livestock shall be slaughtered within 10 days of the date of sale.

c) All livestock sold for slaughter must be kept separate and apart from animals being sold for breeding or feeder purposes.

d) Cattle consigned by the seller to the slaughter-only pen cannot be removed from that pen, tested or moved for any reason other than immediate slaughter.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 40.100 Brucellosis Test

a) Except when sold for slaughter or as otherwise provided in 8 Ill. Adm. Code 40.110 and 40.120, no female cattle more than 6 months of age or bulls over 18 months of age shall be sold unless such cattle have been tested for brucellosis and were found negative within 60 days prior to sale. Such test shall be recognized for one change of ownership or premises only within the 60-day period, except that such cattle may change ownership or premises one or more times in the 14-day period immediately following the negative test.

b) The livestock auction market veterinarian shall submit a copy of the Brucellosis Test Record, Market Cattle Testing Program, VS Form 4-54 and all blood
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samples to the State-Federal Serology Laboratory, Springfield, Illinois, following each sale.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 40.120  Feeder Cattle Subject to Quarantine

All female cattle of beef breeds over 6 and under 18 months of age from states that are not brucellosis Class Free under the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, October 1, 2003 February 1, 1998) and the United States Department of Agriculture and/or 9 CFR 78.1 (2005 2001) sold or released from a livestock auction market for feeding or grazing purposes are subject to quarantine (8 Ill. Adm. Code 75.130) and shall be reported on Form M-107 Revised to the Department following each sale or at the end of each week.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
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NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Hatcheries, Poultry Flocks, and Produce Thereof

2) **Code Citation**: 8 Ill. Adm. Code 55

3) **Section Numbers**: Proposed Action:
   - 55.10  Amend
   - 55.40  Amend
   - 55.45  Amend
   - 55.50  Amend
   - 55.90  Amend

4) **Statutory Authority**: Poultry Inspection Act [510 ILCS 85]

5) **A Complete Description of the Subjects and Issues Involved**: Update references to Code of Federal Regulations.

6) **Published studies or ports, and sources of underlying date, used to compose this rulemaking**: None

7) **Will this rulemaking replace an emergency rule in effect?** No

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives**: This rulemaking does not affect units of local government.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

    Linda Rhodes
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281
217/785-5713
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 55
HATCHERIES, POULTRY FLOCKS, AND PRODUCE THEREOF

Section
55.5 Definitions
55.10 Shipments of Poultry or Hatching Eggs
55.20 Infected Flock
55.30 Classification of Flock
55.40 Breeding Poultry
55.45 Turkeys
55.50 Persons Who May Perform the Test
55.60 Inspection
55.70 Show and Exhibition Birds
55.80 Banding
55.90 Sanitation
55.100 Administrative Hearing

AUTHORITY: Implementing and authorized by the Poultry Inspection Act [510 ILCS 85].


Section 55.10 Shipments of Poultry or Hatching Eggs

a) All shipments of poultry or hatching eggs entering or moving within Illinois shall:

1) be accompanied by a "Report of Sales of Hatching Eggs, Chicks and Poults" (VS Form 9-3); or

2) be accompanied by a Certificate of Veterinary Inspection approved by the
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b) In addition to the above requirements, all poultry or hatching eggs entering or moving within Illinois for table egg production shall originate from a flock that meets the U.S. Enteritidis requirements under the National Poultry Improvement Plan (9 CFR 145, 2005) and Auxiliary Provisions on National Poultry Improvement Plan (9 CFR 147, 2005). Incorporation of federal rules does not include later amendments or editions.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 55.40 Breeding Poultry

a) All breeding poultry (20 weeks of age or older) must be tested and comply with the National Poultry Improvement Plan (9 CFR 145 (2005)) and Auxiliary Provisions on National Poultry Improvement Plan (9 CFR 147 (2005)) for pullorum-typhoid. The Department participates in the National Poultry Improvement Plan as an Official State Agency cooperating through a Memorandum of Understanding. Incorporation of federal rules does not include later amendments or editions.

b) The Department only requires compliance with the expressed requirements of the National Poultry Improvement Plan in order for a participant to be in compliance with the Plan, except as provided for in this Part.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 55.45 Turkeys

a) All turkeys entering Illinois and not consigned to slaughter must originate from flocks or hatcheries that are officially classified as U. S. Mycoplasma Gallisepticum Clean in accordance with the provisions of the National Poultry Improvement Plan (9 CFR 145.43(c) (2005)) or be negative to a test for Mycoplasma gallisepticum within 30 days prior to entry. Incorporation by reference shall not include later amendments or editions beyond the date specified.

b) Hatching eggs entering Illinois shall originate from hatcheries or flocks that are
officially classified as U. S. Mycoplasma Gallisepticum Clean.

c) Turkeys and hatching eggs entering Illinois shall be accompanied by a health certificate which shall indicate either that the turkeys are negative to a test for Mycoplasma gallisepticum or that they originated from U. S. Mycoplasma Gallisepticum Clean flocks or hatcheries.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 55.50 Persons Who May Perform the Test

Persons officially approved by the Department may perform the stained-antigen, rapid, whole-blood test for pullorum-typhoid. Approval shall be given by the Department after the applicant has orally described and physically demonstrated proper testing procedures (found at 9 CFR 147.3 (2005)) to Department inspectors, veterinarians or laboratory personnel and has correctly interpreted test results. Each individual authorized to perform the test in the State will be sent a card showing their authorization to perform the test.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 55.90 Sanitation

Participants in the National Poultry Improvement Plan shall comply with the sanitation requirements prescribed in Subpart C of 9 CFR 147 (2005), except that the Department accepts any fumigant that is registered by the United States Environmental Protection Agency and for which the manufacturer's label specifies the product is for egg sanitation or cleaning of poultry equipment.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Bovine Brucellosis

2) **Code Citation**: 8 Ill. Adm. Code 75

3) **Section Numbers**: Proposed Action:
   - 75.5  Amend
   - 75.10 Amend
   - 75.120 Amend
   - 75.180 Amend
   - 75.190 Amend
   - 75.200 Amend

4) **Statutory Authority**: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30]

5) **A Complete Description of the Subjects and Issues Involved**: Update references to the Code of Federal Regulations and Brucellosis Eradication Uniform Methods and Rules; amends Section 75.10 to strike the card test and replace it with other official test approved by the United States Department of Agriculture. The Department is also striking the Cite test as an optional supplemental test whenever the card test is used. In Section 75.180 the Department is replacing dairy or breeding cattle or bison with "sexually intact" dairy or breeding cattle, and in Section 75.190, the Department is clarifying that a permit is required for all cattle except those consigned directly to slaughter. Also in Section 75.190, the Department is striking either or both jaws from being officially identified by a hot iron brand and just using either hip. Section 75.200 is changing the location of the "S" brand from the left hip to high on the tail head.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking**: None

7) **Will this rulemaking replace any emergency rulemaking in effect?** No

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.
12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendments appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes  
Illinois Department of Agriculture  
State Fairgrounds, P. O. Box 19281  
Springfield, IL 62794-9281  
217/785-5713  
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock producers

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

C) Types of professional skills necessary for compliance: No additional skills necessary.

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 75
BOVINE BRUCELLOSIS

Section
75.5 Definitions
75.7 Incorporation by Reference
75.10 Official Classification of the Results of the Brucellosis Blood Test
75.15 Permits to Conduct Official Brucellosis Tests
75.20 Reports Required
75.30 Tests Conducted at State Expense or for Interstate or Export Shipment
75.40 Tests Conducted at Owner's Expense for Intrastate Movement (Repealed)
75.50 Indemnity
75.60 Identification of Cattle or Bison
75.70 Herds Revealing Reactors
75.80 Sale of Suspects and Negative Animals From Quarantined Herds
75.90 Release of Herds or Cattle or Bison Under Quarantine
75.100 Herds Revealing Suspects Only
75.110 Identification Tags
75.120 Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Cattle or Bison
75.130 Feeding or Grazing Cattle
75.140 Sale of Quarantined Feeding or Grazing Cattle
75.150 Cattle or Bison for Immediate Slaughter
75.160 Female Cattle – Beef Breeds – 18 Months and Over
75.170 Release of Feeding or Grazing Cattle from Quarantine
75.180 Dairy or Beef Breeding Cattle or Bison
75.190 Additional Requirements on Cattle and Bison from States Designated as Class B and Class C States
75.200 Slaughter Cattle and Bison from Class B or Class C States
75.210 Official Calfhood Vaccination
75.220 Recognition of Brucellosis State Status
75.TABLE A Brucellosis Standard Plate Test of Officially Vaccinated Cattle and Bison (Repealed)
75.TABLE B Brucellosis Standard Plate Test of Non-Vaccinated Cattle and Bison (Repealed)

AUTHORITY: Implementing and authorized by the Illinois Bovine Brucellosis Eradication Act
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[510 ILCS 30].


Section 75.5 Definitions

The definitions for this Part shall be as stated in 8 Ill. Adm. Code 20.1. The following definition shall also apply:

"Act" means the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30].

"Registered animal" means an animal for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association. The breed associations recognized by the Department are those recognized by the United States Department of Agriculture (USDA) (9 CFR 51.1, 20052004).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 75.10 Official Classification of the Results of the Brucellosis Blood Test

a) The official tests and classification of results for the brucellosis blood and milk
tests shall be as prescribed in the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, October 1, 2003, February 1, 1998) and the USDA United States Department of Agriculture and/or 9 CFR 78.1 (2005-2004).

b) The card (Buffered Brucella Antigen) test and Buffered Acidified Plate Antigen (BAPA) test or other official test approved by the USDA and Department shall be the official tests used at licensed livestock auction markets in the State. The CITE (Registered) test shall be used as an optional supplemental test whenever the card test is used.

c) The official brucellosis test for cattle or bison imported into Illinois shall be one conducted at an approved laboratory.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 75.120 Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Cattle or Bison

Certified brucellosis-free herds shall be established and maintained in accordance with the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, October 1, 2003, February 1, 1998) and the USDA United States Department of Agriculture and/or 9 CFR 78.1 (2005-1999).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 75.180 Dairy or Beef Breeding Cattle or Bison

a) All sexually intact dairy or breeding cattle or bison transported or moved into the State of Illinois, unless said cattle or bison are consigned direct to and delivered by the transportation company within the confines of a public stockyards, livestock auction market or marketing center, shall be accompanied by an official certificate of health showing:

1a) All such cattle or bison over 6 months of age are negative to brucellosis blood test within 30 days prior to shipment, OR

2b) All cattle originated from a certified brucellosis-free herd, Class Free State or country, or bison from a certified brucellosis-free herd. State status is
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not recognized for bison. Certified herd number shall be given and the cattle or bison shall be identified by ear tag number, registration name and number, dam's registration number, or record association approved individual tattoo, OR

3e) Cattle are official brucellosis calfhood vaccinates under 24 months of age for beef breeds or bison and 20 months of age for dairy breeds.

b) All unvaccinated dairy or beefbreeding heifers or bison over 6 months of age or bulls more than 18 months of age moving through an out-of-state auction market or marketing center must be accompanied by an official health certificate showing a negative test for brucellosis within 30 days prior to entry, regardless of state or herd status. Official brucellosis calfhood vaccinates do not need to be tested until they are 24 months of age for beef breeds and bison and 20 months of age for dairy breeds.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 75.190 Additional Requirements on Cattle and Bison from States Designated as Class B and Class C States

a) In addition to other entry requirements, a prior permit must be obtained for all dairy, feeding or breeding cattle or bison, except those consigned direct to slaughter or calves under 6 months of age except as further provided for in this Section, entering Illinois from states designated by the U.S. Department of Agriculture as Class B and Class C under provisions of the Brucellosis Eradication Uniform Methods and Rules as recommended and approved by the United States Animal Health Association (P. O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and by the USDA U.S. Department of Agriculture (October 1, 2003February 1, 1998). Such prior permits shall be obtained by contacting the Bureau of Animal Health, Illinois Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, Illinois 62794-9281, telephone 217/782-4944. Information regarding the origin, destination and description of the cattle along with the number of animals in the shipment is necessary for obtaining a permit.

b) Breeding cattle or bison 12 months of age or over from such states shall be placed under quarantine and in isolation until retested and negative to an official test for brucellosis conducted not less than 45 days nor more than 120 days after entering Illinois. Breeding cattle or bison originating from certified brucellosis-free herds are exempt from this provision.
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c) All female cattle or bison born after July 1, 1985, if more than 4 months of age, except spayed heifers (female cattle or bison may be spayed after entry into Illinois with prior approval from the Department which will be given upon receipt of the name of the veterinarian who will be performing the operation) or those consigned directly to slaughter, entering Illinois from Class B or Class C states must be official calfhood vaccinates and vaccination status shall be recorded on the official interstate health certificate. In lieu of calfhood vaccination, cattle from Class B states entering Illinois for feeding purposes only may be identified with a hot iron brand on either or both jaws or on either hip using the letter F of not less than three inches in height.

d) Female cattle or bison, except those consigned directly to slaughter, entering Illinois from Class C states shall, in addition to present entry requirements now on file, either originate from a certified brucellosis-free herd or be spayed and be officially identified by a hot iron brand on either or both jaws or on either hip using an open spade design (e.g., as used in playing cards) of not less than three inches in height. Certification of spaying by an accredited veterinarian is to be shown on the official interstate health certificate. Female cattle or bison may be spayed after entry into Illinois with prior approval from the Department which will be given upon receipt of the name of the veterinarian who will be performing the operation.

e) Calves under two months of age not accompanied by their dams may be imported from Class C states if they meet the following requirements:

1) An entry permit shall be obtained on all shipments. All such calves shall be quarantined until shipped to slaughter or neutered (spayed or castrated).

2) All calves shall be accompanied by the Certificate of Veterinary Inspection (i.e., health certificate) and shall be individually identified by official eartags. The eartag numbers shall be recorded on the Certificate.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 75.200 Slaughter Cattle and Bison from Class B or Class C States

a) Prior to movement for slaughter, all test-eligible cattle or bison of unknown status originating in Class B or Class C states in accordance with the Brucellosis Eradication Uniform Methods and Rules (October 1, 2003; February 1, 1998; as recommended and approved by the United States Animal Health Association
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(P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and by the United States Department of Agriculture shall:

1) Be subjected to an official test for brucellosis within 60 days prior to movement from the farm of origin, OR

2) Be subjected to an official test for brucellosis at the market or stockyards (first point testing), OR

3) Be permanently identified with a hot iron "S" brand high on the tail head on the left hip and be accompanied to slaughter by USDA Form VS 1-27, OR

4) Be accompanied by USDA Form VS 1-27 and moved direct to slaughter in sealed trucks and/or compartments, with no intermediate stops.

b) For the purpose of this Section, "test-eligible" cattle or bison means all cattle 18 months of age or over, except steers, spayed heifers, and official brucellosis calfhood vaccinates under 24 months of age for beef breeds and bison and 20 months of age for dairy breeds. Finished fat heifers moving in marketing channels direct to slaughter will not be considered as test-eligible cattle or bison.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Illinois Bovidae and Cervidae Tuberculosis Eradication Act

2) **Code Citation:** 8 Ill. Adm. Code 80

3) **Section Numbers:**

   - 80.5   Amend
   - 80.160 Amend
   - 80.170 Amend

4) **Statutory Authority:** Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35]

5) **A Complete Description of the Subjects and Issues Involved:** The Code of Federal Regulations and Bovine Tuberculosis Eradication Uniform Methods and Rules are being updated. The language in Sections 80.160 and 80.170 is being clarified by adding "additional" negative tests.

6) **Published studies or ports, and sources of underlying date, used to compose this rulemaking:** None

7) **Will this rulemaking replace any emergency rulemaking in effect?** No

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objective:** This rulemaking does not affect units of local government.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

    Linda Rhodes  
    Illinois Department of Agriculture
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 80

ILLINOIS BOVIDAE AND CERVIDAE TUBERCULOSIS ERADICATION ACT

Section
80.5 Definitions/Incorporations by Reference
80.10 Requirements for Illinois Tuberculosis-Free Accredited Cattle and Bison Herds
80.20 When Indemnity Will Be Paid on Tests
80.30 Herds Quarantined Because of Suspected Tuberculosis Infection
80.40 Identification Tags Not To Be Removed
80.50 Infected Herd Depopulation (Repealed)
80.60 Cattle for Immediate Slaughter (Repealed)
80.70 Feeding or Grazing Cattle from Non-Accredited Tuberculosis Free States
80.80 Female Cattle – Beef Breeds – 18 Months and Over from Non-Accredited Tuberculosis Free Areas or Canadian Provinces
80.90 Sale of Quarantined Feeding or Grazing Cattle (Repealed)
80.100 Release of Feeding or Grazing Cattle from Quarantine (Repealed)
80.110 Breeding Cattle
80.120 Tuberculin Tests
80.130 Establishing and Maintaining Accredited Tuberculosis-Free Goat Herds
80.140 Cervidae
80.150 Goats
80.160 Testing Requirements for Cattle from Non-Accredited Free Areas or Canadian Provinces
80.170 Bison
80.180 Illinois Exhibition Animals Returning from Non-Accredited Free States
80.190 Animals Entering Illinois from Non-Accredited Free States, Canadian Provinces or Areas; Permit Required

AUTHORITY: Implementing and authorized by the Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35].

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Section 80.5 Definitions/Incorporations by Reference

"Accredited Tuberculosis Free State" means any state recognized as an Accredited Tuberculosis Free State as defined under the Bovine Tuberculosis Eradication Uniform Methods and Rules.

"Bovine Tuberculosis Eradication Uniform Methods and Rules" (January 1, 2005) refers to the document approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) and the United States Department of Agriculture. This incorporation by reference does not include any future editions or amendments beyond the date specified.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 80.160 Testing Requirements for Cattle from Non-Accredited Free Areas or Canadian Provinces

Cattle originating from Non-Accredited Free Areas or Canadian provinces that are not tuberculosis free must meet the following testing requirements prior to entry into Illinois:

a) Cattle entering Illinois for breeding purposes must originate from a herd where a complete negative herd test has been conducted within the past 12 months, and the individual animals must have had two additional negative tests within 180 and 30 days prior to entry.

b) Cattle entering Illinois for feeding or grazing purposes must originate from a herd where a complete negative herd test has been conducted within the past 12 months, and the individual animals must have had an individual test within 30 days prior to entry.
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c) Cattle entering Illinois for exhibition must originate from a herd where a complete negative herd test has been conducted within the past year, and the individual animals must have had two additional negative tests within 180 and 30 days prior to entry.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 80.170 Bison

Bison entering Illinois for any reason, other than immediate slaughter and including exhibition, must:

a) if originating from an Accredited Free State, be from an accredited tuberculosis-free herd, or the individual animal entering Illinois must have had an individual test within 30 days prior to entry; or

b) if originating from a Non-Accredited Free State or Canadian province that is not tuberculosis free, originate from a herd where a complete negative herd test has been conducted within the past 12 months, and the individual animal must have had two additional negative tests within 180 and 30 days prior to entry.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
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1) **Heading of the Part**: Diseased Animals

2) **Code Citation**: 8 Ill. Adm. Code 85

3) **Section Numbers**: Proposed Action:
   - 85.5     Amend
   - 85.10    Amend
   - 85.15    Amend
   - 85.55    Amend
   - 85.75    Amend
   - 85.80    Amend
   - 85.100   Amend
   - 85.110   Amend
   - 85.115   Amend
   - 85.120   Amend
   - 85.135   Amend
   - 85.140   Amend
   - 85.145   Amend

4) **Statutory Authority**: Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65]

5) **A Complete Description of the Subjects and Issues Involved**: Update references to the Code of Federal Regulations and Brucellosis Uniform Methods and Rules. In Section 85.5 in the definition of "exposed to", the Department is striking "more than two years of age" regarding animals originating from a herd where Johne's disease has been diagnosed. The Department is also striking, "No restrictions or tests are required for animals under two years of age." In Section 85.10, "canine" is being added to "brucellosis". In Section 85.80, sheep and goats entering the State of Illinois will be examined within 30 days (instead of 60 days) prior to entry for signs of infectious or communicable diseases. This brings the requirement in line with all other species, which is 30 days. In Section 85.100, "marketing centers" is being stricken. In Section 85.120, elk entering the State of Illinois shall originate from a brucellosis-free herd 60 days prior to entry. Language is being stricken in Section 85.120 because the incidents of Chronic Wasting Disease (CWD) are so low, the Department would like to obtain every sample they can. In Section 85.140, the definition of "Certified Johne's Disease Veterinarian" is being added. In Section 85.140(c), the Department is requiring a certification of an annual risk assessment and updated herd plant to be completed for the herd by a Certified Johne's Disease Veterinarian or a state or federal veterinarian. In Section 85.145, Johne's disease-positive animals will be clarified so that animals being sold from Johne's
restricted herds must be tested negative 30 days prior to sale (not after) on a serum antibody test or within 30 days of receiving negative results on an organism detection test.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

   Linda Rhodes
   Illinois Department of Agriculture
   State Fairgrounds, P. O. Box 19281
   Springfield, IL 62794-9281
   217/785-5713
   217/785-4505 (fax)

   In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

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

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

C) Types of professional skills necessary for compliance: No additional skills necessary.

14) Regulatory Agenda on which this rulemaking was summarized: July 2005

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

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85
DISEASED ANIMALS

Section
85.5 Definitions
85.7 Incorporation by Reference
85.10 Reportable Diseases
85.12 Contagious or Infectious Diseases
85.15 Truck Cleaning and Disinfection
85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.25 Sale of Livestock Quarantined Because of Disease
85.30 Identification Ear Tags for Livestock
85.35 Identification Tags Not to be Removed
85.40 Livestock for Immediate Slaughter Not to be Diverted En Route
85.45 Anthrax
85.50 Goats
85.55 Scrapie in Sheep and Goats
85.60 Bluetongue
85.65 Sheep Foot Rot (Repealed)
85.70 Cattle Scabies
85.75 Cattle Scabies – Additional Requirements on Cattle from Certain Designated Areas
85.80 Sheep and Goats
85.85 Diseased Animals
85.90 Copy of Health Certificate Shall be Furnished
85.95 Requests for Permits
85.100 Consignments to Stockyards, Auction Markets or, Recognized Slaughtering Centers, or Marketing Centers
85.105 Obligation of Transportation Company and Truck Operators
85.110 Additional Requirements on Cattle From Designated States
85.115 Salmonella enteritidis serotype enteritidis
85.120 Cervidae
85.125 Ratites
85.130 Vesicular Stomatitis
85.135 Requirements for Establishing and Maintaining a Herd Under the Voluntary
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Paratuberculosis (Johne's Disease) Certification Program

85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program

85.145 Johne's Disease Positive Animals

85.150 Importation of Animals; Permit Required


Section 85.5 Definitions
Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 2003).

"Exposed to" means an animal that has come in contact with another animal or an environment that is capable of transmitting a contagious, infectious or reportable disease. An animal will no longer be considered as "exposed to" when it is beyond the standard incubation time for the disease and the animal has been tested negative for the specific disease or there is no evidence that the animal is contagious, except for animals exposed to Johne's disease. Animals more than two years of age originating from a herd where Johne's disease has been diagnosed will be considered no longer "exposed to" with a negative test. The negative test must have been conducted within 30 days prior to the sale or movement. No restrictions or tests are required for animals under two years of age. An exemption to the "exposed to" language will be granted to animals originating from a herd that is enrolled in the Voluntary Johne's Disease Risk Management Program. Participating herds will no longer be restricted.

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

(Source: Amended at 30 Ill. Reg.__________, effective ________________)

Section 85.10 Reportable Diseases

a) Suspected cases of the following diseases shall be reported immediately to the Department:

- anthrax
- avian influenza
- bluetongue
- brucellosis – bovine, canine, swine, equine, and caprine
- chronic wasting disease (CWD) – cervids
- contagious equine metritis (CEM)
- equine infectious anemia (EIA)
- equine viral encephalitides
- fowl typhoid
- hog cholera
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infectious encephalomyelitis – avian
infectious laryngotracheitis
monkeypox
Mycoplasma gallisepticum – turkeys
Mycoplasma synoviae – turkeys
Newcastle disease
paramyxovirus infection
paratuberculosis – (John's disease)
piroplasmosis
plague
psororabies – (Aujeszky's disease)
psittacosis – (ornithosis)
pullorum disease
Q fever
rabies
salmonella enteritidis – poultry
salmonella typhimurium – poultry
scabies – cattle and sheep
scrapie
transmissible spongiform encephalopathy (TSE)
trichinellosis
tuberculosis – bovine
tularemia
vesicular conditions of any type
West Nile Virus
any contagious or infectious disease presently considered as "exotic", i.e., not
known to exist in the United States

b) Any herd owner, flock owner, veterinarian or other person having knowledge of
the disease, failing to report a suspect case of any of the above diseases
immediately after discovery, or who is responsible for the spread of the disease,
shall be subject to penalty as provided by law.

c) Reports of any of the above diseases shall be made to the Department, telephone
217/782-4944.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.15 Truck Cleaning and Disinfection

Any truck or other conveyance in which diseased livestock is transported shall be cleaned and
disinfected immediately after the diseased livestock is unloaded as prescribed in the Code of Federal Regulations (9 CFR 71.7, 71.10-71.12; 2005-2004).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.55 Scrapie in Sheep and Goats

a) The Scrapie Eradication Uniform Methods and Rules (USDA U.S. Department of Agriculture, AHPIS 91-55-066, effective June 1, 2005 October 1, 2003) is the basis of the scrapie program within the State, except where modified by this Part.

b) No sheep or goats that are known to be from an infected or source herd or flock, or considered to be suspect or high risk animals, and no progeny of sheep or goats known to be from an infected or source herd or flock shall be transported or moved into or within the State of Illinois, except as provided for in this Part. Any sheep or goat entering Illinois from a USDA U.S. Department of Agriculture Pilot Project Herd or Flock must be approved for import by the Department and be accompanied by a Certificate of Veterinary Inspection.

c) Scrapie monitored herds or flocks may be established and maintained in accordance with the Scrapie Flock Certification Program Standards.

d) When a herd or flock has been designated as an infected or source herd or flock, the herd or flock will be placed under quarantine and will remain under quarantine until the herd or flock has been depopulated, enters into the Scrapie Flock Certification Program, or develops an approved herd or flock plan. No animals will be allowed to move from the quarantined herd or flock except for slaughter, research, medical treatment or examination, and must be accompanied by VS Form 1-27.

e) Any animal that has been determined to be a high risk animal will be restricted to the herd or flock and cannot be moved from the herd or flock unless accompanied by VS Form 1-27 and moved only for medical treatment or research or directly to slaughter.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.75 Cattle Scabies – Additional Requirements on Cattle from Certain Designated Areas

a) A prior permit must be obtained from the Department before cattle, except those
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consigned direct to slaughter, may enter Illinois from certain designated areas determined to have high incidence of cattle scabies. The Director of the Department shall have authority to specify the designated areas from which movement of cattle into Illinois will be restricted.

b) Cattle from such areas, except those consigned to a recognized exhibition and moved from Illinois following exhibition (county and State fairs, other State-supported exhibitions, and breed registry exhibitions); dairy cattle; or those consigned direct to slaughter, shall be dipped for cattle scabies within 10 days prior to entry or treated in accordance with the procedures as set forth in 9 CFR 73.12 (2005).

c) Each such animal shall be treated with a solution of approved acaricide and water or other method of treatment approved by the USDA United States Department of Agriculture (9 CFR 73.10 and 73.12; 2005).

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 85.80 Sheep and Goats

a) All sheep and goats entering Illinois for breeding, exhibition or feeding purposes, except for sheep or goats consigned directly to an approved livestock auction market where the animals will be officially identified if required by the Scrapie Eradication Uniform Methods and Rules, shall be accompanied by an official health certificate showing the individual approved official identification and permit number issued by the Department (see Section 85.150), and including the following owner statement: "These animals are not scrapie positive, suspect, high risk or exposed and are not from an infected, source, exposed or non-compliant herd or flock." The health certificate shall indicate the sheep or goats were examined within 3060 days prior to entry and found free of any infectious or communicable disease and that they have not recently been exposed to infectious or communicable disease (Part II-J Scrapie Eradication Uniform Methods and Rules).

b) Any sheep or goats that show lesions of contagious ecthyma (sore mouth) or club lamb fungus disease (sheep ringworm) shall not be exhibited in the State and must be removed immediately from the exhibition area.

c) All sheep or goats moving within Illinois must be officially identified to the herd or flock of birth except for:
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1) Sheep or goats moving directly to an auction market or to a livestock dealer where they will be identified as necessary;

2) Sheep under 18 months of age moving directly to slaughter that have not lambed or are not pregnant; or

3) All goats moving directly to slaughter.

d) Illinois origin sheep or goats being exhibited in Illinois must be accompanied by an official Certificate of Veterinary Inspection, issued within 90 days prior to exhibition, showing official individual identification.

e) Sheep or goats originating from a herd or flock that has previously been classified as either an infected or source herd or flock can be exhibited in Illinois upon the completion of an approved herd/flock plan.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.100 Consignments to Stockyards, Auction Markets or, Recognized Slaughtering Centers, or Marketing Centers

a) All out-of-state livestock consigned to a public stockyard, an auction market or, recognized slaughtering center, or marketing center shall be accompanied from point of origin by a permit issued by the Department, or by a consignment issued by the owner or shipper of the livestock, designating the name of the owner or shipper, place of origin, public stockyard, recognized slaughtering center, or auction market, marketing center of destination, date of shipment, and number and description of livestock and shall not be diverted en route.

b) A copy of the consignment shall be held by the public stockyard, recognized slaughtering center, or auction market, marketing center for a period of not less than 6 months for inspection by legally authorized officials of the United States Department of Agriculture, and the Illinois Department of Agriculture, and other officials having police powers. [225 ILCS 640/1]

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.110 Additional Requirements on Cattle From Designated States

Female cattle, except those consigned direct to slaughter or calves under 6 months of age, entering Illinois for feeding purposes from states designated by the USDA U. S. Department of
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Agriculture as Class B and Class C states under provisions of the Brucellosis Eradication Uniform Methods and Rules (October 1, 2003 February 1, 1998) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and the USDA. U.S. Department of Agriculture shall, in addition to present entry requirements now on file, be tagged in the right ear with an official ear tag identifying the cattle to the state of origin. The ear tag series shall be recorded on the official interstate health certificate, or on the owner-shipper statement. These official, uniformly numbered ear tags may be applied by anyone.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.115  Salmonella enteritidis serotype enteritidis

a) The USDA United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry. The rules pertaining to Salmonella enteritidis serotype enteritidis located at 9 CFR 82.30-82.36 (2005 2004) are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.

b) All flocks found to be infected with Salmonella enteritidis serotype enteritidis shall be quarantined. The quarantine shall remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for Salmonella enteritidis serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).

c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Intrastate movement requirements shall be the same as interstate movement requirements.

d) If a flock is determined to be an infected flock as defined in 9 CFR 82.32(c), the Department shall pay indemnity if State funds are available and all of the following conditions are met:

1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;

2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity;

3) The entire flock which is to be depopulated shall have originated from a flock that is classified "U.S. Enteritidis Monitored" for egg type birds
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and "U.S. S. Enteritidis Clean" for meat type birds under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147; 20052004);

4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d); 20052004);

5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Proof of kill will be reported to the Department by the meat and poultry inspector of the slaughtering establishment where the infected poultry is slaughtered;

6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and

7) Replacement poultry shall be from flocks that are classified "U.S. S. Enteritidis Monitored" or "U.S. S. Enteritidis Clean" under the National Poultry Improvement Plan and Auxiliary Provisions.

e) The amount of indemnity paid, based on the availability of State funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

1) Initial purchase price of each bird;

2) Age of the bird and its egg production capabilities or value for producing progeny; and

3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.

f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.120  Cervidae
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a) Elk entering Illinois shall originate from a certified brucellosis-free herd or be negative to a brucellosis card test or PCFIA test conducted within 60 days prior to entry on all animals 6 months of age and over.

b) Certified brucellosis-free cervid herds shall be established and maintained in accordance with the Brucellosis Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228; September 30, 2003 September 30, 1998, as amended May 14, 1999, and not including any later amendments or editions beyond the date specified) and the USDA United States Department of Agriculture.

c) All cervidae entering Illinois must also be in compliance with the Illinois Wildlife Code [520 ILCS 5].

d) All cervidae entering Illinois must be accompanied by a permit from the Department and Certificate of Veterinary Inspection that:

1) has been issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;

2) is approved by the Animal Health Official of the state of origin;

3) shows that the cervidae are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto, do not originate from a CWD endemic area (any county and surrounding counties where CWD has been diagnosed in the past five years);

4) shows that the cervidae are not originating from a herd under quarantine for any contagious, infectious or communicable disease;

5) shows that the animals originate from a herd that has been monitored for at least 5 years under a state-approved CWD certification program or originate from a herd that meets the following criteria:

   A. The herd has been monitored under a state-approved CWD herd certification program for at least 5 years. This requirement will change to 3 years on June 1, 2003, 4 years on January 1, 2004 and 5 years on January 1, 2005;

   AB. Any additions to the herd are natural additions or have been in the
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herd for at least one year;

B) Complete herd records, including records of purchases, deaths and causes of deaths are maintained for at least five years;

C) The herd has been under veterinary supervision for a minimum of 5 years;

D) The animals have not been exposed to any animal from a herd diagnosed with CWD in the past five years;

E) Contains a statement by the veterinarian for the herd of origin certifying that the herd has been under veterinary supervision for a minimum of 5 years and has had no exposure to any cervid from a CWD trace-back or trace-forward herd; and

F) Contains a statement signed by the owner certifying that all statements on the certificate of veterinary inspection are correct.

6) lists the cervid's unique individual identification (approved ear tag, tattoo or microchip);

7) shows the permit obtained from the Department:

A) Applicant for permit shall furnish the following information to the Department:

i) Name and post office mailing address of Illinois destination;

ii) Name and post office mailing address of consignor and/or source herds;

iii) Number and unique identification of cervidae in shipment;

iv) Anniversary date and herd certification number of the source herds; and

v) Name and telephone number of the herd veterinarian of the source herds.
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B) Grounds for refusal to issue permit are:
   i) Violation of the Act or this Part;
   ii) Presence of a disease that might endanger the Illinois livestock industry;
   iii) Refusal to provide required information for the permit.

C) Permits will be issued by telephoning or writing the Department.

e) Chronic wasting disease (CWD)

1) Any cervid dying from an unknown cause and that has exhibited a neurological disorder must have its brain removed for CWD evaluation. Any cervid exhibiting symptoms of CWD must be kept separate and apart from other members of the herd and will be quarantined until the animal is either destroyed or determined not to have CWD. Animals quarantined for CWD will be subject to periodic inspection by Department personnel.

2) If CWD is diagnosed in a herd, the herd will be quarantined and a herd plan developed. The quarantine will remain in effect until either the herd has been depopulated or there has been no evidence of CWD in the herd for five years from the date of the last case, and all animals that have died or have been slaughtered in the herd during that period were examined for CWD.

3) If a herd receives an animal from an affected herd within 36 months prior to the death of the affected animal, the trace-forward herd has two options:

   A) The animal from the affected herd shall be removed and examined for CWD. If the animal is positive, the herd shall be placed under quarantine for at least five years, and a herd plan shall be developed. If the animal is negative, a herd plan shall be developed which includes a five year surveillance of the herd, with the mandatory reporting of the death of all animals and CWD examination.

   B) If the trace-forward animal is not removed, the herd will be quarantined and a herd plan developed. The herd will be under
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quarantine for five years, unless the herd was participating in the Certified Monitored Chronic Wasting Disease program. Any surveillance done after the arrival of the trace animal will be counted as time in quarantine.

4) If an animal dies of CWD within 36 months after changing herds, the herd of origin shall be considered as the trace-back herd. A herd plan will be developed, including a herd inventory with individual animal identification, verified by an accredited, state or federal veterinarian. The herd will be quarantined for five years from the last case traced back to the herd with mandatory death reporting and CWD testing of all animals.

5) For cervidae changing ownership or moving within the State, the owner must obtain a permit issued by the Department prior to movement and originate from a herd that is enrolled in the Certified Monitored Chronic Wasting Disease (CWD) Program or the Contained Monitored Chronic Wasting Disease Program. The permit may be obtained no more than 72 hours in advance of the movement of the cervids by providing the following information:

A) Name and complete mailing address of person selling the cervids;

B) Certified Monitored Chronic Wasting Disease or Contained Monitored Chronic Wasting Disease Herd number;

C) Name and complete mailing address of person purchasing the cervids; and

D) Number of animals and unique identification of the animals.

6) For cervidae entering Illinois for immediate slaughter, the owner must:

A) Notify the Department at least seven days prior to shipment providing the Department with the number of animals to be slaughtered and the name and address of the slaughter facility; and,

B) Obtain a permit from the Department no more than 72 hours in advance of shipment confirming the name of the slaughter facility, the date the animals will be shipped, and the individual identification number for each animal.
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7) Grounds for refusal to issue permit are:

A) Violation of the Act or this Part;

B) Presence of a disease that might endanger the Illinois livestock industry; and

C) Refusal to provide required information for the permit.

8) Permits may be requested by telephone or writing the Department.

f) Requirements for Establishing and Maintaining Certified Monitored Chronic Wasting Disease (CWD) Herds

1) General requirements

A) Certificates for Certified Monitored and Certified CWD Herds shall be valid for one year, unless revoked due to disclosure of CWD in the herd, and shall be issued by the Department.

B) Certificates shall be extended for a period of one year upon compliance with recertification requirements.

C) All animals shall be individually identified with an approved tag, microchip or tattoo. Elk are required to have two official/approved unique identifiers effective January 1, 2003.

2) To qualify or renew a herd for certification

A) An annual herd inventory must be completed and verified by an accredited veterinarian, or a state or federal veterinarian or animal health investigator, or an authorized representative of the Illinois Department of Natural Resources, within 9-15 months from the anniversary date of the enrollment of the herd in the program. The inventory must include:

i) Unique identification, age and sex of all animals in the herd;

ii) Disposition of all animals not present;
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iii) Source of purchased additions;

iv) Documentation of all interstate movement; and

v) Signature of both the owner and the person verifying the inventory.

B) The owner must:

i) Submit the brains of all animals 16 months of age or older that have died or been killed or slaughtered for CWD examination at an approved laboratory;

ii) Individually identify all animals with a unique identification; and

iii) Provide a detailed description of the physical facilities and the specific premises location of the herd either through GPS identification or through a detailed description of the location.

3) Levels of certification

A) The Department will issue certification of herd monitoring upon completion of the annual herd inventory and review by the Department.

B) Herds will be certified as follows:

i) Monitored Herd, followed by number of years of participation; and

ii) Certified Herd, followed by number of years of participation. A herd will be certified at the end of five years of participation.

C) Once a herd has received certified status, slaughter surveillance and surveillance of animals killed in shooter operations will no longer be required, but animals must still be identified and the herd owner must still complete the annual herd inventory.
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4) Herd additions are allowed under the following circumstances:
   A) Animals may enter the herd from herds of equal or higher status; and
   B) Animals entering the herd from a herd of lower status will result in the herd's level reverting to the level of the purchased animals.

g) Requirements for Establishing and Maintaining Contained Monitored Chronic Wasting Disease (CWD) Herds

1) General requirements
   A) Certification for Contained Monitored CWD Herds shall be valid for one year, unless revoked due to disclosure of CWD in the herd, and shall be issued by the Department.
   B) Certification shall be extended for a period of one year upon compliance with recertification requirements.
   C) All animals being purchased or sold shall be individually identified with an approved tag, microchip or tattoo.

2) To qualify or renew a herd for certification
   A) An annual herd inventory must be completed and verified by an accredited veterinarian, or a state or federal veterinarian or animal health investigator, or an authorized representative of the Illinois Department of Natural Resources, within 9-15 months from the anniversary date after the enrollment of the herd in the program. The inventory must include:
      i) Approximate number of animals in herd;
      ii) Disposition of all animals not present;
      iii) Source of purchased additions;
      iv) Documentation of all interstate movement; and
      v) Signature of both the owner and the person verifying the
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inventory.

B) The owner must:

i) Submit the brains of all animals 16 months of age or older that have died or been killed or slaughtered for CWD examination at an approved laboratory;

ii) Individually identify all animals entering or leaving the herd with a unique identification; and

iii) Provide a detailed description of the physical facilities and the specific premises location of the herd either through GPS identification or through a detailed description of the location.

3) Levels of certification

A) The Department will issue certification of contained monitoring herd status upon completion of the annual herd inventory and review by the Department.

B) Herds will be classified as follows:

i) Monitored Herd, followed by number of years of participation; and

ii) Certified Herd, followed by number of years of participation. A herd will be certified at the end of five years of participation.

C) Once a herd has received certified status, slaughter surveillance and surveillance of animals killed in shooter operations will no longer be required, but animals must still be identified and the herd owner must still complete the annual herd inventory.

4) Herd additions are allowed under the following circumstances:

A) Animals must be individually identified;

B) Animals may enter the herd from herds of equal or higher status;
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and

C) Animals entering the herd from a herd of lower status will result in the herd's level reverting to the level of the purchased animals.

h) For cervids entering or moving within Illinois for slaughter purposes, the owner must contact the Department seven working days in advance of the animals being shipped for slaughter, providing the Department with the number of animals to be shipped and the slaughter facility that will be receiving the animals. Within 72 hours after the shipment, the Department must be contacted for a permit to move the animals, providing the Department with the individual identification of each animal to be slaughtered, the owner's name and mailing address, and confirming the name and address of the slaughter facility.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.135 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Certification Program

a) The following definitions shall be applicable to this Section:

1) "Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture, the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis of its using USDA approved methods).

2) "Animal" means cattle, bison, buffalo, goats, llamas, or members of the cervid family.

3) "Cow-side", "pen-side" or "on-site" test means any test approved by the United States Department of Agriculture for M. avium paratuberculosis that can be performed in the field by an accredited veterinarian. Veterinarians must receive approval from the Department to use this test, and all results must be reported to the Department within 10 days. The test cannot be performed in a herd participating in the Voluntary Johne's Disease Certification Program.

4) "Herd " means all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, ranch), or all animals on two or more premises geographically separated, but on which animals have been interchanged or where there has been contact
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between the premises. Contact of animals between separated premises under common management shall be assumed to have occurred unless otherwise established by the herd owner or manager. Each separate species of animal shall be considered as a separate herd.

5) "Positive animal" means an animal infected with Mycobacterium avium paratuberculosis, only if M. avium paratuberculosis is demonstrated by an organism detection test on tissues or feces of the animal.

6) "M. avium paratuberculosis-detection test " or "organism detection test" means any test sufficiently sensitive and specific for detection of M. avium paratuberculosis in fecal samples. Definitions of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (November 2004 April 2002). Any test approved by the USDA U.S. Department of Agriculture for M. avium paratuberculosis organism detection (i.e., fecal culture test for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

7) "Serum antibody test" means any test sufficiently sensitive and specific for detection of antibodies to M. avium paratuberculosis in bovine serum. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (November 2004 April 2002), as recommended and approved by the U.S. Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Any test approved by the USDA U.S. Department of Agriculture for serum antibody detection (i.e., ELISA for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

b) Criteria for herds qualified to enter into the certification program:

1) Participation in this program is voluntary and the producer/owner is responsible for the cost of testing.

2) The herd has been in existence for at least one year or the herd was assembled with animals originating directly from paratuberculosis-certified herds only.
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3) A herd assembled with animals originating directly from certified herds only shall start at the lowest certification level of the herds from which the assembled animals were acquired. A negative first-herd test will qualify the newly-assembled herd for the first certification level.

4) All animals must have an approved, permanent, unique, legible identification other than a plastic ear tag or neck chain. Acceptable types of approved, permanent, unique, legible identification include registration or association numbers accompanied by identification document, ear tattoos, USDA uniform series ear tag (metal tags), freeze branding and electronic identification (microchips) as long as a reader is supplied by the owner or is readily available.

c) Voluntary Johne's disease herd status for cattle shall be established and maintained in accordance with the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (November 2004 - April 2002) that was approved and adopted by the U.S. Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228), with the exception that the organism detection test will be accepted for testing at any level. Herd owners using either the Fast Track or the Standard Track certification program must sign a herd agreement prior to acceptance into the program.

d) Criteria for certifying bison, buffalo, goats, llamas or members of the cervid family herds under the Illinois Voluntary Johne's Disease Herd Certification Program.

1) The following certification levels will be awarded compliance with certification requirements:

   Level 1 – herd tested negative after one sampling.
   Level 2 – herd tested negative after two samplings.
   Level 3 – herd tested negative after three samplings.
   Level 4 – herd tested negative after four samplings.
   Level 5 – herd tested negative after five samplings.
   Level 5 Monitored – herd tested negative after six or more samplings.

2) Certification requirements:

   A) For annual certification, all animals 24 months of age and older must be tested.
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B) Certified herds must be tested every 12 months (+/- 2 months).

C) All tests must be performed at an accredited laboratory.

D) An organism detection test for M. avium paratuberculosis (i.e., fecal culture) must be conducted.

E) Fecal collection must be done either by, or under the direct supervision of, an accredited veterinarian who must verify that the samples were collected from the animals identified on the test documents.

F) The owner must certify on an agreement form prescribed by the Department:

i) At the initial test date, the herd has been in existence for at least one year or was assembled only from herds enrolled in a M. avium paratuberculosis program and are at the same or higher level than the herd. Animals purchased from herds participating in M. avium paratuberculosis programs outside of Illinois must have that state's program approved by the Director prior to certification.

ii) At each test date, all animals in the herd 24 months of age or older were sampled and included in the herd test. A herd can qualify for certification through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one year (12 month) period. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.

iii) At each test date, a list identifying all animals previously tested but no longer in the herd must be provided to the Department.

iv) At each test date, all animals added to the herd since the last herd test were natural additions to (born into) the herd, purchased from participating herds, or were tested at the time of arrival on the premises (see Section 85.135(d)(6)).
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v) At each test date, with a written statement sent to the Department certifying to the best of his/her knowledge no animal that left the herd tested positive for paratuberculosis or was exhibiting clinical signs of Johne's disease.

3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

4) Handling of animals exhibiting clinical signs:

A) All animals exhibiting clinical signs of M. avium paratuberculosis must be tested and isolated from the herd pending the test results. An organism detection test (i.e., fecal culture) must be used on feces from animals exhibiting clinical signs.

B) A negative result on the M. avium paratuberculosis detection test will allow the herd to move to the next certification level.

5) Suspension or revocation of herd certification:

A) Identification of a positive animal using the organism detection test during the certification herd test will result in the loss of certification status. The next negative test will qualify the herd for Level 1 certification.

If a positive animal is detected on any other test for Johne's disease during the current certification period other than by an organism detection test, the herd's certification will be suspended pending a confirmatory organism detection test of that animal.

B) Herds not tested within 14 months after the last sampling will lose their certification status. The next negative herd test will qualify the herd for Level 1 certification.

6) Herd Additions. Animals purchased from another herd participating in a M. avium paratuberculosis certification program may enter the herd without further testing, and will be tested along with the herd at the next annual test. Animals originating from herds that are not participating in a M. avium paratuberculosis certification program must be isolated from the other members of the herd until a negative organism detection test has been received. Isolation means that the animal can have no opportunity to
share feed or water receptacles with other members of the herd, and there can be no chance of fecal contamination from the animal.

7) Protocol. If an animal sold from a certified herd is identified as positive:

A) If an animal sold from a certified negative herd is identified as positive by an organism detection test within 16 months after the date of sale, the selling certified herd may, within 120 days after being notified, be required to conduct a herd retest of all eligible animals. Determination of retesting of the herd will be made by the Director based upon, but not limited to, the level of certification of the herd, the last negative organism detection test of the herd and the status of the other animals in the purchasing herd, if known.

B) The selling certified herd will maintain its present certification status pending the results of the herd test or at the determination of the Director based on epidemiological evidence provided by a state or federal veterinarian.

C) If the herd retest is negative, the herd will maintain its "present" certification status. The herd owner/manager shall then have the option of maintaining his/her present test schedule or rescheduling his/her herd test date so that his/her next herd test is not due until 12 months after the retest.

D) If a positive animal is identified on this retest, the selling herd will lose its certification status. The next negative herd test will qualify the herd for Level 1 certification.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program

a) The following definitions shall be applicable to this Section:

"Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture, the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis that it is using USDA approved methods).
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"Certified Johne's Disease Veterinarian" means a veterinarian who has completed a prescribed course and field training for conducting risk assessments and writing herd plans for herds dealing with Johne's disease. Certification will be issued by the State Veterinarian and/or the designated Johne's Disease Coordinator.

"Herd" shall mean all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, ranch), or all animals on two or more premises geographically separated, but on which animals have been interchanged or where there has been contact between the premises. Contact of animals between separated premises under common management shall be assumed to have occurred unless otherwise established by the herd owner or manager. Each separate species of animal shall be considered as a separate herd.

"M. avium paratuberculosis-detection test" or "organism detection test" means any test sufficiently sensitive and specific for detection of M. avium paratuberculosis in fecal samples. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (November 2004/April 2002). Any test approved by the USDA United States Department of Agriculture for M. avium paratuberculosis organism detection (i.e., fecal culture test for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

"Serum antibody test" means any test sufficiently sensitive and specific for detection of antibodies to M. avium paratuberculosis in bovine serum. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (November 2004/April 2002), approved by the U.S. Animal Health Association (P. O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Any test approved by the USDA United States Department of Agriculture for serum antibody detection (i.e., ELISA for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

b) Criteria for herds qualified to enter into the risk management program:

1) Participation in this program is voluntary and the producer/owner is
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The herd has been in existence for at least one year or the herd was assembled with animals originating directly from paratuberculosis-certified or risk managed herds only.

3) A herd assembled with animals originating directly from risk managed herds only shall start at the lowest certification level of the herds from which the assembled animals were acquired.

4) All animals must have an approved, permanent, unique, legible identification other than a plastic ear tag or neck chain. Acceptable types of approved, permanent, unique, legible identification include registration or association numbers accompanied by identification document, ear tattoos, USDA uniform series ear tag (metal tags), freeze branding and electronic identification (microchips) as long as a reader is supplied by the owner or is readily available.

c) Criteria for enrolling and maintaining cattle, buffalo or bison herds under the Illinois Voluntary Johne's Disease Risk Management Program:

1) The following certification levels will be awarded compliance with certification requirements:

   A) Level A – 30 head or the whole herd has been tested with no positives disclosed.

   B) Level B – the whole herd has been tested with less than 5% (0% to 4.99%) of the animals testing positive.

   C) Level C – the whole herd has been tested with 5% to 14.99% of the animals testing positive.

   D) Level D – the whole herd has been tested with 15% or greater of the animals testing positive, or 30 head were tested with one or more positive animals disclosed.

   E) Potential Maximum Risk herds have had no animals tested or do not disclose any test results.

   F) A level achievement year representing when the herd reached the
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status level will be added to the status designation (e.g., Level A since 1999).

2) Certification requirements:

A) Testing shall be done annually within 10-14 months after the initial status testing anniversary date and a herd shall remain at that level for a year, regardless of the amount of testing completed during that time. A herd can qualify through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one year (12 month) period with the exception of any "J" punched animals in the herd. "J" punched animals do not have to be tested, but must be accounted for on the annual herd agreement. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.

B) Either a fecal culture or ELISA test may be used for certification.

C) Whole herd tests are conducted on all second and higher lactation animals and bulls two years of age and older.

D) Tests on 30 animals must be a random sampling of second and higher lactation animals and bulls two years of age and older. The same animals should not be tested in consecutive testing years.

E) All tests must be performed at an accredited laboratory.

F) Fecal and blood collection must be done either by, or under the direct supervision of, an accredited veterinarian, who must verify that the samples were collected from the animals identified on the test documents.

G) An annual risk assessment and updated herd plan has been completed for the herd by a Certified Johne's Disease Veterinarian or a state or federal veterinarian.

3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

4) Herds not tested within 14 months after the last sampling will lose their
d) Criteria for enrolling and maintaining cervid or goat herds under the Illinois Voluntary Johne's Disease Risk Management Program.

1) The following certification levels will be awarded compliance with certification requirements:

A) Level A – 30 head or the whole herd has been tested with no positives disclosed.

B) Level B – the whole herd has been tested with less than 5% (0% to 4.99%) of the animals testing positive.

C) Level C – the whole herd has been tested with 5% to 14.99% of the animals testing positive.

D) Level D – the whole herd has been tested with 15% or greater of the animals testing positive, or 30 head were tested with one or more positive animals disclosed.

E) Potential Maximum Risk herds have had no animals tested or do not disclose any test results.

F) A level achievement year representing when the herd reached the status level will be added to the status designation (e.g., Level A since 2002).

2) Certification requirements:

A) Testing shall be done annually within 10-14 months after the initial status testing anniversary date and a herd shall remain at that level for a year, regardless of the amount of testing completed during that time. A herd can qualify through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one-year (12 month) period with the exception of any "J" punched animals in the herd. "J" punched animals do not have to be tested, but must be accounted for on the annual herd agreement. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.
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B) The fecal culture must be used for certification.

C) Whole herd tests are conducted on all second and higher lactation animals and males two years of age and older.

D) Tests on 30 animals must be a random sampling of second and higher lactation animals and males two years of age and older. The same animals should not be tested in consecutive testing years.

E) All tests must be performed at an accredited laboratory.

F) Fecal collection must be done either by, or under the direct supervision of, an accredited veterinarian, who must verify that the samples were collected from the animals identified on the test documents.

3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

4) Herds not tested within 14 months after the last sampling will lose their certification status.

e) Additions to the herd. Animals purchased from another herd participating in an M. avium paratuberculosis certification program may enter the herd without further testing, and will be tested along with the herd at the next annual test. Animals originating from herds that are participating in Johne's Disease Risk Management Program and are of the same level as the purchasing herd can be added to the herd without further testing and be tested on the next annual test. If the purchased additions originate from herds that are of a lower risk management level or are from a herd that has not been tested, the purchasing herd will assume the level of the purchased additions or will lose its herd status unless the animals have had a negative test within 30 days prior to purchase, or are isolated from the other members of the herd until a negative test has been received. Isolation means that the animal can have no opportunity to share feed or water receptacles with other members of the herd, and there can be no chance of fecal contamination from the animal.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 85.145 Johne's Disease Positive Animals
Any animals found to be positive for Johne's disease on an organism detection (culture) test shall be "J" punched in the left ear within 30 days after diagnosis. The "J" punch shall be no smaller than one inch in height for cattle or bison or one-half inch for cervids or goats. The herd will be placed under restriction until the herd has either enrolled in the Voluntary Johne's Disease Herd Program or Johne's Disease Risk Management Program. Herds restricted due to Johne's disease cannot sell any animals except to slaughter that are two years of age or older, unless the animals have been tested negative for Johne's disease within 30 days prior to sale on a serum antibody test, or within 30 days after receiving negative results on an organism detection test, or the herd is enrolled in the Johne's Disease Risk Management Program.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)
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1) **Heading of the Part**: Animal Disease Laboratories Act

2) **Code Citation**: 8 Ill. Adm. Code 110

3) **Section Numbers**: Proposed Action:
   
   110.20   Amend
   110.90   Amend

4) **Statutory Authority**: Animal Disease Laboratories Act [510 ILCS 10]

5) **A Complete Description of the Subjects and Issues Involved**: The Department's zip code is being corrected in Section 110.20. A generic fee for PCR and RT-PCR testing is being added in Section 110.90(e) under the heading of "Virology".

6) **Published studies or ports, and sources of underlying date, used to compose this rulemaking**: None

7) **Will this rulemaking replace an emergency rule in effect?**  No

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

9) **Does this rulemaking contain incorporations by reference?**  No

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

11) **Statement of Statewide Policy Objectives**: This rulemaking does not affect units of local government.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, March 2, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

   Linda Rhodes
   Illinois Department of Agriculture
   State Fairgrounds, P. O. Box 19281
   Springfield, IL 62794-9281
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217/785-5713
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than February 27, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: July 2005

The full text of the Proposed Amendments begins on the next page:
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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110
ANIMAL DISEASE LABORATORIES ACT

Section
110.10 Definitions
110.20 Submitting Specimens
110.30 Payment For Laboratory Services
110.40 Tests Not Covered By Fee Schedule
110.50 Minimum Fees
110.60 Euthanasia Fees
110.70 Clinical Pathology Fees
110.80 Histopathology Fees
110.90 Microbiology Fees
110.100 Parasitology Fees
110.110 Toxicology Fees
110.120 Miscellaneous Fees
110.130 Meats Chemistry Fees
110.140 Liquor Control Commission Fees

AUTHORITY: Implementing and authorized by the Animal Disease Laboratories Act [510 ILCS 10].

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28 Ill. Reg. 2104, effective February 1, 2004; amended at 30 Ill. Reg. _______, effective ____________.

Section 110.20 Submitting Specimens

Specimens shall be sent or delivered to the laboratory designated as performing the test. Addresses of the laboratories are as follows:

a) Animal Disease Laboratory, 9732 Shattuc Road, Centralia, Illinois 62801-9284.

b) Animal Disease Laboratory, 2100 South Lake Storey Road, P.O. Box 2100X, Galesburg, Illinois 61402-2100.

c) State-Federal Serology Laboratory, P.O. Box 2819, State Fairgrounds, Springfield, Illinois 62794-9214.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 110.90 Microbiology Fees

The following are the fees for microbiology (per sample or pool unless otherwise specified):

a) Bacteriology, Mycoplasma and Fungi

1) Aerobic or anaerobic culture without sensitivity testing 12.00 C, G
2) Antibiotic sensitivity (per isolate)................................. 8.00 C, G
3) Milk samples for mastitis evaluation per sample............. 3.00 C, G
   Wisconsin mastitis test................................................... 2.00 C
4) Leptospirosis culture per specimen............................... 12.00 G
5) Fluorescent Antibody Test (FA)...................................... 12.00 C, G
6) Escherichia coli serotyping............................................ 3.00 C,
7) Campylobacter (culture)................................................ 10.00 C, G
8) Salmonella (enrichment media, per site or pool).............. 8.00 C, G
9) Hemophilus (culture)..................................................... 8.00 C
10) Bordetella culture........................................................ 8.00 C, G
### Food safety microbiology

1. AGID test, mammalian species ID ........................................... 10.00 C
2. Culture, antibiotic residue growth inhibition .......................... 5.00 C
3. Culture, bacterial, aerobic, quantitative ................................. 10.00 C
4. Culture, bacterial, aerobic, quantitative, E. coli ...................... 10.00 C
5. Culture, bacterial, anaerobic quantitative ................................. 10.00 C
6. Culture, bacterial, Escherichia coli 0157 ................................. 10.00 C
7. Enzyme-linked FA test, Escherichia coli ................................. 10.00 C
8. Enzyme-linked FA test, Listeria ............................................. 10.00 C
9. Enzyme-linked FA test, Salmonella (HACCP) .......................... 10.00 C
10. Enzyme-linked FA test, staphylococcus enterotoxins ............... 10.00 C

### Water safety microbiology
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1) Water Potability Test – Municipal – Total & Fecal coliform............................................. 8.00 C
2) Water Potability Test – Private – Nitrate, coliform, Enterococcus, Fecal coliform......................... 10.00 C
3) Water Potability – Nitrate, coliform, Enterococcus, Fecal coliform and Bacti ID .............................................................. 20.00 C
4) Culture, aerobic quantitative, MMO-MUG, Enterococcus........... 4.00 C
5) Culture, aerobic, MMO-MUG, coliforms........................................ 4.00 C
6) Culture, aerobic, MMO-MUG, E. coli........................................... 4.00 C
7) Culture, aerobic, quantitative, total coliforms............................. 4.00 C
8) Culture, bacterial, aerobic, quantitative......................................... 4.00 C
9) Culture, bacterial, aerobic, quantitative, E. coli.............................. 4.00 C
10) Culture, bacterial, denitrifying bacteria, quantitative ................. 5.00 C
11) Culture, bacterial, iron-reducing bacteria, quantitative............... 5.00 C
12) Culture, bacterial, nitrifying bacteria, quantitative..................... 5.00 C
13) Culture, bacterial, sulfate-reducing bacteria, quantitative........... 5.00 C
14) Culture, filter, pseudomonas........................................................... 5.00 C
15) Culture, viable Helminth ova........................................................... 5.00 C
16) Free chlorine, colorimetric................................................................. 5.00 C
17) Microscopic exam.............................................................................. 3.00 C
18) Nitrate, colorimetric........................................................................ 3.00 C

d) Bacterial serology
1) Actinobacillus pleuropneumonia (APP, serotypes 1,3,5,7)....... 4.00 G
2) Brucella abortus (BAPA, card, std place)................................. N/C G, S
3) Brucella abortus (std tube)................................................................. N/C G
4) Brucella canis card test ................................................................. 6.00 G
5) Brucella abortus RAP ................................................................. N/C G
### DEPARTMENT OF AGRICULTURE

#### NOTICE OF PROPOSED AMENDMENTS

<table>
<thead>
<tr>
<th></th>
<th>Test Description</th>
<th>Cost (G)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Brucella abortus rivanol</td>
<td>N/C G</td>
</tr>
<tr>
<td>7</td>
<td>Brucella abortus (BAPA, card, std plate: out-of-state)</td>
<td>1.00 G, S</td>
</tr>
<tr>
<td>8</td>
<td>Brucella abortus (species other than bovine, porcine and canine)</td>
<td>1.00 G, S</td>
</tr>
<tr>
<td>9</td>
<td>Leptospirosis (microtiter agglutination, 6 serotypes, per sample)</td>
<td>12.00</td>
</tr>
<tr>
<td>10</td>
<td>Mycoplasma hypopneumoniae</td>
<td>3.00 G</td>
</tr>
<tr>
<td>11</td>
<td>Mycoplasma synoviae, M. gallisepticum, M. meleagridis (not done separately)</td>
<td>N/C G</td>
</tr>
<tr>
<td>12</td>
<td>Salmonella typhumurium</td>
<td>N/C G</td>
</tr>
<tr>
<td>13</td>
<td>Salmonella pullorum</td>
<td>N/C G</td>
</tr>
<tr>
<td>14</td>
<td>Salmonella tissue juice ELISA</td>
<td>5.00</td>
</tr>
</tbody>
</table>

#### Virology

<table>
<thead>
<tr>
<th></th>
<th>Test Description</th>
<th>Cost (C, G)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Electron Microscopy – fecal</td>
<td>15.00 G</td>
</tr>
<tr>
<td>2</td>
<td>Pseudorabies Serology (AutoLex or ELISA )</td>
<td>N/C C, G</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies Serology Out-of-State</td>
<td>3.00 C, G</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies Serology end titer</td>
<td>3.00 C</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies Serology (request for screen at dilution of 1:2, SN)</td>
<td>3.00 C, G</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies (Latex)</td>
<td>3.00 C, G</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies ELISA or AutoLex, Screen Out-of-State</td>
<td>1.50 C, G</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies Latex Agglutination Out-of-State</td>
<td>3.00 C, G</td>
</tr>
<tr>
<td></td>
<td>Pseudorabies G1 ELISA Out-of State</td>
<td>1.75 C, G</td>
</tr>
<tr>
<td>3</td>
<td>Fluorescent Antibody Test</td>
<td>12.00 C, G</td>
</tr>
<tr>
<td>4</td>
<td>Rabies</td>
<td>12.00 C, G</td>
</tr>
<tr>
<td>5</td>
<td>Virus Isolation (per virus)</td>
<td>15.00 C, G</td>
</tr>
<tr>
<td>6</td>
<td>Unlisted Viral Serology (each disease) per sample</td>
<td>3.00 C, G</td>
</tr>
<tr>
<td>7</td>
<td>Feline Leukemia Virus (FeLV) and Feline Immunodeficiency Virus (FIV)</td>
<td>15.00 C</td>
</tr>
<tr>
<td>8</td>
<td>Feline Infectious Peritonitis (F.I.P.)</td>
<td>8.00 C</td>
</tr>
</tbody>
</table>
## DEPARTMENT OF AGRICULTURE

### NOTICE OF PROPOSED AMENDMENTS

<table>
<thead>
<tr>
<th></th>
<th>Test Description</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>9</td>
<td>Canine parvovirus (ELISA) fecal</td>
<td>5.00 C</td>
</tr>
<tr>
<td>10</td>
<td>Canine parvovirus</td>
<td>5.00 C</td>
</tr>
<tr>
<td>11</td>
<td>Canine distemper on serum</td>
<td>5.00 C</td>
</tr>
<tr>
<td>12</td>
<td>Rotavirus, ELISA (feces)</td>
<td>10.00 C</td>
</tr>
<tr>
<td>13</td>
<td>Semen testing (export)</td>
<td>10.00 C</td>
</tr>
<tr>
<td>14</td>
<td>Swine enterovirus (8 serotypes)</td>
<td>12.00 C</td>
</tr>
<tr>
<td>15</td>
<td>FeLV Feline Leukemia Virus only</td>
<td>10.00 C</td>
</tr>
<tr>
<td>16</td>
<td>Feline Immunodeficiency Virus (FIV)</td>
<td>10.00 C</td>
</tr>
<tr>
<td>17</td>
<td>Encephalomyocarditis (per sample)</td>
<td>3.00 G</td>
</tr>
<tr>
<td>18</td>
<td>PRRS (1:20, IFA)</td>
<td>3.00 C, G</td>
</tr>
<tr>
<td></td>
<td>PRRS ELISA</td>
<td>4.00 C, G</td>
</tr>
<tr>
<td></td>
<td>PCR/PRRS</td>
<td>15.00 G</td>
</tr>
<tr>
<td></td>
<td>PRRS IFA US strain</td>
<td>4.00 G</td>
</tr>
<tr>
<td></td>
<td>PRRS IFA, Lelystad</td>
<td>4.00 G</td>
</tr>
<tr>
<td>19</td>
<td>Bovine virus diarrhea, P1, immunohistochemistry (Ear notches) (per block of 5)</td>
<td>15.00 C, G</td>
</tr>
<tr>
<td>20</td>
<td>TGE/PRCV Differential ELISA (per specimen)</td>
<td>4.00 C, G</td>
</tr>
<tr>
<td>21</td>
<td>BVD P1 Serum Antigen Capture ELISA</td>
<td>5.00 C</td>
</tr>
<tr>
<td>22</td>
<td>RT-PCR Testing</td>
<td>30.00 C</td>
</tr>
<tr>
<td>f</td>
<td>Chlamydia Isolation in Cell Culture</td>
<td>15.00 C, G</td>
</tr>
<tr>
<td>g</td>
<td>Miscellaneous serology</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Toxoplasmosis</td>
<td>5.0 C</td>
</tr>
<tr>
<td>2</td>
<td>EIA-AGID</td>
<td>2.5 C, S</td>
</tr>
<tr>
<td></td>
<td>EIA-CELISA</td>
<td>10.0 C, S</td>
</tr>
<tr>
<td>3</td>
<td>Mare Immunological Pregnancy Test 35-60 days post-service</td>
<td>15.0 C</td>
</tr>
<tr>
<td>4</td>
<td>Aleutian Disease – Mink (immunoelectrophoresis)</td>
<td>.2 S</td>
</tr>
<tr>
<td>5</td>
<td>Bluetongue</td>
<td>3.5 C</td>
</tr>
</tbody>
</table>
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

6) Bovine leukemia virus (BLV-AGID) ........................................... 3.5 C
7) Vesicular stomatitis................................................................. 3.5 C
8) Complement Fixation Serology............................................... 3.5 C
   Note: The Complement Fixation Serology tests include testing for anaplasmosis, Johne's and chlamydia.
9) Johne's ELISA........................................................................ 10.0 C
10) Caprine Arthritis Encephalitis (CAE) and OPP..................... 3.5 C, G
11) Bovine leukemia virus ELISA................................................ 5.0 C
12) Serology Spin Charge (per specimen) .................................... 1.0 C, G
13) Anaplasmosis ELISA.......................................................... 10.0 C
14) Anaplasmosis CF .......................................................... 3.5 C
15) West Nile IgM Capture..................................................... 15.0 C
16) Blastomycosis AGID ..................................................... 10.0 C

(Source: Amended at 30 Ill. Reg. ______, effective _____________)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

1) **Heading of the Part:** Employee Blood Donation Leave Code

2) **Code Citation:** 77 Ill. Adm. Code 985

3) **Section Numbers:**

   **Proposed Action:**
   - 985.100   New Section
   - 985.200   New Section
   - 985.300   New Section
   - 985.400   New Section
   - 985.500   New Section
   - 985.600   New Section

4) **Statutory Authority:** Employee Blood Donation Leave Act [820 ILCS 149, Public Act 94-33, effective January 1, 2006].

5) **A Complete Description of the Subjects and Issues Involved:** The Employee Blood Donation Leave Act grants discretion to units of local government, boards of election commissioners, or private employers in the State of Illinois to allow employees paid leave to donate blood. The rules include definitions, referenced materials, employer policies, procedures for leaves, the impact of leave on accumulated or future benefit time, and grievance procedures.

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 rulemakings pending on this Part?** No

10) **Statement of Statewide Policy Objective:** This rulemaking will affect units of local government but will not impose 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 this rulemaking within 45 days after this issue of the *Illinois Register* to:

    Susan Meister  
    Division of Legal Services  
    Illinois Department of Public Health
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) **Types of small businesses, small municipalities and not for profit corporations affected:** Units of local government, boards of election commissioners, and private employers who have 51 or more employees.

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: the Public Act will not be effective until January 1, 2006, and the need for the rulemaking was not apparent when the Regulatory Agendas were prepared.

*The full text of the Proposed Rules begins on the next page:*
PART 985
EMPLOYEE BLOOD DONATION LEAVE CODE

Section
985.100 Definitions
985.200 Referenced Materials
985.300 Employer Policy
985.400 Procedure for Leave
985.500 Impact on Accumulated or Future Benefit Time
985.600 Grievance

AUTHORITY: Implementing and authorized by the Employee Blood Donation Leave Act [820 ILCS 149].

SOURCE: Adopted at 30 Ill. Reg. _____, effective ______________.

Section 985.100 Definitions

The following terms have the meaning ascribed to them whenever the term is used in this Part:

Act – the Employee Blood Donation Leave Act [820 ILCS 149].

Blood – whole human blood or components of human blood, including plasma, that are prepared from whole human blood by physical rather than chemical processes, but does not include blood derivatives manufactured or processed for industrial use. (Section 2-128 of the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25])

Blood bank – any institution, building, or place that provides, through its ownership or operation, a system for the collection, processing, storage, distribution, or administration of whole human blood or its component parts. (Section 2-124 of the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25])

Board of Election Commissioners – board established under Article 6 or Article 6A of the Election Code [10 ILCS 5].
DEPARTMENT OF PUBLIC HEALTH

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Department – the Illinois Department of Public Health. (Section 3 of the Act)

Employer – any unit of local government; any board of election commissioners; or any private employer in the State who has 51 or more employees. (Section 3 of the Act)

Industrial use – use of blood in which the blood is modified by physical or chemical means to produce derivatives for therapeutic or pharmaceutical biologicals and laboratory reagents or controls. (Section 2-131 of the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25])

"Municipalities" – cities, villages and incorporated towns.

Participating employee – a full-time employee who has been employed by an employer for a period of six months or more and who donates or attempts to donate blood. (Section 3 of the Act)

"Unit of local government" – counties, municipalities, townships, special districts, and units, designated as units of local government by law, that exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts.

Section 985.200  Referenced Materials

The following materials are referenced in this Part:

State of Illinois Statutes

a) Election Code [10 ILCS 5]

b) Blood Donation Act [210 ILCS 15]

c) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]

Section 985.300  Employer Policy

a) An employer has the authority to establish a policy allowing participating employees paid leave to donate or attempt to donate blood in accordance with Section 985.400. The employer's policy may reference the nationally recognized
medical standards for blood donation eligibility of the community blood bank as operated by the American Red Cross, America's Blood Centers, the American Association of Blood Banks, or other blood bank.

b) If the employer has adopted a policy authorizing paid leave for blood donation, then any participating employee 17 years of age or older may donate blood, if the donation be completely voluntary, without the necessity of obtaining the permission or authorization of his or her parent or guardian. Any participating employee 16 years of age may donate blood, if that employee obtains written permission or authorization from his or her parent or guardian. (Section 1 of the Blood Donation Act [210 ILCS 15/1])

c) This Part does not affect agreements entered into between the employer and the employee's exclusive representative for collective bargaining purposes.

Section 985.400 Procedure for Leave

a) If the employer allows paid leave for blood donation, then the participating employee shall submit to the employer a request for leave before donating or attempting to donate blood. After receiving approval from the employer for the paid leave, a participating employee may be entitled to use one hour or less of leave to donate or attempt to donate blood every 56 days or more.

b) A participating employee also shall submit to the employer the medical documentation of the appointment to donate before donating or attempting to donate blood. The medical documentation shall be submitted with the request for leave. The medical documentation may consist of a written statement from the blood bank indicating that the participating employee has an appointment to donate or attempt to donate blood.

c) The employer may request that the participating employee provide a written statement from the blood bank confirming that the employee kept the appointment.

Section 985.500 Impact on Accumulated or Future Benefit Time

If the employer adopts a policy allowing paid leave for blood donation, then a participating employee will not be required to use accumulated or future sick or vacation benefit time for the period used to donate or attempt to donate blood.

Section 985.600 Grievance
DEPARTMENT OF PUBLIC HEALTH

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If a participating employee is charged leave or denied leave for blood donation or attempted blood donation by an employer who has established a policy of paid leave for blood donation, the employee may seek to remediate the dispute through the employer's established grievance procedure or through the grievance procedure agreed to between the employer and the employee's exclusive representative for collective bargaining purposes.
ENVIRONMENTAL PROTECTION AGENCY

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1) **Heading of the Part**: Procedures for Review of Petitions for Mercury Product Exemptions

2) **Code Citation**: 35 Ill. Adm. Code 182

3) **Section numbers**: Adopted Action:
   - 182.102 New
   - 182.104 New
   - 182.106 New
   - 182.202 New
   - 182.204 New
   - 182.206 New
   - 182.302 New
   - 182.304 New
   - 182.306 New
   - 182.308 New
   - 182.402 New
   - 182.404 New
   - 182.406 New
   - 182.408 New
   - 182.410 New

4) **Statutory Authority**: 415 ILCS 5/5 and 22.23b(c)

5) **Effective Date of Rules**: January 5, 2006

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

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in agency principal office and is available for public inspection.

9) **Notices of Proposal Published in Illinois Register**: August 19, 2005; 29 Ill. Reg. 12798

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version**: The following changes were made in response to JCAR comments:
ENVIRONMENTAL PROTECTION AGENCY

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a. In the heading for Subpart D in the table of contents, "EXTENSIONS" is changed to "EXTENSIONS RENEWALS".

b. In the table of contents, "182.304" is changed to "182.404-182.304".

c. In the Authority note, "415 ILCS 5/5 and 22.23b(c)" is changed to "Authorized by Section 5 of, and implementing Section 22.23b(c) of, the Environmental Protection Act [415 ILCS 5/5 and 22.23b(c)].".

d. In Section 182.102, "These rules establish" is changed to "This Part establishes".

e. In the first paragraph of Section 182.104 and in the definition of "Act", parentheses around "415 ILCS 5" are changed to brackets.

f. In the definition of "manufacturer":
   i) a colon is inserted after "that" and the remaining text is dropped to the next line;
   ii) the "(a)" before "produces" is deleted;
   iii) "Section" is added before "22.23b";
   iv) a semicolon is added after "Act";
   v) the text after "or" is dropped to the next line;
   vi) the "(b)" before "serves" is deleted;
   vii) "Section" is added before "22.23b";
   viii) the text after "States." is dropped to the next line; and
   ix) commas are added before and after "in which case".

g. In Section 182.202, brackets around "Section 22.23b of the Act" are changed to parentheses.

h. In Section 182.204(b)(6), a semicolon is added after "product".
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i. In Section 182.204(b)(7), a semicolon is added after "Section".

j. In Section 182.204(b)(8), "Such" is changed to "The Such".

k. In Section 182.206(a), "Within ten working days of" is changed to "Within 10 ten working days after of".

l. In Section 182.206(b), "such rejection" is changed to "the such rejection".

m. In Section 182.206(c), a comma is inserted after "incompleteness".

n. In Section 182.302(a), "Within 30 days of receipt" is changed to "Within 30 days after of receipt" and a comma is inserted after "petition".

o. In Section 182.302(b), a comma is inserted after "exemption" and "subsection (a) of this Section" is changed to "subsection (a) of this Section".

p. In Section 182.304, a comma is inserted after "exemption".


r. In Section 182.410(c), a comma is inserted after "renewal".

s. In Section 182.410(d), "(35 Ill. Adm. Code 105.206)" is changed to "(See 35 Ill. Adm. Code 105.206.)".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Section 22.23b(c) of the Environmental Protection Act [415 ILCS 5/22.23b(c)] requires the Illinois Environmental Protection Agency to adopt rules for the processing of petitions for exemptions from the provisions of Section 22.23b of the Environmental Protection Act [415 ILCS 5/22.23b], which prohibits the purchase, acceptance, sale, and distribution of certain mercury-containing products. Manufacturers
of the mercury-containing products may seek an exemption from the provisions of Section 22.23b by filing a petition with the Illinois EPA no later than July 1, 2006. The adopted rules contain the procedures the Agency will use in processing these petitions.

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

Becky Lockart  
Office of Pollution Prevention  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  

Tel: 217/524-9642  
Fax: 217/557-2125

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

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 182
PROCEDURES FOR REVIEW OF PETITIONS
FOR MERCURY PRODUCT EXEMPTIONS

SUBPART A: INTRODUCTION

Section
182.102 Purpose
182.104 Definitions
182.106 Severability

SUBPART B: PETITIONS FOR EXEMPTIONS

Section
182.202 Petitions
182.204 Requirements for Petitions
182.206 Preliminary Review of Petitions

SUBPART C: AGENCY DECISION MAKING

Section
182.302 Public Notice and Comments
182.304 Consultation with Other States
182.306 Criteria for Reviewing Petitions
182.308 Final Agency Action

SUBPART D: RENEWALS OF EXEMPTIONS

Section
182.402 Petitions for Renewal of Exemptions
182.404 Requirements for Petitions for Renewal
182.406 Preliminary Review, Public Notice and Comments, and Consultation with Other States
182.408 Criteria for Reviewing Petitions for Renewal
182.410 Final Agency Action
AUTHORITY: Authorized by Section 5 of, and implementing Section 22.23b(c) of, the Environmental Protection Act [415 ILCS 5/5 and 22.23b(c)].


SUBPART A: INTRODUCTION

Section 182.102 Purpose

This Part establishes the procedures and criteria the Agency will use to review petitions for exemptions from the provisions of Section 22.23b of the Act. Petitions for exemptions and petitions for renewal of exemptions from the provisions of Section 22.23b of the Act must be submitted in accordance with this Part.

Section 182.104 Definitions

Unless otherwise specified, all terms shall have the meanings set forth in the Illinois Environmental Protection Act [415 ILCS 5]. Additionally, for purposes of this Part, the following definitions apply:

"Act" means the Environmental Protection Act [415 ILCS 5].

"Manufacturer" means any person that:

produces a product subject to the provisions of Section 22.23b of the Act; or

serves as an importer or domestic distributor of a product subject to the provisions of Section 22.23b of the Act that is produced outside of the United States.

In the case of a multi-component product, "manufacturer" means the last manufacturer to produce or assemble the product, unless the product is produced or assembled outside of the United States, in which case, "manufacturer" means the importer or domestic distributor of the product.

"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes,
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. (Section 3.283 of the Act)

"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. (Section 3.284 of the Act)

Section 182.106  Severability

If any Section, subsection, sentence, or clause of this Part is adjudged unconstitutional, void, invalid, or otherwise unlawful, such adjudication shall not affect the validity of this Part as a whole, or any Section, subsection, sentence, or clause not adjudged unconstitutional, void, invalid, or otherwise unlawful.

SUBPART B:  PETITIONS FOR EXEMPTIONS

Section 182.202  Petitions

No later than July 1, 2006, the manufacturer of a mercury switch or mercury relay, or a scientific instrument or piece of instructional equipment containing mercury added during its manufacture, may apply to the Agency for an exemption from the provisions of (Section 22.23b of the Act) for one or more specific uses of the switch relay, instrument, or piece of equipment by filing a written petition with the Agency. (Section 22.23b(c) of the Act)

Section 182.204  Requirements for Petitions

a) Two copies of the petition must be submitted on forms prescribed by the Agency and must be mailed or delivered to the address designated by the Agency on the forms. The Agency's record of the date of filing shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt.

b) The petition must include, but shall not be limited to, the following information:

1) The petitioner's name, address, telephone number, and North American Industry Classification System (NAICS) code. The petitioner's web address must also be included if the petitioner has a web address;
ENVIROMENTAL PROTECTION AGENCY

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2) The name, address, and telephone number of a contact person for the petitioner. The contact person's e-mail address must also be included;

3) Identification of the product for which the exemption is sought and a description of the specific uses of the product for which the exemption is sought;

4) A description of the location of the mercury or mercury-containing component in the product and a description of how to remove the mercury or mercury-containing component;

5) A description of the purpose of the mercury in the product;

6) Identification of all available nonmercury alternatives to the product or mercury-containing component of the product;

7) Documentation demonstrating that use of the product provides a net benefit to the environment, public health, or public safety when compared to each of the available nonmercury alternatives identified under subsection (b)(6) of this Section;

8) Documentation demonstrating that a convenient and widely available system exists for the proper end of life collection, transportation, and processing of the product for which the exemption is sought. The documentation must include, but shall not be limited to, a written plan for the proper collection, transportation, and processing of the product. The plan must include, but shall not be limited to, the following:

   A) A description of the system that will be used for the proper end of life collection, transportation, and processing of the product by the manufacturer, by an industry or trade group, or via another similar system that ensures the product is properly collected, transported, and processed;

   B) Documentation demonstrating the readiness and willingness of all necessary parties to perform as intended in the collection, transportation, and processing system;
ENVIRONMENTAL PROTECTION AGENCY

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C) A description of the financing for the collection, transportation, and processing system;

D) A description of an education program that will inform the relevant portions of the public and private sectors about the product, the purpose of the collection, transportation, and processing system, and how consumers of the product may participate;

E) Identification of the annual collection goal for the product;

F) A description of the performance measures to be used to determine whether the collection, transportation, and processing system is meeting the annual collection goal for the product;

G) A description of the record keeping protocol to assure conformance with the plan; and

H) A description of additional or alternative actions that will be implemented to improve the collection, transportation, and processing of the product in the event the annual collection goal for the product is not met.

Section 182.206 Preliminary Review of Petitions

a) Within 10 working days after receipt of a petition, the Agency shall determine whether to accept the petition for review or to reject the petition as incomplete. The petitioner may waive this deadline in writing.

b) If the petition is rejected, notice of the rejection shall be given to the petitioner by certified mail, return receipt requested. The notice of rejection shall include an explanation of the Agency's decision.

c) Upon receipt of a notice of rejection for incompleteness, the petitioner may amend the petition and resubmit it to the Agency, which will initiate the review process again.

d) If the petition is accepted as complete, review of the petition shall proceed in accordance with Subpart C of this Part.

SUBPART C: AGENCY DECISION MAKING
Section 182.302  Public Notice and Comments

a) Within 30 days after receipt of a complete petition, the Agency shall post a notice of the petition on its website and submit a notice of the petition to the Secretary of State for publication in the Illinois Register. The notice of the petition must include, but shall not be limited to, the following information:

1) Identification of the petitioner and the product for which the exemption is sought.

2) A description of the use of the product.

3) A statement that a copy of the petition is available for review at the Agency's headquarters during normal business hours.

4) A statement that written public comments on the petition may be submitted to the Agency for a period of 45 days after the date of publication of the notice.

5) The address to which written public comments on the petition can be submitted to the Agency.

b) Before approving an exemption, the Agency must review all public comments on the petition that were submitted to the Agency within 45 days after the date the notice required under subsection (a) was published in the Illinois Register.

Section 182.304  Consultation with Other States

Before approving any exemption, the Agency must consult with other states to promote consistency in the regulation of products containing mercury added during their manufacture. (Section 22.23b of the Act)

Section 182.306  Criteria for Reviewing Petitions

The Agency may grant an exemption, with or without conditions, if the manufacturer demonstrates the following:
ENVIRONMENTAL PROTECTION AGENCY

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a) A convenient and widely available system exists for the proper collection, transportation, and processing of the switch, relay, instrument, or piece of equipment at the end of its useful life; and

b) The specific use or uses of the switch, relay, instrument, or piece of equipment provides a net benefit to the environment, public health, or public safety when compared to available nonmercury alternatives. (Section 22.23b(c) of the Act)

Section 182.308 Final Agency Action

a) The Agency shall grant or deny the requested exemption within 90 days after the receipt of a complete petition.

b) Exemptions shall be granted for a period of 5 years. (Section 22.23b(c) of the Act)

c) Notice of the Agency's final action on a petition shall be given to the petitioner by certified mail, return receipt requested. If the Agency denies an exemption, the notice shall include an explanation of the Agency's decision.

d) If the Agency denies a requested exemption or grants a requested exemption with conditions, the petitioner may appeal the Agency's final decision by filing a petition for review with the Board in accordance with 35 Ill. Adm. Code 105. Petitions for review must be filed with the Board within 35 days after the date of service of the Agency's final decision. (See 35 Ill. Adm. Code 105.206.)

SUBPART D: RENEWALS OF EXEMPTIONS

Section 182.402 Petitions for Renewal of Exemptions

The manufacturer may request renewals of the exemption for additional 5-year periods by filing additional written petitions with the Agency. (Sections 22.23b(c) of the Act)

Section 182.404 Requirements for Petitions for Renewal

a) Two copies of petitions for renewal must be submitted on forms prescribed by the Agency and must be mailed or delivered to the address designated by the Agency on the forms. The Agency's record of the date of filing shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt.
NOTICE OF ADOPTED RULES

b) Petitions for renewal must include, but shall not be limited to, the information required under Section 182.204(b) of this Part. Any information that modifies information submitted in previous petitions must be clearly identified.

Section 182.406 Preliminary Review, Public Notice and Comments, and Consultation with Other States

The Agency's review of petitions for renewal shall be subject to the requirements of Sections 182.206, 182.302, and 182.304 of this Part.

Section 182.408 Criteria for Reviewing Petitions for Renewal

The Agency may renew an exemption, with or without conditions, if the manufacturer demonstrates that the criteria set forth in Section 182.306 of this Part continue to be satisfied.

Section 182.410 Final Agency Action

a) The Agency shall grant or deny the requested exemption renewal within 90 days after the receipt of a complete petition for renewal.

b) Renewals of exemptions shall be granted for a period of 5 years.

c) Notice of the Agency's final action on a petition for renewal shall be given to the petitioner by certified mail, return receipt requested. If the Agency denies an exemption renewal, the notice shall include an explanation of the Agency's decision.

d) If the Agency denies a requested exemption renewal or grants a requested exemption renewal with conditions, the petitioner may appeal the Agency's final decision by filing a petition for review with the Board in accordance with 35 Ill. Adm. Code 105. Petitions for review must be filed with the Board within 35 days after the date of service of the Agency's final decision. (See 35 Ill. Adm. Code 105.206.)
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers: Adopted Action:
   140.400  Amendment
   140.435  Amendment
   140.436  Amendment
   140.463  Amendment
   140.924  Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: January 1, 2006

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 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: September 30, 2005; 29 Ill. Reg. 14463

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version:

   Section 140.435

   In subsection (a), "(68 Ill. Adm. Code 1300)" has been changed to "68 Ill. Adm. Code 1305".

   Subsection (b) has been changed to read "... with a collaborating physician or practitioner ...".

   The end of subsection (c) has been changed to read, "... "physician's, dentist's or podiatrist's office or an Ambulatory Surgical Treatment Center."
NOTICE OF ADOPTED AMENDMENTS

Subsection (d) has been revised to read, "The agreement or agreements required under Section 140.435(b) and (c) shall comply with all requirements as described in the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and 68 Ill. Adm. Code 1305. Agreements must be updated as required under the Act and 68 Ill. Adm. Code 1305, be maintained on file at each practice location and be available upon the Department's request.

In subsection (e), "under the agreement" has been added after "practitioner".

In subsections (g)(2), (3), (4) or (5), "or practitioner's" has been added after "physician's".

In subsection (h), "or Ambulatory Surgical Treatment Center" has been added after "hospital" and "or Ambulatory Surgical Treatment Centers" has been added after "hospitals".

Section 140.463

In the definition for "Federally Qualified Health Center" in subsection (a), "(42 USC 1395x(aa)(3))" has been added after "(Public Law 78-410)".

In the definition for "Rural Health Clinic" in subsection (a), "42 USC 1395x(aa)(2))" has been added after "(Public Law 95-210)".

In subsection (b)(1)(A)(ii), "subsection" has been added before "(b)(1)(A)(i)" and "above" has been changed to "of this Section".

Section 140.924

In subsection (a)(2)(B), "Medicaid" has been deleted.

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

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15) **Summary and Purpose of Amendments:**

**Sections 140.400, 140.435, 140.436 and 140.924** – These changes allow all qualified Advanced Practice Nurses (APNs) to enroll as practitioners in the Medical Assistance Program and to be reimbursed at 100 percent of the physicians' rate for services. Currently, APNs are paid at 70 percent of the established physicians' rate and only four categories of APNs are eligible to receive medical assistance reimbursements. The changes will also allow APNs to participate in the Maternal and Child Health Program.

**Section 140.463** – This amendment will allow encounter rates for Federally Qualified Health Centers (FQHCs) to be based on the higher of their current rates or rates based on their fiscal year 2002 and 2003 cost reports. These changes will more accurately reflect current costs related to the FQHC rates, and will promote continued access to care for the Department's medical assistance clients.

16) **Information and questions regarding these adopted amendments shall be directed to:**

   Joanne Scattoloni  
   Office of the General Counsel, Rules Section  
   Illinois Department of Healthcare and Family Services  
   201 South Grand Avenue East, Third Floor  
   Springfield, Illinois 62763-0002  

   (217) 524-0081

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.400 Payment to Practitioners

a) This Section applies to physicians, dentists, Advanced Practice Nurses (APN) (see Section 140.435), optometrists, podiatrists and chiropractors.

1) Practitioners are required to bill the Medical Assistance Program at the same rate they charge patients paying their own bills and patients covered by other third party payers.

2) A practitioner may bill only for services he or she personally provides or which are provided under his or her direct supervision in his or her office by his or her staff. An APN, as described in Section 140.435, may bill only for the services personally provided by the individual APN.

3) Payment will be made only in the practitioner's name or a Department approved alternate payee.

4) Payments will be made according to a schedule of statewide pricing screens established by the Department except that an APN, as described in Section 140.435(a), will be reimbursed for covered services at 70 percent of the established screen. Covered services provided by qualifying providers under the Maternal and Child Health Program will be reimbursed at enhanced rates as described in subsection (b) of this Section. The pricing screens are to be established based on consideration of the market value of the service. In considering the market value, the Department will examine the costs of operations and material. Input from advisory groups designated by statute, generally recognized provider interest groups and the general public will be taken into consideration in determining the allocation of available funds to rate adjustments. Increases in rates are contingent upon funds appropriated by the General Assembly. Reductions or increases may be affected by changes in the market place or changes in funding available for the Medical Assistance Program. Screens will be related to the average statewide charge. The
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upper limit for services shall not exceed the lowest Medicare charge levels.

b) Practitioners who meet the qualifications for and enter into a Primary Care Provider Agreement for participation in the Maternal and Child Health Program, as described in Subpart G, will receive enhanced reimbursement in accordance with Section 140.930(a)(1).

c) The Department will distribute (initially and upon revision of the amounts) to practitioners the maximum allowable amounts for the most commonly billed procedures codes. Interested individuals may request a copy of the maximum allowable amounts from the Department by directing the request to the Bureau of Comprehensive Health Services, Prescott E. Bloom Building, 201 South Grand Avenue East, Springfield, Illinois 62763-0001. In addition, a participating individual practitioner may request the maximum allowable amounts for less commonly billed specific procedures that relate to the individual's practice. This request must be in writing and identify specific procedure codes and associated descriptions.

(Source: Amended at 30 Ill. Reg. 796, effective January 1, 2006)

Section 140.435 Advanced Practice Nurse Services

a) For purposes of enrollment in the Medical Assistance Program, an "Advanced Practice Nurse (APN)" means a person who is licensed as a registered professional nurse, holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an advanced practice nurse, so long as that practice is not in conflict with the Nursing and Advanced Practice Nursing Act [225 ILCS 65], the Medical Practice Act of 1987 [225 ILCS 60] and implementing rules (68 Ill. Adm. Code 1305). Categories of APNs include: certified pediatric nurse practitioner, certified family nurse practitioner, certified nurse midwife or certified registered nurse anesthetist.

1) Certified Registered Nurse Anesthetist (CRNA);
2) Certified Nurse Midwife (CNM);
3) Certified Nurse Practitioner (CNP); and
4) Clinical Nurse Specialist (CNS).
b) An Advanced Practice Nurse must have and maintain a current collaborative or written practice agreement with a collaborating physician or practitioner under whom the APN will be practicing, as set forth in the Nursing and Advanced Practice Nursing Act.

c) Depending on the site of care, CRNAs may or may not be required to possess a written collaborative or written practice agreement as set forth in the Nursing and Advanced Practice Nursing Act. CRNAs may work in a hospital or a physician's, dentist's or podiatrist's office or an Ambulatory Surgical Treatment Center.

d) The agreement or agreements required under Section 140.435(b) and (c) shall comply with all requirements as described in the Nursing and Advanced Practice Nursing Act and 68 Ill. Adm. Code 1305. Agreements as required under the Act and 68 Ill. Adm. Code 1305 must be updated, be maintained on file at each practice location and be available upon the Department's request.

e) The APN must notify the Department within 10 business days if an agreement is dissolved or if a change occurs in the collaborating physician or practitioner under the agreement. The Department will then re-evaluate the APN's enrollment status.

f) The collaborating physician or practitioner is not required to be enrolled with the Department. However, the collaborating physician or practitioner may not be terminated, suspended or barred by the Department from participating in the Medical Assistance Program.

g) An APN who is required to maintain a collaborative or written practice agreement must submit the following information with the initial application for enrollment:

1) Documentation of specialty of practice.

2) Collaborating physician's or practitioner's name and address.

3) Collaborating physician's or practitioner's Federal Employer Identification Number (FEIN).

4) Collaborating physician's or practitioner's medical license number.
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5) Collaborating physician's or practitioner's state of licensure, if other than Illinois.

h) A CRNA who is not required to maintain a collaborative or written practice agreement and who provides services in a hospital or Ambulatory Surgical Treatment Center setting must submit the names and addresses of the hospitals or Ambulatory Surgical Treatment Centers where he or she practices with the initial application for enrollment.

1) Payment for certified nurse midwife services shall be made only to an Advanced Practice Nurse (APN) who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a nurse-midwife so long as such practice is not in conflict with the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and implementing rules (68 Ill. Adm. Code 1300). A certified nurse midwife must have and maintain a current agreement with a physician licensed to practice medicine in all its branches who has hospital delivery privileges.

2) Payment for certified pediatric nurse practitioner services and certified family nurse practitioner services shall be made only to an APN who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a nurse practitioner so long as such practice is not in conflict with the Nursing and Advanced Practice Nursing Act [225 ILCS 65], the Medical Practice Act of 1987 [225 ILCS 60] and implementing rules. The nurse practitioner shall also have completed a program of study and clinical experience for certified pediatric nurse practitioners or certified family nurse practitioners that is accredited and approved by the appropriate accreditation board. A certified pediatric or family nurse practitioner must have and maintain a current agreement with the physician licensed to practice medicine in all its branches who has hospital admitting privileges including delivery privileges where applicable.

3) Payment for certified registered nurse anesthetist services shall be made only to an APN who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a nurse anesthetist so long as such practice is not in conflict with the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and implementing rules. For office-based anesthesia services, a certified registered nurse anesthetist must have and maintain a current agreement with a physician licensed to
practice medicine in all its branches, a licensed dentist or licensed podiatrist, to provide office-based anesthesia services in the office of the physician, dentist or podiatrist.

b) The agreement required under Section 140.435(a)(1), (2) and (3) shall be in the form described in the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and implementing rules. The agreement must be submitted to the Department with the initial application for enrollment. The agreement must be updated annually and maintained on file at each practice location. The APN must notify the Department immediately if the agreement is dissolved and the enrollment will be terminated.

e) For certified pediatric nurse practitioners and certified family nurse practitioners as described under subsection (a)(2) of this Section, a certification documenting the APN's specialty must be submitted to the Department with the initial application for enrollment.

(Source: Amended at 30 Ill. Reg. 796, effective January 1, 2006)

Section 140.436 Limitations on Advanced Practice Nurse Services

The following will not be reimbursed:

a) Nursing services provided in the role of Physician Assistant.

b) Mileage to and from place of service.

c) Consultations between Advanced Practice Nurses or between an Advanced Practice Nurse and a physician.


(Source: Amended at 30 Ill. Reg. 796, effective January 1, 2006)

Section 140.463 Clinic Service Payment

a) Definitions

"Behavioral Health Services", for the purposes of this Section, means services
provided by a licensed clinical psychologist or licensed clinical social worker.

"Center", for the purposes of this Section, means both a federally qualified health center and a rural health clinic.

"Federally Qualified Health Center" (FQHC) means a health care provider that receives a grant under Section 330 of the Public Health Service Act (Public Law 78-410) \(42\text{ USC }1395x(aa)(3)\) or has been determined to meet the requirements for receiving such a grant by the Health Resources and Services Administration, U.S. Department of Health and Human Services.

"Rural Health Clinic" (RHC) means a health care provider that has been designated by the Public Health Service, U.S. Department of Health and Human Services, or by the Governor, and approved by the Public Health Service, in accordance with the Rural Health Clinics Act (Public Law 95-210) \(42\text{ USC }1395x(aa)(2)\) to be an RHC.

b) Reimbursement
The Center will be reimbursed under a prospective payment system for 100 percent of the average of the costs that are reasonable and related to the cost of furnishing such services by the Center in accordance with the provisions of federal law (42 USC 1396a(aa)). Baseline payment rates will be determined individually for each enrolled Center. Once determined, the baseline payment rate will be adjusted annually using the Medicare Economic Index (MEI). Payment for services provided on or after January 1, 2001, shall be made using specific rates for each Center as specified in this Section.

1) Baseline Payment Rates

A) For each Center, the Department will calculate a baseline medical encounter rate and, for each Center that is enrolled with the Department to provide Behavioral Health Services or dental services, the Department will calculate a baseline Behavioral Health Services or dental encounter rate, using the methodology specified in this subsection (b).

i) The cost basis for the baseline rates shall be drawn from individual Center cost reports for Center fiscal years ending in 1999 and 2000 or, in the instance of a Center that did not operate during the entirety of those periods, cost reports
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that cover the portions of those periods during which the Center was in operation.

ii) Pending federal approval, for dates of service provided by an FQHC on or after January 1, 2006, the cost basis for the baseline rates shall be the greater of an encounter rate using the criteria under subsection (b)(1)(A)(i) of this Section, or the same criteria that uses the Center's cost reports ending in 2002 and 2003 in place of the cost reports ending in 1999 and 2000.

B) The baseline payment rates shall be based upon allowable costs, reported by the Center, that are determined by the Department to be reasonable and efficient. The method for determining allowable cost factors is similar to that used for Medicare (42 USC 1395g), with the following significant differences. The Department's methodology shall:

i) Consider costs associated with services not covered under Medicare (e.g., pharmacy, patient transportation, medical case management, health education, nutritional counseling).

ii) Apply reasonable constraints on allowable cost, as described in subsection (b)(10) of this Section.

iii) Apply reasonable constraints on the total cost per encounter.

C) The baseline payment rates for a Center shall be the average (arithmetic mean) of the annual reasonable costs per encounter, calculated separately for each of the fiscal years for which cost report data must be submitted using the methodology specified in subsections (b)(2), (3) and (4) of this Section for the medical encounter rate, dental encounter rate, and Behavioral Health Services encounter rate, respectively.

2) Annual Reasonable Cost Per Medical Encounter

A) The annual reasonable cost per medical encounter shall be the lesser of:
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i) The annual cost per encounter, as calculated in subsection (b)(2)(D) of this Section; or

ii) The reasonable cost of providing a medical encounter, which shall be 105 percent of the Statewide median of the calculated annual costs per encounter for FQHCs or RHCs, as the case may be.

B) The core services component.
The core services component is the sum of the following two components:

i) The allowable direct cost per encounter, which is the quotient of the allowable direct cost, as defined in subsection (b)(1)(B) of this Section, for core services divided by the greater of the number of encounters reported by direct staff (e.g., staff specified in subsection (b)(10)(A) and, for the determination of encounter payment rates effective prior to January 1, 2002, subsection (b)(10)(C)); or the number of encounters resulting from the application of the minimum efficiency standards found in subsections (b)(10)(A) and (b)(10)(C); and

ii) The allowable overhead cost per encounter, which is the product of the allowable direct cost per encounter multiplied by the Center's allowable overhead rate factor.

C) Supplemental services component.
The supplemental services component is the sum of the following two components:

i) The allowable supplemental cost per encounter, which is the quotient of the cost of services (e.g., pharmacy, patient transportation, medical case management, health education, nutritional counseling), excepting core services, dental services and, effective January 1, 2002, Behavioral Health Services, provided by the Center, divided by the greater of the number of encounters reported by direct staff; or the number of encounters resulting from application of the
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minimum productivity standards found in subsections (b)(10)(A) and (b)(10)(C) of this Section; and

ii) The allowable overhead cost per encounter, which is the product of the allowable supplemental cost per encounter multiplied by the Center's allowable overhead rate factor.

D) Annual cost per encounter.
The annual cost per medical encounter is the sum of the core services component, as determined in subsection (b)(2)(B) of this Section, and the supplemental services component, as determined in subsection (b)(2)(C).

3) Annual Reasonable Cost Per Dental Encounter

A) The annual reasonable cost per dental encounter shall be the lesser of:

i) The annual cost per encounter, as calculated in subsection (b)(3)(B) of this Section; or

ii) The reasonable cost of providing a dental encounter, which shall be 105 percent of the Statewide median of the calculated annual costs per encounter for FQHCs or RHCs, as the case may be.

B) Annual cost per encounter.
The annual cost per encounter is the sum of the following two components:

i) The allowable direct cost per encounter, which is the quotient of the allowable direct dental cost, as defined in subsection (b)(1)(B), divided by the greater of the number of encounters reported by direct dental staff; or the number of encounters resulting from the application of the minimum efficiency standard found in subsection (b)(10)(B); and

ii) The allowable overhead cost per encounter, which is the product of the allowable direct cost per encounter
4) **Annual Reasonable Cost Per Behavioral Health Service Encounter**

Effective for services provided on or after January 1, 2002, a separate annual reasonable cost per Behavioral Health Service encounter shall be determined.

A) The annual reasonable cost per Behavioral Health Service encounter shall be the lesser of the following:

   i) The annual cost per encounter, as calculated in subsection (b)(4)(B) of this Section.

   ii) The reasonable cost of providing a Behavioral Health Service encounter, which shall be 105 percent of the Statewide median of the calculated annual cost per encounter for FQHCs or RHCs, as the case may be.

B) **Annual cost per encounter.**

   The annual cost per encounter is the sum of the following two components:

   i) The allowable direct cost per encounter, which is the quotient of the allowable direct cost for Behavioral Health Services, as defined in subsection (b)(1)(B) of this Section, divided by the greater of the number of encounters reported by direct behavioral health staff; or the number of encounters resulting from the application of the minimum efficiency standard found in subsection (b)(10)(C); and

   ii) The allowable overhead cost per encounter, which is the product of the allowable direct cost per encounter multiplied by the Center's allowable overhead rate factor.

5) For any individual eligible under the medical assistance programs, a Center may bill only one medical encounter, one dental encounter, and one behavioral health encounter per day. A Center will be reimbursed for a service only if it has enrolled with the Department to provide that service.
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6) Claims submitted to the Department must identify all services provided during the encounter.

7) Cost Basis
   Each Center must annually complete a cost report, in a format specified by the Department, for the Center's fiscal year. Each FQHC must also annually submit a copy of financial statements audited by an independent Certified Public Accountant. The cost report and audited financial statements must be filed with the Department within 180 days after the close of the Center's fiscal year, except for cost reports and audited financial statements for Center fiscal years 1999 and 2000 which, in the case of FQHCs, must be filed with the Department no later than November 30, 2001, and in the case of RHCs, must be filed no later than March 30, 2002. Except for the first year during which the Center begins operations, the cost report must cover a full fiscal year ending on June 30 or other fiscal year that has been approved by the Department. Payments will be withheld from any Center that has not submitted the cost report by the applicable filing date, and no payments will be made until such time as the reports or audited statements are received and approved by the Department.

8) Establishment of Initial Year Payment Amount for a New Center
   For any Center that begins operation on or after January 1, 2001, the payment rate per encounter shall be the median of the payment rates per encounter of neighboring FQHCs or RHCs with similar caseloads, as determined by the Department. If the Department determines that there are no such comparable Centers, then the rate per encounter shall be the median of the payment rates per encounter Statewide for all FQHCs or RHCs, as the case may be.

9) Rate Adjustments
   A) Initial rate determinations.
      i) On or about January 1, 2002, the Department shall determine the medical and dental encounter rates for each participating FQHC. These rates shall be paid for services provided on or after January 1, 2001. Claims submitted and adjudicated prior to the entry of these rates into the Department's claims processing system shall be reconciled
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for each affected FQHC.

ii) On or about January 1, 2003, the Department shall determine the medical and dental encounter rates for each participating RHC. These rates shall be paid for services provided on or after January 1, 2001. Claims submitted and adjudicated prior to the entry of these rates into the Department's claims processing system shall be reconciled for each affected RHC.

B) Annual adjustment.

i) Beginning January 1, 2002, and annually thereafter, except as specified in subsection (b)(9)(B)(ii) of this Section, the Department will adjust baseline rates by the most recently available MEI. The adjusted rates shall be paid for services provided on or after the date of adjustment.

ii) In the instance of a Center that provided Behavioral Health Services prior to January 1, 2002, for the purpose of applying the January 1, 2002, adjustment by the most recently available MEI, the baseline medical services encounter rate applicable for services provided from January 1, 2001, through December 31, 2001, shall be redetermined after removal of costs and encounters attributable to Behavioral Health Services.

C) Scope of service adjustment.

If a Center significantly changes its scope of services, the Center may request that new baseline encounter rates be determined. Adjustments to encounter rates will be made only if the change in the scope of services results in the inclusion of Behavioral Health Services or dental services or a difference of at least five percent from the Center's current rate. The Department may initiate a rate adjustment, based on audited financial statements or cost reports, if the scope of services has been modified to include Behavioral Health Services or dental services or would otherwise result in a change of at least five percent from the Center's current rate.

10) Reasonable Cost Considerations
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The following minimum efficiency standards will be applied to determine reasonable cost:

A) Medical direct care productivity.
The Center must average 4,200 encounters annually per full-time equivalent (FTE) for physicians and 2,100 encounters per FTE for mid-level health care staff (i.e., physician assistants, nurse practitioners, specialized nurse practitioners and nurse midwives).

B) Dental direct care productivity.
The Center must average 1.5 encounters per hour per FTE for dentists.

C) Behavioral health direct care productivity.
The Center must average 2,100 annual encounters per FTE for licensed clinical psychologists and licensed clinical social workers.

D) Guideline for non-physician health care staff.
The maximum ratio of staff is four FTE non-physician health care staff for each FTE staff subject to the direct care productivity standards in subsections (b)(10)(A) and (B) of this Section.

E) Allowable overhead.
The maximum Medicaid allowable overhead cost is 35 percent of allowable total cost.

11) Adjustments for Medical Services Paid for by a Managed Care Organization (MCO)
The Department shall make payment adjustments to a Center if it provides care through a contractual arrangement with a Medicaid MCO and is reimbursed an amount, reported to the Department, that is less than the minimum payment required in 42 USC 1396a(aa). The amount of any such payment adjustment shall be at a fixed annual rate as determined by the Department. For each Center so eligible, a payment adjustment shall take into consideration the total payments made by the MCO to the Center (including all payments made on a service-by-service, encounter or capitation basis). In the event that Center cost data related to MCO services are unavailable to the Department, an estimate of such costs may be used that takes into consideration other relevant data. Adjustments will be made, at least quarterly, only for Medicaid eligible services. All such
services must be defined in a contract between the Center and the MCO. Such contracts must be made available to the Department.

12) Audits
All cost reports will be audited by the Department. The Center will be advised of any adjustment resulting from these audits.

13) Alternate Payment Methodology for Government-Operated Centers

A) A Center operated by a State or local government agency may elect to be reimbursed under the alternate payment methodology described in this subsection (b)(13).

B) The State or local government agency shall enter into an interagency or intergovernmental agreement, as appropriate, with the Department that specifies the responsibilities of the two parties with respect to services provided by the Center and the funding of those services.

C) The Center operated by a State or local government agency shall be reimbursed by the Department on a per encounter basis according to the provisions of subsections (b)(1) through (11) of this Section.

D) The State or local government agency shall certify the expenditure of public funds in excess of reimbursement received from the Department, under subsection (b)(13)(C) of this Section, and any reimbursement from other payers (e.g., an insurance company, a managed care organization) for services provided to individuals eligible for medical assistance programs administered by the Department, provided the funds were not derived from a federal funding source or were not otherwise used as a State or local match for federal funds. The certification shall be in the form and format specified by the Department. The certification shall be filed within 30 days after the submission of the annual cost report. The certification shall compare expenditures within that cost reporting period to payments received or receivable for that same period.

E) The certified expenditures shall be used by the Department to claim federal financial participation. Federal funds resulting from
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the claiming of the certified expenditures shall be distributed, according to the provisions of the agreement referenced in subsection (b)(13)(B) of this Section, to the State or the government agency that operates the Center that provided the services.

14) Alternate Payment Methodology for Certain Qualifying Centers

A) No later than 30 days after the initial rate determination specified in subsection (b)(9)(A) of this Section, the Department shall determine the eligibility of each Center for this alternative payment methodology. A Center will qualify for this alternative payment methodology if the Department's estimate of the total amount to be paid to the Center for services provided during the 12-month period ending December 31, 2001, under the reimbursement policy and rates in effect prior to the initial rate determination, is greater than the total amount that will be paid for those same services under the initial rates. The Department shall notify each qualifying Center, in writing, of the result of this determination.

B) A qualifying Center may, for services provided from January 1, 2002, through December 31, 2002, elect to be reimbursed under the alternate payment methodology described in this subsection (b)(14). A qualifying Center must notify the Department, in writing, no later than 30 days after the date of the written notification from the Department, of its election to be reimbursed under this alternative payment methodology.

C) A Center electing this alternative payment system shall be reimbursed by the Department on a per encounter basis according to the provisions of subsections (b)(1) through (11) of this Section, except the medical encounter payment rate shall be increased by an amount equal to twice the quotient resulting from the Department's estimate of the difference between the total amount to be paid to the Center for services provided during the 12-month period ending December 31, 2001, under the initial rates as determined in subsection (b)(9)(A); and the total amount that would have been paid under the payment rates in effect prior to the initial rate determination, divided by the Department's estimate of total medical encounters during the 12-month period ending December
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15) Alternate Behavioral Health Payment Methodology for Certain Qualifying Centers

Centers that are certified by the Department of Human Services-Division, Office of Mental Health, or the Department of Children and Family Services to provide Behavioral Health Services may elect an alternate payment methodology for their Behavioral Health Services. An election of this alternate payment methodology will allow the Centers to be reimbursed under the provisions of 59 Ill. Adm. Code 132 for Behavioral Health Services provided. A qualifying Center must notify the Department in writing, no later than 30 days after the date of the written notification from the Department, of its election to be reimbursed under this alternate payment methodology.

16) All service sites operated by a Center shall be reimbursed using the Center's established encounter rates, except in the instance where the site submitted separate cost reports for fiscal years ending in 1999 and 2000 and separate baseline rates were determined for the site.

c) Rate Appeals Process

1) All appeals of audit adjustments or rate determinations must be submitted in writing to the Department. Appeals must be submitted within 60 calendar days after the notification of such adjustments or rate determinations. If upheld, the revised audit adjustment or rate determination shall be made effective as of the beginning of the rate period.

2) To be accepted for review, the written appeal shall include the following:

A) The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal.

B) A clear, concise statement of the basis for the appeal.

C) A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement.
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D) A statement by the Center's chief executive officer or financial officer that the application of the rate appeal and information contained in the Center's reports, schedules, budgets, books, and records submitted are true and accurate.

3) Rate appeals may be considered for the following reasons:

A) Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.

B) Mechanical or clerical errors committed by the Department in auditing historical expenses as reported and/or in calculating reimbursement rates.

4) The Department shall rule on all appeals within 120 calendar days after receipt of the complete appeal, except that, if additional information is required from the facility, the period shall be extended until such time as the information is provided.

5) Appeals shall be submitted to the Department's Office of Health Finance, 201 South Grand Avenue East 1001 North Walnut Street, Springfield, Illinois 62763-0002.

(Source: Amended at 30 Ill. Reg. 796, effective January 1, 2006)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section 140.924 Maternal and Child Health Provider Participation Requirements

a) Primary Care Providers

1) Basic Requirements
   Maternal and Child Health primary care providers may include physicians, Advanced Practice Nurses meeting all requirements set forth in Section 140.435, Federally Qualified Health Centers (FQHCs), hospital clinics per Section 140.461(f) and encounter rate clinics per Section 140.461(b). Maternal and Child Health providers shall meet the qualifications (see Section 140.12) as are applicable for all medical providers under the
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Illinois Medical Assistance Program and, with the exception of APNs, shall meet all of the following requirements:

A) maintain hospital admitting privileges;

B) maintain delivery privileges if providing care to pregnant women;

C) be enrolled and in good standing with the Medical Assistance Program; and

D) complete a Maternal and Child Health Primary Care Provider Agreement, or have been enrolled as a provider under the Healthy Moms/Healthy Kids Program, in which they agree to:

i) provide periodic health screening (EPSDT), including age appropriate immunizations, and primary pediatric care as needed for children served in their practice, consistent with guidelines published by the American Academy of Pediatrics or American Academy of Family Physicians;

ii) provide obstetrical care and delivery services as appropriate for pregnant women served through their practice, consistent with guidelines published by the American College of Obstetricians and Gynecologists or the American Academy of Family Physicians;

iii) provide risk assessments for pregnant women and/or children;

iv) provide medical care coordination, including arranging for diagnostic consultation and specialty care;

v) communicate with the case management entity;

vi) maintain 24-hour telephone coverage for assessment and consultation; and

vii) provide equal access to quality medical care for assigned clients.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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AGENCY NOTE: FQHCs are federally exempt from subsections (a)(1)(A) and (B) above.

2) Advanced Practice Nurse Requirements

A) The requirements described in subsections (a)(1)(A) and (B) of this Section apply to the physician or practitioner with whom the APN has a collaborative or written practice agreement.

B) The requirements described in subsections (a)(1)(C) and (D) of this Section apply to the enrolled APN.

3) Special Requirements

In addition to the basic requirements described in subsection (a)(1) above, encounter rate clinics as Maternal and Child Health providers shall be required to meet the following additional requirements:

A) Meet the qualifications for an encounter rate clinic, as described in Section 140.461(b); and

B) Be owned, operated, managed, or staffed by a hospital that also operates a Maternal and Child Health clinic, as described in Section 140.461(f), or be located in a county with a population exceeding 3,000,000 that is part of an organized clinic system consisting of 15 or more individual practice locations, of which at least 12 are Federally Qualified Health Centers, as defined in Section 140.461(d).

4) The Department will consider requests from physicians who are unable to meet the hospital admitting privileges criteria for enrollment in the Maternal and Child Health Program if the physician has executed a formal agreement with another physician to accept referrals for hospital admissions. Requests will also be considered from physicians who do not have delivery privileges but wish to provide obstetrical care. The request will be reviewed by the Department or its designee members of the State Medical Advisory Committee and a recommendation made by that body as to determine whether the physician should be enrolled as a PCP into the Program. At the discretion of the Department or its designee Committee, the requesting physician may be asked to appear for an interview and/or an on-site visit may be made by the Department or its designee.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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For consideration to be given, the requesting physician must submit the following information and supporting documentation in a format specified by the Department or its designee that provides the following:

A) Complete name, mailing address, Illinois practice license number and Medicaid provider number, if any;

B) Declared practice specialty;

C) Listing of all practice locations;

D) Name and location of hospitals applied to for admitting privileges;

E) Status of each request, i.e., pending or closed (if closed, a reason must be given by the hospital for not granting privileges);

F) If application has never been made, a statement explaining why;

G) Name of physician with whom a formal agreement has been effected;

H) Illinois license number of Medicaid enrolled physician with hospital admitting privileges and name of hospitals where admitting privileges are in effect; and

I) Copy of formal agreement.

5)4) The request is to be dated by the provider and forwarded to the Department of Healthcare and Family Services, Illinois Department of Public Aid, Provider Participation Unit, P.O. Box 19114, Springfield, Illinois 62794-9114.

b) Case Management Providers
Case management providers' qualifications shall be in accordance with 77 Ill. Adm. Code 630, Subpart A. Case management will be provided to ensure access to medical care and better compliance with medical recommendations.

(Source: Amended at 30 Ill. Reg. 796, effective January 1, 2006)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Postsurgical Recovery Care Center Demonstration Program Code

2) **Code Citation:** 77 Ill. Adm. Code 210

3) **Section Number:** 210.2250  
   **Adopted Action:** Amendment

4) **Statutory Authority:** [210 ILCS 3]

5) **Effective Date of Rulemaking:** January 9, 2006

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

7) **Does this rulemaking contain any incorporations by reference?** No

8) 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) **Notices of Proposal Published in Illinois Register:** May 27, 2005; 29 Ill. Reg. 7724

10) **Has JCAR issued a Statement of Objection to this amendment?** No

11) **Differences between proposal and final version:** 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 these rulemaking replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of the Rulemaking:** Section 210.2250 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 in 2004).

When the Health Care Worker Background Check Act [the Act] was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of each "health care employer" defined in the Act. Postsurgical Recovery Care Center
Demonstration Programs are included as health care employers. Since that time, the Act has been amended several times and has increased in length. Amending each set of licensing rules (15 in all) each time the Act is amended has become a time-consuming process. The rules are also reviewed by seven different advisory boards. Since the boards meet at different times throughout the year, changes to the rules are not able to be promulgated all at the same time. Placing the rules in one Part is a more efficient use of the Department's resources.

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.II.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 b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 210
POSTSURGICAL RECOVERY CARE CENTER DEMONSTRATION PROGRAM CODE

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AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT


Section 210.2250 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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13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill.
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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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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 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)
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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 regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) 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)
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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 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
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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. 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)
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
DEPARTMENT OF PUBLIC HEALTH

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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;

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]);

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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]);


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]).

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)
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)

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)

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.

This Section shall not apply to:
DEPARTMENT OF PUBLIC HEALTH

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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)

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.

y) 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)

z) 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 30 Ill. Reg. 835, effective January 9, 2006)
DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Community-Based Residential Rehabilitation Center Demonstration Program Code

2) **Code Citation:** 77 Ill. Adm. Code 220

3) **Section Number:**
   - Adopted Action:
     - 220.2800 Amendment

4) **Statutory Authority:** [210 ILCS 3]

5) **Effective Date of Rulemaking:** January 9, 2006

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

7) **Does this rulemaking contain any incorporations by reference?** No

8) 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:** May 27, 2005; 29 Ill. Reg. 7739

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:** 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 amendments pending on this Part?** No

15) **Summary and Purpose of the Rulemaking:** Section 220.2800 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 in 2004).

When the Health Care Worker Background Check Act [the Act] was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of
each "health care employer" defined in the Act. Community-Based Residential Rehabilitation Center Demonstration Programs are included as health care employers. Since that time, the Act has been amended several times and has increased in length. Amending each set of licensing rules (15 in all) each time the Act is amended has become a time-consuming process. The rules are also reviewed by seven different advisory boards. Since the boards meet at different times throughout the year, changes to the rules are not able to be promulgated all at the same time. Placing the rules in one Part is a more efficient use of the Department's resources.

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.Ill.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 220
COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER
DEMONSTRATION PROGRAM CODE

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AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 24 Ill. Reg. 6675, effective April 25, 2000; amended at 26 Ill. Reg. 11969, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7904, effective April 30,
Section 220.2800 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 Model shall not knowingly hire any individual in a position with duties involving direct care for participants 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]). The Model shall initiate background checks within six months after licensure of the Model for persons who were employed at the time of licensure:

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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13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of
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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));


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.
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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, 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 Model 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) The Model shall not hire, employ, or retain any individual in a position with duties involving direct care of participants if the Model 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 subsection (a) 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 the Model 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)

For the purpose of this Section:

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

2) "Conditional offer of employment" means a bona fide offer of employment by a Model 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 subsection (a) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, 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 Model shall establish a policy defining which employees provide direct care. In making this determination the Model 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 participants, with the exception of infrequent or unusual occasions;

3) Whether more than 50 percent of the employee's responsibilities include physical contact with participants, for example to provide therapy or to draw blood.

When the Model 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

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has not been conducted within the last 12 months, the Model 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)

g) The Model 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 Model 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 (e) 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 Model 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 health care employer, 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 subsection (a) 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 subsection (a) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.
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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 subsection (a) 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 Model 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 subsection (a) of this Section may request that the Model 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 Model 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 Model 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) or (b) 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) that the Department will forward to the Department of State Police; and

2) A certified check, money order or facility check made payable to the 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 UCLA criminal records check instead of the items required by subsection (m) 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

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
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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;
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]);
2) Murder, homicide, manslaughter, or concealment of a homicidal death.
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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]);


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 Model may continue to employ the individual in a direct care position if the individual presents convincing evidence to the Model 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 Model 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 Model may retain the individual in a direct care position if the individual presents clear and convincing evidence to the Model 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 is not 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
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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 Model shall retain on file for a period of 5 years records of criminal records requests for all employees. The Model shall retain the results of the UCIA criminal history records check and waiver, if applicable, 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 Model 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
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accessible to the Department.

(Source: Amended at 30 Ill. Reg. 850, effective January 9, 2006)
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1) **Heading of the Part:** Alzheimer’s Disease Management Center Demonstration Program Code

2) **Code Citation:** 77 Ill. Adm. Code 225

3) **Section Number:** 225.1050  
   **Adopted Action:** Amendment

4) **Statutory Authority:** [210 ILCS 3]

5) **Effective Date of Rulemaking:** January 9, 2006

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

7) **Does this rulemaking contain any incorporations by reference?** No

9) 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:** May 27, 2005; 29 Ill. Reg. 7755

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:** 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 amendments pending on this Part?** No

15) **Summary and Purpose of the Rulemaking:** Section 225.1050 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 in 2004).

When the Health Care Worker Background Check Act [the Act] was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of each “health care employer” defined in the Act. Alzheimer’s disease management center
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demonstration programs are included as health care employers. Since that time, the Act
has been amended several times and has increased in length. Amending each set of
licensing rules (15 in all) each time the Act is amended has become a time-consuming
process. The rules are also reviewed by seven different advisory boards. Since the
boards meet at different times throughout the year, changes to the rules are not able to be
promulgated all at the same time. Placing the rules in one Part is a more efficient use of
the Department’s resources.

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

PART 225
ALZHEIMER'S DISEASE MANAGEMENT CENTER
DEMONSTRATION PROGRAM CODE

SUBPART A: GENERAL PROVISIONS

Section
225.100 Definitions
225.200 Incorporated and Referenced Materials
225.300 Demonstration Program Elements
225.400 Application for and Issuance of a License to Operate an Alzheimer's Disease Management Center Model
225.500 Obligations and Privileges of Alzheimer's Disease Management Center Models
225.600 Inspections and Investigations
225.700 Notice of Violation and Plan of Correction
225.800 Adverse Licensure Action
225.900 Waivers

SUBPART B: POLICIES

Section
225.1000 Policies and Procedures
225.1010 Admission, Transfer and Discharge Policies
225.1020 Medical Care Policies
225.1030 Personnel Policies
225.1040 Health Evaluations for Employees
225.1050 Health Care Worker Background Check
225.1060 Disaster Preparedness
225.1070 Restraints
225.1080 Abuse and Neglect

SUBPART C: PERSONNEL

Section
225.2000 General Requirements
225.2010 Staff Training
225.2020 Nursing Assistants
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SUBPART D: RESIDENT CARE SERVICES

Section 225.3000 Resident Assessment
225.3010 Resident Comprehensive Care Plan
225.3020 Resident Care and Treatment Services
225.3030 Activity Program
225.3040 Volunteer Program
225.3050 Residential Services
225.3060 Medication Administration

SUBPART E: RESIDENTS' RIGHTS

Section 225.4000 Residents' Rights

SUBPART F: RESIDENT RECORDS

Section 225.5000 Resident Record Requirements

SUBPART G: FOOD SERVICE

Section 225.6000 Director of Food Services
225.6010 Meal Planning
225.6020 Menus and Food Records
225.6030 Diet Orders

SUBPART H: PHYSICAL PLANT

Section 225.7000 Codes and Standards
225.7010 Site
225.7020 Administration and Public Areas
225.7030 Nursing Units
225.7040 Dining, Living, and Activities Rooms
225.7050 Therapy and Personal Care Rooms
225.7060 Service Departments
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SUBPART I: FACILITY DESIGN AND CONSTRUCTION

Section
225.8000  Applicability
225.8010  General Building Requirements
225.8020  Structural Requirements
225.8030  Mechanical Systems
225.8040  Plumbing Systems
225.8050  Electrical Systems

SUBPART J: QUALITY ASSESSMENT AND IMPROVEMENT

Section
225.9000  Quality Assessment and Improvement

225.TABLE A  Heat Index Table/Apparent Temperature

AUTHORITY: Alternative Health Care Delivery Act [210 ILCS 3].


SUBPART B: POLICIES

Section 225.1050  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
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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));


18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery.
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(Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);


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

27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407, and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and...
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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 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 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; and

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

f) 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 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. 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)
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.

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)

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.
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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;

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;
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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 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]);

10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1
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1) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

2) 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;
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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) 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.

y) 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)

z) 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
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accessible to the Department.

(Source: Amended at 30 Ill. Reg. 866, effective January 9, 2006)
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1) **Heading of the Part:** Children's Respite Care Center Demonstration Program Code

2) **Code Citation:** 77 Ill. Adm. Code 260

3) **Section Number:**
   - Adopted Action:
   - 260.1750 Amendment

4) **Statutory Authority:** [210 ILCS 3]

5) **Effective Date of Rulemaking:** January 9, 2006

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

7) Does this rulemaking contain any incorporations by reference? No

10) 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:** May 27, 2005; 29 Ill. Reg. 7772

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: 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 the Rulemaking:** Section 260.1750 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 in 2004).

   When the Health Care Worker Background Check Act [the Act] was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of each "health care employer" defined in the Act. Children's Respite Care Center
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Demonstration Programs are included as health care employers. Since that time, the Act has been amended several times and has increased in length. Amending each set of licensing rules (15 in all) each time the Act is amended has become a time-consuming process. The rules are also reviewed by seven different advisory boards. Since the boards meet at different times throughout the year, changes to the rules are not able to be promulgated all at the same time. Placing the rules in one Part is a more efficient use of the Department's resources.

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.II.us

The full text of the Adopted Amendment begins on the next page:
Section 260.1000 Definitions
260.1050 Incorporated and Referenced Materials
260.1100 Demonstration Program Elements
260.1200 Application for and Issuance of a License to Operate a Children's Respite Care Center Model
260.1300 Obligations and Privileges of Children's Respite Care Center Models
260.1400 Inspections and Investigations
260.1500 Notice of Violation and Plan of Correction
260.1600 Adverse Licensure Action
260.1700 Policies and Procedures
260.1750 Health Care Worker Background Check
260.1800 Admission Practices
260.1900 Child's Rights
260.2000 Child Care Services
260.2100 Medication Administration
260.2200 Personnel
260.2300 Food Service
260.2400 Physical Plant
260.2500 Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].


Section 260.1750 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and
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));


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-
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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));


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. 151, 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));


24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of
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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)

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
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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, toileting, 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 clients, with the exception of infrequent or unusual occasions; and

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

f) 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
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in subsection (f) of this Section:

i) The request for a UCLA 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 UCLA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCLA 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 UCLA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
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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 (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 UCLA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) that 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 UCLA criminal records check.

n) The Department may accept the results of the fingerprint-based UCLA 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 a court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall
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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

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;

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.

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, 12-4.5 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, 12-4.5 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]).

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 is not 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) 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.

y) 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 record 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)

z) 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 30 Ill. Reg. 883, effective January 9, 2006)
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1) **Heading of the Part:** Visa Waiver Program for International Medical Graduates

2) **Code Citation:** 77 Ill. Adm. Code 591

3) **Section Numbers: Adopted Action:**
   - 591.120 Amendment
   - 591.130 Amendment

4) **Statutory Authority:** Sections 212(e) and 214(l) of the Immigration and Nationality Act (8 USC 1182(e) and 1184(l), and 22 CFR 62, Exchange Visitor Program

5) **Effective Date of Rulemaking:** January 5, 2006

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:** August 19, 2005; 29 Ill. Reg. 12838

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** No changes were made in response to comments received during the first notice or public comment period. No changes were 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?** No changes were requested.

13) **Will this rulemaking replace an emergency rulemaking currently in effect?** No. The companion emergency rulemaking expired on October 6, 2005.

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** This rulemaking expands the eligible areas in which an international medical graduate may practice. Congress enacted, and the President signed into law on December 3, 2004, legislation that allows state health departments to request up to five visa waivers for foreign medical graduates who agree to
practice in the state for a minimum period of three years at a facility that cares for patients who are residents of underserved areas or members of an underserved population group. Prior to this new law, the international medical graduates were required to practice at facilities located in the underserved area. The new law affects only up to five of the 30 visa waiver applications that a state health department may forward annually to the U.S. Department of State.

16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5th Floor  
Springfield, Illinois 62761  

217/782-2043  
e-mail: rules@idph.state.il.us

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

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER j: PROCESSING J-1 VISA WAIVERS FOR INTERNATIONAL MEDICAL GRADUATES

PART 591
VISA WAIVER PROGRAM FOR INTERNATIONAL MEDICAL GRADUATES

SUBPART A: GENERAL PROVISIONS

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SUBPART B: PROCEDURES FOR J-1 VISA WAIVER REQUESTS

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AUTHORITY: Authorized by and implementing Sections 212(e) and 214(l) of the Immigration and Nationality Act (8 USC 1182(e) and 1184(l)), and 22 CFR 62, Exchange Visitor Program.


SUBPART B: PROCEDURES FOR J-1 VISA WAIVER REQUESTS

Section 591.120 Application Materials and Processing
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

a) Application materials are available from, and should be returned to, the following address:

   J-1 Visa Waiver Program
   Illinois Department of Public Health
   Center for Rural Health
   535 West Jefferson Street
   Springfield, Illinois 62761

b) The application materials to be prepared by or on behalf of the international medical graduate seeking the waiver of the two-year home-country residency requirement shall include the following items:

1) statement from the administrator or director of the health care facility or agency that will be employing the international medical graduate describing prior recruitment difficulties experienced by the facility, the expected practice arrangement for the international medical graduate, and the impact on the facility and the patients it serves if the home country residency requirement is not waived;

2) copy of a minimum three-year employment contract between the international medical graduate and a health care facility. The contract shall include the name and address of the facility, the specific geographic area or areas in which the international medical graduate will practice, and a statement that the physician will practice full-time (40 hours) in the HPSA, HPSAs, or MUA/P identified in the contract; or, if the facility is not located in a HPSA or MUA/P, documentation that at least 51% of the participating physician's patients come from a HPSA or MUA/P;

3) statement from the employing health care facility or agency that the salary or other form of financial support offered to the international medical graduate is at a level equivalent to that offered to all other physicians with equivalent skills and experience recruited by the health care facility;

4) letter of support from a hospital chief of staff verifying that hospital admitting privileges will be granted to the international medical graduate, and if not, how admissions of the international medical graduate's patients will be arranged;
DEPARTMENT OF PUBLIC HEALTH

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5) letter of support for the visa requirements waiver from at least one local organization or agency such as the chamber of commerce, local health department, or other community-based organization;

6) copy of the applicant's Illinois medical license or application for an Illinois medical license;

7) completed United States Information Agency Data Sheet;

8) copy of international medical graduate's curriculum vitae;

9) copy of the IAP-66 (Certificate for Exchange Visitor J-1 Status) for each year international medical graduate was in J-1 status;

10) completed and notarized Certification Statement A signed by the international medical graduate agreeing to the contractual requirements set forth in Section 214(I)(1)(B) and (C) of the Immigration and Nationality Act;

11) completed and notarized Certification Statement B describing international medical graduate's obligation to his/her home country;

12) completed and notarized Certification Statement C in which international medical graduate states that his or her medical license has never been suspended or revoked and that he or she is not subject to any criminal investigation or proceedings by any medical licensing authority;

13) completed and notarized Certification Statement D regarding accuracy of application materials; and

14) completed and notarized Certification Statement E regarding specialty status.

c) Upon receipt of the application materials, Center for Rural Health staff will verify completeness and accuracy of the application. One written request to the applicant, or the facility or legal agency acting on behalf of the international medical graduate, will ask for any materials not included in the application. If the requested materials are not received within one month after the date of the written request, the application will be returned to the applicant.
Section 591.130 Selection Process

a) In the first and second calendar quarters of the federal fiscal year, a maximum of two Visa Waiver applications will be approved per facility requesting J-1 Visa Waivers for international medical graduates. In subsequent calendar quarters, facilities that have already had two waivers approved may apply for additional waivers; however, selection priority will be given to applications from facilities that have not previously had waivers approved.

b) The following selection criteria will apply to primary care physicians and psychiatrists:

1) Selection preference will be given to the Visa Waiver application for the international medical graduate whose position represents the largest proportion of primary care or psychiatrist vacancies at the facility offering employment to the physician.

2) Selection preference will be given to applications received from HPSAs having the greatest unmet need for primary care physicians. Unmet need is the number of primary care physician full-time-equivalents needed to cause the HPSA to no longer meet the threshold ratio for HPSA designation.

c) The following selection criteria will apply to physicians in specialties other than primary care and psychiatry:

1) Selection preference will be given to applicants who can demonstrate the greatest shortage of their specialty in the underserved area or for the underserved population group they propose to serve.

2) Selection preference will be given to applicants who can demonstrate the longer waiting time for an appointment with a physician of the same specialty in the underserved area or for the underserved population group they propose to serve.

d) The following selection allocations will be used in processing waiver applications:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) In the first and second calendar quarters of the federal fiscal year, 6 waivers will be reserved for psychiatrists who will serve in rural facilities; 12 of the remaining 24 waivers will be reserved for primary care physicians; 12 waivers will be available to physicians in other specialties. The Department will reserve 50% of the waivers allocated to primary care physicians and 50% of the waivers allocated to physicians in other specialties for physicians who will serve in rural areas. The Department may grant up to 5 waivers to physicians in other than primary care specialties who will practice at medical facilities that can document that at least 51% of the participating physician's patients come from a HPSA or MUA/P; the balance of the waivers will be used for urban locations.

2) In the third and fourth quarters of the federal fiscal year, remaining waivers may be used for primary care, psychiatrist and other specialty waiver applicants, both rural and urban.

(Source: Amended at 30 Ill. Reg. 898, effective January 5, 2006)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Vision Screening

2) **Code Citation:** 77 Ill. Adm. Code 685

3) **Section Number:** Adopted Action:
   - 685.110 Amendment

4) **Statutory Authority:** Child Vision and Hearing Test Act [410 ILCS 205]

5) **Effective Date of Rulemaking:** January 5, 2006

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

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** May 27, 2005; 29 Ill. Reg. 7787

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:** The following changes were made in response to comments received during the first notice public comment period: Subsection 685.110(e) was deleted; subsection 685.110(f) was changed to (e), and (g) was changed to (f).

   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 an emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:** These amendments are being proposed to implement Public Act 93-0504, effective January 1, 2004. This legislation amended Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] to require that the Department's
rules governing vision screening tests require individuals conducting the tests to give a child's parent or guardian written notification, before the vision screening is conducted, that vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. The parent or guardian must also be informed that if an optometrist or ophthalmologist has completed and signed a report form indicating that the child has had an examination within the previous 12 months, the child is not required to undergo the vision screening.

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, 5th 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 j: VISION AND HEARING

PART 685
VISION SCREENING

SUBPART A: APPLICABILITY AND GENERAL PROVISIONS

Section
685.10 Applicability
685.20 Definitions

SUBPART B: STANDARDS AND PROCEDURES FOR VISION SCREENING

Section
685.100 Instrumentation
685.110 Frequency of Screening
685.115 Pass/Fail and Referral Criteria
685.120 Referral
685.130 Screening Battery for School Age Children
685.140 Screening Battery for Preschool Children and Difficult to Test Children
685.150 Screening Battery for Children Wearing Glasses or Contact Lenses

SUBPART C: STANDARDS FOR PERSONNEL PROVIDING VISION SCREENING SERVICES

Section
685.200 Screening Battery (Repealed)
685.210 Screening and Rescreening Procedures (Repealed)
685.220 Pass/Fail and Referral Criteria (Repealed)
685.230 Personnel
685.240 Training for Vision Screening Technicians
685.250 Application for Training and Certification
685.260 Certification of Vision Screening Technicians
685.270 Recertification of Vision Screening Technicians
685.280 Lapsed Certificate

SUBPART D: FEE STRUCTURE
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

Section 685.300 Screening and Rescreening Procedures (Repealed)
Section 685.310 Pass/Fail and Referral Criteria (Repealed)
Section 685.320 Fees

SUBPART E: GENERAL STANDARDS FOR TRAINING AND QUALIFICATIONS FOR PERSONNEL TO PROVIDE VISION SCREENING SERVICES

Section 685.400 Screening Personnel (Repealed)

AUTHORITY: Implementing Sections 3, 4, and 5 and authorized by Section 4 of the Child Vision and Hearing Test Act [410 ILCS 205/3, 4, and 5].


SUBPART B: STANDARDS AND PROCEDURES FOR VISION SCREENING

Section 685.110 Frequency of Screening

a) Vision screening services shall be provided annually for:
   1) All preschool children 3 years of age (or older) in any public or private educational program or licensed child-care facility.
   2) All school age children who are in kindergarten, second and eighth grades; in all special education classes; referred by teachers; and transfer students. Vision screening is recommended in grades 4, 6, 10 and 12. Such screening services shall be provided in all public, independent, private and parochial schools.

b) In lieu of the screening services required in subsection (a) of this Section, a completed and signed report form, indicating that an eye examination by an M.D. specializing in diseases of the eye or a licensed optometrist has been administered within the previous 12 months, is acceptable.

c) The parent or legal guardian of a student may object to vision screening tests for their child on religious grounds. If a religious objection is made, a written and signed statement from the parent or legal guardian detailing such objections must
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

be presented to the screening entity.

d)  *Individuals conducting vision screening tests shall give a child's parent or guardian written notification, before the vision screening is conducted, that states, "Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has been administered within the previous 12 months."* (Section 27-8.1 of the School Code)

(Source: Amended at 30 Ill. Reg. 905, effective January 5, 2006)
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Issuance of Licenses

2) Code Citation: 92 Ill. Adm. Code 1030

3) Section Number: 100.91
   Adopted Action: Amendment

4) Statutory Authority: Implementing changes to Section 5/6-113 of the Illinois Vehicle Code [625 ILCS 5/6-113] and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)]

5) Effective Date of Rulemaking: January 6, 2006

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 13, 2005; 29 Ill. Reg. 6877

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: No substantive changes were made between proposal and adoption. All changes recommended by JCAR were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The amendments to Section 1030.91 address changes to the Illinois Vehicle Code related to the issuance of handicapped placards. Public Act 93-182 broadens the issuing authority for Disabled Person Identification Cards to include other competent medical specialists as defined in this Section.

16) Information and questions regarding this adopted amendment shall be directed to:
NOTICE OF ADOPTED AMENDMENT

Secretary of State
Nathan Maddox, Assistant General Counsel
298 Howlett Building
Springfield IL 62701

217/785-3094

17) Does this amendment 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 the Adopted Amendment begins on the next page:
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1030
ISSUANCE OF LICENSES

Section
1030.10 What Persons Shall Not be Licensed or Granted Permits
1030.11 Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12 Driver's License Medical Advisory Board
1030.13 Denial of License or Permit
1030.15 Cite for Re-examination
1030.16 Physical and Mental Evaluation
1030.17 Errors in Issuance of Driver's License/Cancellation
1030.18 Medical Criteria Affecting Driver Performance
1030.20 Classification of Drivers – References
1030.30 Classification Standards
1030.40 Fifth Wheel Equipped Trucks
1030.50 Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55 Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60 Third-Party Certification Program
1030.63 Religious Exemption for Social Security Numbers
1030.65 Instruction Permits
1030.70 Driver's License Testing/Vision Screening
1030.75 Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80 Driver's License Testing/Written Test
1030.81 Endorsements
1030.82 Charter Bus Driver Endorsement Requirements
1030.84 Vehicle Inspection
1030.85 Driver's License Testing/Road Test
1030.86 Multiple Attempts – Written and/or Road Tests
1030.88 Exemption of Facility Administered Road Test
1030.89 Temporary Licenses
1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
1030.91 Disabled Person/Handicapped Identification Card
1030.92 Restrictions
1030.93 Restricted Local Licenses
1030.94 Duplicate or Corrected Driver's License or Instruction Permit
1030.95 Consular Licenses (Repealed)
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1030.96 Restricted Commercial Driver's License
1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
1030.98 School Bus Commercial Driver's License
1030.100 Anatomical Gift Donor
1030.110 Emergency Medical Information Card
1030.115 Change-of-Address
1030.120 Issuance of a Probationary License
1030.130 Grounds for Cancellation of a Probationary License
1030.APPENDIX A Questions Asked of a Driver's License Applicant
1030.APPENDIX B Acceptable Identification Documents


Section 1030.91 Disabled Person/Handicapped Identification Card

a) For purposes of this Section, the following definitions shall apply:

"Competent Medical Specialist" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, a physician assistant who has been delegated the authority to make this determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make this determination.
"Department" – Driver Services Department within the Office of the Secretary of State.

"Handicapped Identification Card" – a standard identification card defined in Section 4(a) of the Illinois Identification Card Act [15 ILCS 335/4(a)] (Ill. Rev. Stat. 1987, ch. 124, par. 4(a)) issued for no fee to persons who meet the definition of handicapped as defined in Section 1-159.1 of the Illinois Vehicle Code [625 ILCS 5/1-159.1] (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 1-159.1) or who have a handicap so severe that it precludes him/her from obtaining an Illinois driver's license.

"Illinois Disabled Person Identification Card" – identification card issued pursuant to Section 4(b) of the Illinois Identification Card Act (Ill. Rev. Stat. 1987, ch. 124, par. 4(b)).

b) If a person wishes to obtain an Illinois Disabled Person Identification Card pursuant to Section 4(b) of the Illinois Identification Card Act (Ill. Rev. Stat. 1987, ch. 124, par. 4(b)), he/she shall fill out an application form provided by the Department.

c) The Disabled Person Identification Card application shall include the person's name, address, social security number, height, weight, hair color, eye color and date of birth. The applicant's competent medical specialist physician shall certify the type of disability that the person has as either physical, developmental, visual, hearing, or mental and the classification of the disability to be Class 1, Class 1a, Class 2, or Class 2a as defined in Section 4(a) of the Illinois Identification Card Act (Ill. Rev. Stat. 1987, ch. 124, par. 4(a)). The competent medical specialist physician shall sign the application and also print or type his/her name, business address and business phone number.

d) If a person does not qualify for a Disabled Person Identification Card, he/she may apply for a Handicapped Identification Card and he/she shall complete an application as provided in subsections (b) and (c) except for the competent medical specialist's certification as to the type of disability. The applicant must sign an affidavit contained on the application form stating that he/she meets the definition of a handicapped person as defined in Section 1-159.1 of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 1-159.1) or that his/her handicap is so severe that it precludes him/her from obtaining an Illinois driver's license.
e) The application forms shall not be accepted by the Department unless all portions of the form are completely filled out. Failure to complete the application properly shall result in the applicant's request being denied.

f) If an applicant for a Handicapped Identification Card indicates on his/her application that he/she has a handicap so severe that it precludes him/her from obtaining an Illinois driver's license and it is determined that he/she has a valid Illinois driver's license, a Handicapped Identification Card shall be issued and the case shall be forwarded to the Driver Analysis Section of the Department for review and possible cancellation of the driver's license (92 Ill. Adm. Code 1040.80).

(Source: Amended at 30 Ill. Reg. 910, effective January 6, 2006)
NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Rules of the Road – Handicapped Parking

2) **Code Citation**: 92 Ill. Adm. Code 1100

3) **Section Numbers**: Adopted Action:
   - 1100.5 Amendment
   - 1100.10 Amendment
   - 1100.25 Amendment
   - 1100.35 Amendment
   - 1100.40 Amendment

4) **Statutory Authority**: Implementing changes to and authorized by Section 3-616 of the Illinois Vehicle Title and Registration Law and Section 11-1301.2 of the Illinois Rules of the Road [625 ILCS 5/3-616 and 11-1301.2].

5) **Effective Date of Rulemaking**: January 6, 2006

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**: May 13, 2005; 29 Ill. Reg. 6892

10) Has JCAR issued a Statement of Objection to these amendments? No

11) **Differences between proposal and final version**: No substantive changes were made between proposal and adoption. All changes recommended by JCAR were made.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

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

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking**: The amendments to Sections 1100.5, 1100.10, 1100.25, 1100.35 and 1100.40 address changes to the Illinois Vehicle Code related to the
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

issuance of handicapped placards. Public Act 93-182 broadens the issuing authority for Disabled Person Identification Cards to include other competent medical specialists as defined in this Section.

16) Information and questions regarding these adopted amendments shall be directed to:

Secretary of State
Nathan Maddox, Assistant General Counsel
298 Howlett Building
Springfield, IL  62701

217-785-3094

17) Does this rulemaking 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 the Adopted Amendments begins on the next page:
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1100
RULES OF THE ROAD – HANDICAPPED PARKING

Section
1100.5 Definitions
1100.10 Application Procedures for Plates and Decals or Devices
1100.15 Authorized Issuing Agents for Person-with-Disabilities Parking Decals or Devices
1100.20 Person-with-Disabilities Parking Decals or Devices
1100.25 Random Professional Physician License Number Checks with the Department of Financial and Professional Regulation - Division of Professional Regulation
1100.30 Corporations, School Districts, and Special Education Cooperatives
1100.35 Revocation of Plates and Decals or Devices
1100.40 Revocation Authority for Plates and Decals or Devices

AUTHORITY: Implementing and authorized by Section 3-616 of the Illinois Vehicle Title and Registration Law and Section 11-1301.2 of the Illinois Rules of the Road [625 ILCS 5/3-616 and 11-1301.2].


Section 1100.5 Definitions

"Affirmation by an authorized agent" means the agent for said corporation, school district or special education cooperative attests that the individuals being transported are qualified under 625 ILCS 5/1-159.1 and are permanently disabled (i.e., indefinitely subject to a physical disability or a developmental disability as defined in Section 4A(a) of the Illinois Identification Card Act [15 ILCS 335/4A(a)].

"Authorized holder" means an individual issued a person-with-disabilities license plate under 625 ILCS 5/3-616 or an individual issued a person-with-disabilities parking decal or device under 625 ILCS 5/11-1301.2.

"Competent medical specialist" means a person affirming that the applicant for a
NOTICE OF ADOPTED AMENDMENTS

A person-with-disabilities license plate or decal or device is a disabled person in accordance with 625 ILCS 5/1-159.1. This person shall be licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, or a person specified in the Illinois Identification Card Act and the Illinois Vehicle Code, including a physician assistant who has been delegated the authority to make this determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make this determination [625 ILCS 5/3-616(a)].

"Certification by a licensed physician", as required by 625 ILCS 5/3-616(a), means a statement by a licensed medical doctor, affirming that the applicant for a person-with-disabilities parking plate or decal or device is a disabled person in accordance with 625 ILCS 5/1-159.1.

"Decal or device" means a card described in Section 1100.10(a) that, when displayed in a vehicle, authorizes the parking of the vehicle in parking spaces reserved for the disabled, and authorizes other parking privileges as outlined in 625 ILCS 5/11-1301.1. "Decal or device" does not mean a sticker with adhesive backing which is permanently affixed to the vehicle.

"False information" means any incorrect or inaccurate information concerning the name, date of birth, social security number, driver's license number, physician certification, or any other information required on the application for a person-with-disabilities license plate or parking decal or device that falsifies the content of the application.

"Fictitious person-with-disabilities license plate or parking decal or device" means any person-with-disabilities license plate or parking decal or device that has been issued by the Secretary of State or authorized unit of local government that was issued based upon false information contained on the required application.

"Fraudulent person-with-disabilities license plate or parking decal or device" means any person-with-disabilities license plate or parking decal or device that purports to be an official person-with-disabilities license plate or parking decal or device and has not been issued by the Secretary of State or an authorized unit of local government.

"Person with disabilities" means a natural person who, as determined by a
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

licensed physician: cannot walk 200 feet without stopping to rest; cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; is restricted by lung disease to such an extent that his or her forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mmhg on room air at rest; uses portable oxygen; has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV, according to standards set by the American Heart Association (Classification of Functional Capacity and Objective Assessment of Patients with Diseases of the Heart, 7272 Greenville Avenue, Dallas, Texas, effective March 4, 1994, no subsequent dates and editions); or is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

"Temporary disability" means a disability that lasts up to six months and is not permanent in nature.

"Unlawfully altered person-with-disabilities license plate or parking decal or device" means any persons with disabilities license plate or parking decal or device issued by the Secretary of State or authorized unit of local government that which has been physically altered or changed in such a manner that false information, which may include but shall not be limited to incorrect expiration date or incorrect decal or device number, appears on the license plate or parking decal or device.

"While the person with disabilities is present," as that term is used in 625 ILCS 5/11-1301.1, means that the person with disabilities must either exit or enter the vehicle while the vehicle is parked in a designated person-with-disabilities parking area or in an area where parking meter time restrictions are waived. In other words, an able-bodied driver cannot drop off the person with disabilities at the entrance to a facility, park in a person-with-disabilities parking space, and then return to pick up the person with disabilities.

(Source: Amended at 30 Ill. Reg. 917, effective January 6, 2006)

Section 1100.10 Application Procedures for Plates and Decals or Devices

a) If a person wishes to apply for a person-with-disabilities license plate, he/she must be resident of the State of Illinois and shall submit the following to the Secretary of State:
NOTICE OF ADOPTED AMENDMENTS

1) The physician's certification on a form prescribed by the Secretary of State completed by the competent medical specialist and the applicant;

2) The current registration card or a copy of the title if the vehicle is registered in the applicant's name or the title or the manufacturer's certificate of origin if the vehicle is not registered in the applicant's name; and

3) The application form prescribed by the Secretary of State and statutory fee as provided for in Section 5/3-806 of the Certificates of Title and Registration of Vehicles Law of the Illinois Vehicle Code [625 ILCS 5/3-806].

b) If a person wishes to apply for a person-with-disabilities parking decal or device, he/she must be a resident of the State of Illinois and shall submit the following to the Secretary of State or authorized unit of local government:

1) The physician's certification form completed by the competent medical specialist and applicant unless the person has been issued a disabled veteran or person-with-disabilities license and has a certification form on file or the person has an Illinois Disabled Person's ID card with a 1a or 2a classification as provided in Section 24 of the Illinois Identification Card Act; or

2) A copy of the individual's State of Illinois identification card, disabled veteran identification card, person-with-disabilities identification card, or State of Illinois Driver's License. In the case of a person with disabilities who is under the age of 18, the identification card number of the minor's parent or legal guardian may be submitted.

c) The physician certification form shall contain the following items:

1) The definition of a "person with disabilities" as outlined in 625 ILCS 5/1-159.1 and contained in Section 1100.5;

2) An indication from the competent medical specialist as to the qualifying disability;

3) Indication from the competent medical specialist whether the
disability is permanent or temporary. If temporary, the competent medical specialist, physician shall also indicate the anticipated duration of the disability (not to exceed 6 months);

4) The certifying competent medical specialist's, physician's name, address, telephone number, professional physician's license number, and signature;

5) The applicant's name, address, telephone number, social security number, and driver's license number or State identification number;

6) The vehicle identification number and license plate number for the one or two primary vehicles used to transport the person with disabilities; and

7) The name, address, phone number, relationship to the disabled individual, and signature of the family member who is the owner of the vehicle upon which the person with disabilities relies for his/her mode of transportation, and that he/she does not own a vehicle in his/her name, if the vehicle is not owned by the applicant having the disability.

(Source: Amended at 30 Ill. Reg. 917, effective January 6, 2006)

Section 1100.25 Random Professional Physician License Number Checks with the Department of Financial and Professional Regulation-Division of Professional Regulation

a) At least once every six months, the Secretary of State shall pull at random applications for person-with-disabilities license plates or decals or devices. DFPR-DPR shall verify that the name of the competent medical specialist, physician listed certifying to the disability matches the licensing number listed on the application form, and that the competent medical specialist, physician is licensed by DFPR-DPR under that licensure number. DFPR-DPR shall notify the Secretary of State of the results of the match.

b) In the instance that DFPR-DPR finds that a competent medical specialist, physician is not licensed by DFPR-DPR under the licensure number listed on the application, the Secretary of State shall begin proceedings for the revocation of plates or decals or devices outlined in Section 1100.35 of this Part. (92 Ill. Adm. Code 1100)

(Source: Amended at 30 Ill. Reg. 917, effective January 6, 2006)
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section 1100.35 Revocation of Plates and Decals or Devices

a) Upon receipt of a written complaint that a person-with-disabilities plate or decal or device is being used by a non-disabled person, the Secretary of State shall attempt to verify the license plate or decal or device owner's eligibility for the plate or decal or device.

b) In determining eligibility, the Secretary of State shall notify the license plate or decal or device owner that the complaint has been received regarding the misuse of the license plate or decal or device. The Secretary shall also request that the license plate or decal or device owner submit an updated certification by a competent medical specialist (physician) that the owner is disabled as defined by 625 ILCS 5/1-159.1 and Section 1100.5 of this Part.

1) If the competent medical specialist (physician) chosen by the license plate/decal or device owner indicates on the certification form that the owner does not have a qualifying disability, the person-with-disabilities license plate and/or decal or device shall be revoked in accordance with 625 ILCS 5/3-704(11).

2) If the competent medical specialist (physician) indicates that the disability is temporary in nature, not permanent, the license plate and/or permanent decal or device shall be revoked in accordance with 625 ILCS 5/3-704(11). Upon revocation of the permanent decal or device, a temporary decal or device shall be issued according to the guidelines outlined in Section 1100.20 above.

3) If the competent medical specialist (physician) affirms that the individual has a permanent qualifying disability, no revocation action shall be taken.

c) If a person-with-disabilities license plate is revoked in accordance with 625 ILCS 5/3-704(11), a passenger plate (or other appropriate license plate) shall be issued.

d) Any person whose person-with-disabilities parking plate or decal is revoked in accordance with 625 ILCS 5/3-704(11) may request a hearing to be conducted pursuant to 92 Ill. Adm. Code 1001, Subpart A or Subpart C, as the person may choose.

(Source: Amended at 30 Ill. Reg. 917, effective January 6, 2006)
Section 1100.40 Revocation Authority for Plates and Decals or Devices

a) Under authority granted in 625 ILCS 5/3-704(11), person-with-disabilities license plates and decals or devices shall be revoked if determined to be issued to a person who is not disabled or determined to be used in an unlawful manner as outlined in 625 ILCS 5/11-1301.5 or 11-1301.6.

b) The sources of acceptable proof of a person not being disabled are the written testament of a competent medical specialist licensed physician, or the failure of an individual to obtain certification from a competent medical specialist licensed physician that the person has a qualifying disability.

c) The sources of acceptable proof of the offenses described in subsection (a) above are court documents, Department of Vehicle Services applications, Driver Services facility applications, government entity documents, and law enforcement correspondence/reports.

(Source: Amended at 30 Ill. Reg. 917, effective January 6, 2006)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY REPEALER

1) **Heading of the Part:** Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act

2) **Code Citation:** 89 Ill. Adm. Code 126

3) **Section Numbers:**

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4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 94-0086

5) **Effective Date of emergency repealer:** January 1, 2006

6) **If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire:** Not applicable
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7) Date Filed with the Index Department: December 30, 2005

8) A copy of the emergency repealer, 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 repealer is necessary to repeal the administrative rules at 89 Ill. Adm. Code 126, Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act. Subpart B of the program was transferred to the Department (HFS) from the Department of Central Management Services pursuant to Executive Order 2005-3 and Public Act 94-86, and then recodified to 89 Ill. Adm. Code 126. Emergency action is necessary to repeal the rules in Part 126, which are now obsolete, because the Illinois Prescription Drug Discount Program is established, effective January 1, 2006, in Part 126. This new program is mandated under Public Act 94-0086.

10) Complete Description of the Subjects and Issues Involved: This emergency repealer is necessary to repeal the administrative rules at 89 Ill. Adm. Code 126, Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act. The provisions in Part 126 are now obsolete and being replaced by the Illinois Prescription Drug Discount Program, also known as the Illinois Rx Buying Club, effective January 1, 2006, pursuant to Public Act 94-86.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: This emergency repealer neither creates nor expands any State mandate affecting units of local government.

13) Information and questions regarding this emergency repealer shall be directed to:

   Joanne Scattoloni
   Office of the General Counsel, Rules Section
   Illinois Department of Healthcare and Family Services
   201 South Grand Ave East, Third Floor
   Springfield, Illinois 62763-0002
   217/524-0081

The full text of the Emergency Repealer begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 126
SENIOR CITIZENS AND DISABLED PERSONS PROPERTY TAX RELIEF AND PHARMACEUTICAL ASSISTANCE ACT (REPEALED)

SUBPART A: SENIOR CITIZENS AND DISABLED PERSONS PROPERTY TAX RELIEF AND PHARMACEUTICAL ASSISTANCE ACT

Section
126.101 Purpose of the Pharmaceutical Assistance Program
126.105 Definitions
126.110 Covered Prescription Drugs
126.116 Fees and Co-payments
126.125 Determination of Cost of Covered Prescription Drugs
126.130 Authorized Pharmacy Qualifications
126.135 Assignment and Coordination of Benefits
126.140 Payments to Authorized Pharmacies
126.145 Execution of Contracts
126.150 Limitation on Prescription Size
126.155 Inspection and Disclosure of Records
126.160 Establishment of Liens
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SUBPART B: SENIOR CITIZENS AND DISABLED PERSONS
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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PRESCRIPTION DRUG DISCOUNT PROGRAM

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126.210 Eligibility
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126.250 Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund
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126.255 Discounts
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26 Ill. Reg. 16981, effective November 7, 2002; amended at 27 Ill. Reg. 2699, effective January 31, 2003; amended at 28 Ill. Reg. 1133, effective January 2, 2004; 86 Ill. Adm. Code 530.101, 530.105, 530.110, 530.116, 530.125, 530.130, 530.135, 530.140, 530.145, 530.150, 530.155, 530.160 and 530.165(a), (d) and (e) transferred from the Department of Revenue (86 Ill. Adm. Code 530) to the Department of Public Aid (89 Ill. Adm. Code 126.101, 126.105, 126.110, 126.116, 126.125, 126.130, 126.135, 126.140, 126.145, 126.150, 126.155, 126.160 and 126.165(a), (b) and (c)) pursuant to Executive Order 2004-3; Subpart B transferred from the Department of Central Management Services (80 Ill. Adm. Code 2151) to the Department of Healthcare and Family Services pursuant to Executive Order 2005-3 and P.A. 94-86 at 30 Ill. Reg. 219; emergency amendment at 30 Ill. Reg. 563, effective January 1, 2006, for a maximum of 150 days; repealed by emergency rulemaking at 30 Ill. Reg. 926, effective January 1, 2006, for a maximum of 150 days.

SUBPART A: SENIOR CITIZENS AND DISABLED PERSONS PROPERTY TAX RELIEF AND PHARMACEUTICAL ASSISTANCE ACT

Section 126.101 Purpose of the Pharmaceutical Assistance Program

The Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (Act) [320 ILCS 25] provides for the establishment of a program of pharmaceutical assistance to be administered by the Illinois Department of Revenue. Executive Order 2004-3 transfers this program to the Department on Aging and the Department of Public Aid, effective July 1, 2004. The purpose for this program is to enable low-income senior citizens and disabled persons to afford medication for the treatment of heart disease and its related conditions, diabetes, arthritis; and, beginning January 1, 2001, cancer, Alzheimer's disease, Parkinson's disease, glaucoma, lung disease and smoking related illnesses; and, beginning July 1, 2001, osteoporosis; and, beginning January 1, 2004, multiple sclerosis.

Section 126.105 Definitions

The following definitions apply to the terms used in this Subpart A:

"Act" means the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25].

"Additional resident" means any person who is not filing a separate claim for the same claim year under this Act and who is living in the same residence with a claimant and for whom the household has provided more than half of that person's
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total financial support for a claim year.

"Applicant" means a claimant, any person in a household who has requested pharmaceutical assistance benefits on a claim filed by a claimant and, beginning January 1, 2001, any additional resident who would become a beneficiary if the claim is approved by the Department on Aging.

"Beneficiary" means a person whose claim for pharmaceutical assistance benefits under the Act has been approved by the Department on Aging.

"Card" means an identification card issued to a beneficiary by the Department of Revenue prior to January 1, 2001, and a Pharmaceutical Assistance Card issued to a beneficiary by the Department of Revenue or the Department on Aging on and after January 1, 2001.

"Claim" means an original paper application (IDOR Form No. IL-1363, possibly using Schedule A, Schedule B, and/or Schedule P), an amended paper application (IDOR Form No. IL-1363-X), or an electronic application filed by a verified Internet Filer for pharmaceutical assistance benefits under the Act.

"Claimant" means a person who has filed a claim for pharmaceutical assistance benefits under the Act. [320 ILCS 25/3.01]

"Claim year" means the calendar year prior to the year in which an applicant files a claim for pharmaceutical assistance benefits.

"Coverage year" means the period of time during which a beneficiary receives pharmaceutical assistance benefits for a claim year.

"Covered prescription drug" means any drug included in the categories listed in Section 126.110 for which the Department on Aging approves a claim for pharmaceutical assistance benefits.

"Current income" means household income for a claim year unless an applicant requests and is allowed by the Department on Aging to use projected income for a coverage year.

"Department" means the Illinois Department of Public Aid. [320 ILCS 25/3.02]

"Director" means the Director of the Illinois Department of Public Aid. [320 ILCS 25/3.02]
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ILCS 25/3.03

"Disabled person" means a person who is unable to engage in any substantial gainful activity by reason of medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. [320 ILCS 25/3.14]

"Disease" means a chronic and possibly recurrent illness of long duration, as distinguished from an acute illness that is of short duration with recovery due to limited medical treatment (such as in the case of colds, flu, pneumonia, bronchitis, or other similar illnesses).

"Household" means a claimant or a claimant and his or her spouse living together in the same residence. [320 ILCS 25/3.05]

"Household income" means the combined income of the members of a household for a claim year. [320 ILCS 25/3.06]

"Program" means the Pharmaceutical Assistance Program provided for under the Act.

"Projected income" means household income expected to be received for a coverage year.

Section 126.110 Covered Prescription Drugs

 Drugs, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60], physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987 [225 ILCS 95], or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65/Title 15] for treatment of heart disease and its related conditions, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Antihypertensive

2) Antianginal
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3) Antiarrhythmic
4) Antihyperlipidemic
5) Beta Blocker
6) Digitalis Glycosides
7) Hypertension/Shock
8) Diuretics
9) Potassium
10) Anticoagulants

b) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of diabetes, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Insulin
2) Insulin, Syringes & Needles
3) Oral Hypoglycemics
4) Pituitary Hormones
5) Glucose Elevators

c) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of arthritis, qualify for inclusion in the
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Pharmaceutical Assistance Program as covered prescription drugs:

1) Hormones/Adrenal Cortical Steroids
2) Analgesics/Antirheumatic
3) Analgesics/Nonopiate Agonists
4) Antiprotozoals
5) Penicillamine
6) Analgesics/Narcotic Agonists: Gout
7) Oncolytic/Antineoplastic: Antimetabolites
8) Immunosuppressives

d) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of cancer, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Alkylating Agents
2) Antimetabolites
3) Antimitotic Agents
4) Epipodophyllotoxins
5) Antibiotics
6) Hormones
7) Enzymes
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8) Platinum Coordination Complex
9) Anthracenedione
10) Substituted Ureas
11) Methylhydrazine Derivatives
12) Cytoprotective Agents
13) DNA Topoisomerase Inhibitors
14) Biological Response Modifiers
15) Retinoids
16) Monoclonal Antibodies
17) Miscellaneous Antineoplastics
18) Narcotic Agonist Analgesics
19) Narcotic Analgesic Combinations
20) Anticonvulsants

e) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Alzheimer's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Cholinesterase Inhibitors
2) Antipsychotics

f) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of
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its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Parkinson's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Anticholinergics
2) Amantadine
3) Bromocriptine Mesylate
4) Carbidopa
5) Levodopa
6) Levodopa and Carbidopa
7) Pergolide Mesylate
8) Selegiline Hydrochloride
9) Entacapone
10) Tolcapone
11) Dopaminergics
12) Clonazepam

Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, therapeutically certified optometrist licensed pursuant to the Illinois Optometric Practice Act of 1987 [225 ILCS 80/15.1], physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of glaucoma, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
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1) Alpha-2 Adrenergic Agonists
2) Sympathomimetics
3) Alpha-Adrenergic Blocking Agents
4) Beta-Adrenergic Blocking Agents
5) Miotics, Direct Acting
6) Miotics, Cholinesterase Inhibitors
7) Carbonic Anhydrase Inhibitors
8) Prostaglandin Agonists
9) Miscellaneous Combinations

h) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of lung disease and smoking related illnesses, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Sympathomimetic Bronchodilators
2) Diluents
3) Xanthine Derivatives
4) Anticholinergic Bronchodilators
5) Leukotriene Receptor Antagonists
6) Leukotriene Formation Inhibitors
7) Corticosteroid Respiratory Inhalants
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8) Mucolytics
9) Mast Cell Stabilizers
10) Respiratory Enzymes
11) Digestive Enzymes
12) Antiasthmatic Combinations
13) Antituberculosal Agents
14) Zyban
15) Nicotine

i) Drugs purchased on or after July 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of osteoporosis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Bisphosphonates
2) Selective Estrogen Receptor Modulators
3) Calcitonin-Salmon

j) Drugs purchased on or after January 1, 2004 that fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of multiple sclerosis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

1) Corticosteroids
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2) Immunomodulatory Agents (including Interferon Beta – 1a and Interferon Beta – 1b)

3) Immunosuppressants

4) Antineoplastic

k) A covered prescription drug must be approved by the Food and Drug Administration of the federal Department of Health and Human Services for the treatment of a specific disease category.

l) The specific covered prescription drugs which fall within each category will be listed in a handbook to be prepared and disseminated on the internet Web site of the Department. Updates regarding changes in the categories and specific covered prescription drugs will be made as necessary.

Section 126.116  Fees and Co-payments

a) Fees

1) An applicant must pay a fee to the Department on Aging effective July 1, 2004 or the Department of Revenue before that date for a card as follows:

A) Prior to January 1, 2001, an applicant must pay $40 for a card if his or her household income for a claim year is below the poverty line.

B) Prior to January 1, 2001, an applicant must pay $80 for a card if his or her household income for a claim year is at or above the poverty line.

C) Beginning January 1, 2001, an applicant must pay $5 for a card if his or her household income for a claim year is below the poverty line.

D) Beginning January 1, 2001, an applicant must pay $25 for a card if his or her household income for a claim year is at or above the poverty line. [320 ILCS 25/4(f)]
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2) The term "poverty line" means the official poverty line as defined by the Federal Office of Management and Budget at 42 USC 9902(2).

3) Fees paid for cards will not be prorated if coverage is valid for a longer or shorter period than one year as determined by the Department on Aging in converting coverage to a fiscal year basis.

b) Covered Prescription Drug Co-payments

1) A beneficiary must make co-payments to an authorized pharmacy for covered prescription drugs as follows:

A) A beneficiary who pays $40 for a card must pay a deductible equal to the first $15 of total prescription costs each month until the accumulated total paid by this program reaches $800 for a State fiscal year prior to the 2001 State fiscal year. For the portion of the 2001 State fiscal year from July 1, 2000 through December 31, 2000, after the accumulated total of $800 has been reached, the beneficiary must pay the first $15 of total prescription costs each month plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program. For the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, after the accumulated total of $2,000 (which includes the accumulated total of $800 or less for the period from July 1, 2000 through December 31, 2000) for the entire 2001 State fiscal year has been reached, the beneficiary must pay a co-payment equal to 20% of the cost of each prescription for which payments are made by this program for the remainder of the State fiscal year. For all subsequent State fiscal years after the 2001 State fiscal year, after the accumulated total of $2,000 for the State fiscal year has been reached, the beneficiary must pay a co-payment equal to 20% of the cost of each prescription for which payments are made by this program for the remainder of the State fiscal year. [320 ILCS 25/4(f)]

B) A beneficiary who pays $80 for a card must pay a deductible equal to the first $25 of total prescription costs each month until the accumulated total paid by this program reaches $800 for a State fiscal year prior to the 2001 State fiscal year. For the portion of
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the 2001 State fiscal year from July 1, 2000 through December 31, 2000, after the accumulated total of $800 has been reached, the beneficiary must pay the first $25 of total prescription costs each month plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program. For the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, after the accumulated total of $2,000 (which includes the accumulated total of $800 or less for the period from July 1, 2000 through December 31, 2000) for the entire 2001 State fiscal year has been reached, the beneficiary must pay $3 for each prescription plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program for the remainder of the State fiscal year. For all subsequent State fiscal years after the 2001 State fiscal year, after the accumulated total of $2,000 for the State fiscal year has been reached, the beneficiary must pay $3 for each prescription plus a co-payment equal to 20% of the cost of each prescription for which payments are made by this program for the remainder of the State fiscal year. [320 ILCS 25/4(f)]

C) Beginning with the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, and for all subsequent State fiscal years, a beneficiary who pays $5 for a card will pay no additional prescription costs until the accumulated total paid by this program reaches $2,000 for the State fiscal year, at which point the beneficiary must pay a co-payment equal to 20% of the cost of each prescription paid by this program for the remainder of the State fiscal year.

D) Beginning with the portion of the 2001 State fiscal year from January 1, 2001 through June 30, 2001, and for all subsequent State fiscal years, a beneficiary who pays $25 for a card must pay $3 for each prescription until the accumulated total paid by this program reaches $2,000 for the State fiscal year, at which point the beneficiary must continue to pay $3 for each prescription plus a co-payment equal to 20% of the cost of each prescription paid by this program for the remainder of the State fiscal year. [320 ILCS 25/4(f)]

2) A beneficiary also must pay to an authorized pharmacy an ancillary charge.
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for any covered prescription drug that is a brand name product if the pharmacy is reimbursed at the generic price as provided in Section 126.125(d)(2).

Section 126.125 Determination of Cost of Covered Prescription Drugs

a) The Department will pay an authorized pharmacy the reasonable cost of pharmaceutical services that such pharmacy provided to a beneficiary pursuant to a physician's oral or written prescription authorization.

b) Determination of Reasonable Cost. For contracts executed and in effect on or after July 1, 2002, as subject to periodic review, the Department will determine the rate for the reasonable cost of covered prescription drugs for which payment will be made to an authorized pharmacy in an amount equal to:

1) the lesser of:

A) the Average Wholesale Price (AWP) for the covered prescription drug minus 14%, based on the National Drug Code (NDC) number for the original package size from which such drug was dispensed (AWP is determined by the most current information provided by drug pricing services such as First DataBank or other source nationally recognized in the retail prescription drug industry selected by the Department's claims processing vendor); or

B) the Maximum Allowable Cost (MAC) for the covered prescription drug, based on the MAC list for this program (MAC is determined by the Department's claims processing vendor); or

C) the usual and customary cost for the covered prescription drug; plus

2) the professional dispensing fee; less

3) any applicable co-payments, deductibles, and ancillary charges.

c) Professional Dispensing Fee. For contracts executed and in effect on or after July 1, 2002, as subject to periodic review, the Department shall determine the professional dispensing fee to be charged by authorized pharmacies. The
professional dispensing fee shall be in the amount of $2.55 per prescription.

d) Payment.

1) Payment to authorized pharmacies will be allowed for covered prescription drugs legally marketed in accordance with the rules and regulations of the Food and Drug Administration of the federal Department of Health and Human Services.

2) Payment will be at the generic price as provided in subsection (b) unless the following conditions exist:

   A) an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or

   B) a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or

   C) beginning January 1, 2001, an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and the prescriber stipulates "brand medically necessary" and that substitution is not permitted; or

   D) beginning January 1, 2001, a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and indicates on its face "brand medically necessary" and that substitution is not permitted.

e) Pharmacy's Cost of On-line Communications. Each authorized pharmacy participating in this program shall pay all costs, charges and fees incurred by the pharmacy that are related to on-line communication and the processing of claims or other information sent to or from the Department or the Department's claims processing vendor.

f) The reasonable cost of covered prescription drugs available to beneficiaries in this
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program shall not exceed the cost of such drugs when dispensed to the general public.

g) In the event that generic equivalents for covered prescription drugs are available at lower cost, the Department shall establish the maximum allowable cost for such covered prescription drugs at the lower generic cost as provided in subsection (b).

Section 126.130  Authorized Pharmacy Qualifications

**EMERGENCY**

*Only pharmacies that are registered in Illinois under the Pharmacy Practice Act of 1987 [225 ILCS 85] are authorized pharmacies eligible to participate in this program. [320 ILCS 25/6(d)]*

Section 126.135  Assignment and Coordination of Benefits

**EMERGENCY**

a) *Where a beneficiary is entitled to benefits from any private plan of assistance, including any insurance plan, public assistance program, or third party for covered prescription drugs under this program, he or she must execute an assignment of those benefits to the Department. [320 ILCS 25/6(d)(4)]*

b) The Department shall charge or collect payments from any private plan of assistance, including any insurance plan, public assistance program, or third party for any claims assigned by a beneficiary. (See 320 ILCS 25/4(f) and 6(d).)

Section 126.140  Payments to Authorized Pharmacies

**EMERGENCY**

*Payments to authorized pharmacies under the Act shall be made in accordance with the State Prompt Payment Act [30 ILCS 540]. [320 ILCS 25/6(d)(7)]*

Section 126.145  Execution of Contracts

**EMERGENCY**

a) The Director or his or her designee has the authority to enter into written contracts with any State agency, instrumentally or political subdivision, or a fiscal intermediary for the purpose of making payments to authorized pharmacies who participate in this program and coordinating this program with other public assistance programs. (See 320 ILCS 25/6(d).)
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b) Contracts entered into by or on behalf of the Department and authorized pharmacies shall stipulate the terms and conditions for participation in this program and the right of the Department to terminate participation for breach of contract or violation of federal or State law. [320 ILCS 25/6(d)(1)]

Section 126.150 Limitation on Prescription Size

EMERGENCY

An authorized pharmacy may not provide a beneficiary with more than a 34-day supply of any covered prescription drug in filling, refilling, or renewing a prescription, except as otherwise specified for medical or utilization control reasons in the handbook prepared and disseminated on the internet Web site of the Department. [350 ILCS 25/6 (d)(2)] Such an exception is specified in the handbook for covered prescription drugs classified as maintenance drugs which are less expensive to dispense in greater quantities due to larger daily dose requirement.

Section 126.155 Inspection and Disclosure of Records

EMERGENCY

a) In order to ensure compliance with the requirements of the Act and to prevent fraud, the Department, or its designee, shall have the right:

1) to inspect the books and records of all authorized pharmacies. [320 ILCS 25/6(d)(5)]

2) to require disclosure of information on individuals who receive health coverage, pharmaceutical benefits, or related services as policyholders, subscribers, or plan participants from entities subject to the Illinois Insurance Code [215 ILCS 5], Comprehensive Health Insurance Plan Act [215 ILCS 105], Dental Service Plan Act [225 ILCS 25], Children's Health Insurance Program Act [215 ILCS 106], Health Care Purchasing Group Act [215 ILCS 123], Health Maintenance Organization Act [215 ILCS 125], Limited Health Service Organization Act [215 ILCS 130], Voluntary Health Services Plans Act [215 ILCS 165], and Worker's Compensation Act [820 ILCS 305]. (See 320 ILCS 25/4.1.)

b) Information received by the Department or its designee shall be confidential except for official purposes and as otherwise provided in the Act.

Section 126.160 Establishment of Liens

EMERGENCY
The Director is entitled to establish a lien on any and all causes of action which accrue to a beneficiary as a result of injuries for which covered prescription drugs are directly or indirectly prescribed and for which payment was made under this program. [320 ILCS 25/6(d)(3)]

Section 126.165 Penalties

a) Any person who:
   1) for compensation prepares a claim for this program and knowingly enters false information on the claim for an applicant or a beneficiary; or
   2) fraudulently files multiple claims; or
   3) on behalf of an authorized pharmacy, files a fraudulent claim for payment; or
   4) fraudulently states that a nondisabled person is disabled; or
   5) fraudulently procures a card; or
   6) fraudulently uses card to obtain covered prescription drugs
   is guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense. [320 ILCS 25/9]

b) The Department will recover from any beneficiary or authorized pharmacy any amount paid under this program on account of an erroneous or fraudulent claim, together with 6 percent interest per year. [320 ILCS 25/9]

c) A prosecution for violation of the provisions of the Act may be undertaken at any time within three years after the commission of that violation. [320 ILCS 25/9]

SUBPART B: SENIOR CITIZENS AND DISABLED PERSONS PRESCRIPTION DRUG DISCOUNT PROGRAM

Section 126.200 Purpose

EMERGENCY
This Part implements the Senior Citizens and Disabled Persons Prescription Drug Discount Program, also known as the Illinois Rx Buying Club, to enable Illinois senior citizens and disabled persons to purchase prescription drugs at discounted prices.

Section 126.205 Definitions

The following terms have the following meanings:

"Act" means the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act [320 ILCS 55].

"Authorized Pharmacy" means any pharmacy registered in this State under the Pharmacy Practice Act of 1987 and approved by the Department or its Program Administrator.

"AWP" or "Average Wholesale Price" means the amount determined from the latest publication of the Red Book, a universally subscribed pharmacist reference guide published by the Hearst Corporation. AWP may also be derived electronically from the drug pricing database synonymous with the latest publication of the Red Book and furnished in the National Drug Data File (NDDF) by First DataBank (FDB), a service of the Hearst Corporation.

"Cardholder" means an eligible senior or eligible disabled person who has enrolled in the program.

"Citizen" means a resident of the State of Illinois.

"Department" or "HFS" means the Department of Healthcare and Family Services.

"Director" means the Director of the Department of Healthcare and Family Services.

"Drug Manufacturer" means any entity that is located within or outside Illinois that is engaged in:

the production, preparation, propagation, compounding, conversion, or processing of prescription drug products covered under the program, either directly or indirectly by extraction from substances of natural origin,
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independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

the packaging, repackaging, leveling, labeling, or distribution of prescription drug products covered under the program

and that elects to provide prescription drugs either directly or under contract with any entity providing prescription drug services on behalf of the State of Illinois. Drug manufacturer, however, does not include a wholesale distributor of drugs or a retail pharmacy licensed under Illinois law.

"Eligible Disabled Person" means a resident of Illinois who is disabled under a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335] or is eligible to receive disability under the Federal Social Security Act.

"Eligible Enrollee" means an eligible senior and/or eligible disabled person.

"Eligible Senior" means a resident of Illinois who is 65 years of age or older.

"Participating Pharmacy" means a pharmacy that has entered into a contract with the Program Administrator to participate in this program.

"Prescription Drug" means any prescribed drug that may be legally dispensed by an authorized pharmacy.

"Program" means the Illinois Rx Buying Club created under the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act.

"Program Administrator" means the entity that is chosen by the Department to administer the program, consistent with the requirements of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act and this Part.

"Program Fund" means the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund, created as a special fund under the State Finance Act [30 ILCS 105/5.595].

Section 2151.210 Eligibility
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Eligibility is limited to residents of Illinois who are:

a) Disabled and under a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] and/or is eligible to receive disability under the Federal Social Security Act; or

b) 65 years of age and older; or

c) Eligible for pharmaceutical assistance under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (PAP).

Section 126.215 Enrollment Fee

To participate in the program, an approved applicant must pay $10 upon enrollment and annually thereafter (Section 35(a) of the Act). The enrollment fee for persons eligible through PAP is waived (Section 35(c) of the Act). The Director may, by rule, reduce the annual enrollment fee, based upon actual administrative costs. The Department shall establish, maintain and account for annual enrollment fees in the Senior Citizens and Disabled Persons Prescription Drug Fund.

Section 126.220 Other Administrative Responsibilities of the Department

a) In discharging its administrative responsibilities pursuant to the Act, the Department will either act as the Program Administrator or enter into a contract with an outside vendor, pursuant to Section 25 of the Act, and/or agreements with State agencies under which those entities will serve as the Program administrator and/or exercise various recordkeeping and other administrative functions. Any contract or agreement must provide for inspection of appropriate records and audits of participating pharmacies or other appropriate measures deemed sufficient by the Director, in his or her discretion, to ensure contract compliance and to determine any fraudulent transactions or practices under the Act. Any contract entered into with outside vendors must be in compliance with the procedures and requirements set forth in the Illinois Procurement Code [30 ILCS 500] and 40 Ill. Adm. Code 1.

b) The Department will reimburse the Program Administrator for the cost of cardholder enrollment, pursuant to the contract entered into by the Department and the Program Administrator. The amount of reimbursement, not to exceed
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$10, will be at a rate to be agreed upon by the Department and the Program Administrator and will be set forth in the contract.

c) The Department will, in cooperation with the Program Administrator, establish procedures for properly contracting for pharmacy services and validating compliance of authorized pharmacies with the Act and this Part.

d) The Department shall report to the Governor and the General Assembly by March 1 of each year on the administration of the program.

Section 126.225 Eligibility Determination

The Program Administrator shall obtain the necessary enrollment information from applicants and shall verify eligibility. Eligibility shall be determined within 30 days after receipt of the application.

Section 126.230 Enrollment

The Program Administrator shall:

a) Enroll eligible applicants into the program.

1) Enrollment of PAP members is automatic.

2) Other eligible applicants may enroll by mail, facsimile or telephonic process.

3) Eligible applicants who enroll by mail or facsimile shall apply on the form prescribed by the Department, which shall include, but not be limited to, the following elements:

A) complete name, mailing address, telephone number;

B) Social Security number;

C) payment provisions;

D) applicant certification;
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E) age and disability status;

F) participation requirements for other programs;

G) certification of information provided; and

H) Program Administrator and/or agency contact information.

Also included will be a recital that only one pharmaceutical card may be used to purchase a prescription.

b) Distribute the identification card to the eligible enrollee.

c) Enroll persons participating in PAP, through an electronic file provided by the Department of Revenue or any subsequent State agency responsible for the administration of PAP.

d) Collect and deposit enrollment fees into the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund.

Section 126.235 Re-enrollment

a) The period of enrollment in the program is one year. Cardholders must re-enroll each year by their one-year anniversary date or enrollment is terminated.

b) Any person eligible for PAP is automatically enrolled in the program and is not required to re-enroll annually. Enrollment of these persons is automatically terminated if the person is no longer eligible under PAP.

Section 126.240 Other Administrative Responsibilities

a) The Program Administrator shall contract with pharmacies electing to participate in the Illinois Rx Buying Club.

b) Contracts with pharmacies shall require that a participating pharmacy, at a minimum, shall be licensed in Illinois.
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c) The discounts to a card shall be no less than, but may be greater than:

1) AWP minus 12% for brand name drug products and, for a period of 6 months following release, newly release generic drug products; and

2) AWP minus 35% for all other generic drug products.

d) The dispensing fees shall be no greater than, but may be less than:

1) $3.50 per prescription for brand name drug products, single-source drug products, and, for a period of 6 months after their release, newly released generic drug products; and

2) $4.25 per prescription for all other generic drug products.

e) Cardholders may purchase medications in amounts up to a 90-day supply, except as may be necessary for utilization control reasons.

f) The Department and/or Program Administrator may negotiate with one or more drug manufacturers for payment rebates. These rebate dollars are to be used to further reduce the prescription cost to seniors and disabled persons, consistent with the requirements of the Act and this Part.

g) Subject to funds available through rebate agreements negotiated by the Department or the Program Administrator and drug manufacturers, a participating pharmacy shall be reimbursed any difference between the contracted discount rate agreed to by the participating pharmacy and the actual amount paid by the cardholder. Nothing in this subsection precludes a participating pharmacy from knowingly and voluntarily accepting a contract rate that provides the eligible cardholder with lower out-of-pocket costs than those set forth in the Act. All discounts negotiated with a participating pharmacy greater than the minimum discount set forth in subsection (c) shall be given, in its entirety, directly to the cardholder at the point of sale.

h) The Program Administrator is responsible for providing reports to the Department regarding enrollment participation, prescription costs, savings, pharmacy participation, and any other reports deemed necessary by the Department. The format of the reports shall be mutually agreed upon by the Program Administrator and the Department. The Administrator's provision of such reports shall not
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preclude the Department from inspection of appropriate records and audits of pharmacies pursuant to Section 45(3) of the Act.

i) The Program Administrator is responsible for providing customer service to cardholders and is responsible for developing, administering and promoting any clinical programs, such as disease management, implemented at the discretion of the Director.

Section 126.245 Termination of Program Administrator

EMERGENCY

a) The contract with the Program Administrator may be terminated by the Director, with cause, upon 30 days written notice or, without cause, upon at least 120 days written notice. Reasons for cause include, but are not limited to, gross and/or repeated negligence of the Program Administrator and failure of the Program Administrator to meet substantially and/or consistently the standards of performance.

b) Upon written notice, the Director may require the Program Administrator to modify its conduct of the Program.

Section 126.250 Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund

EMERGENCY

The Department and/or Program Administrator shall collect and the Department shall deposit enrollment fees into the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund. The Department shall separately account for enrollment fees deposited into the Fund.

Section 126.255 Discounts

EMERGENCY

a) The Program Administrator shall electronically communicate prescription drug discount information to the participating pharmacy.

b) The Program Administrator shall ensure and guarantee that a cardholder will be charged no more than the rate agreed to in the contract.
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c) Any manufacturer or group purchasing organization rebate used to provide a discount greater than the agreed to pharmacy rate to the cardholder shall be reimbursed to the participating pharmacy subject to availability of funds.

d) The cardholder shall receive the greatest discount available through the participating pharmacy at the point of sale. The total amount paid by the available cardholder for any prescription drug under this program shall not exceed the usual and customary charge for the prescription.
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1) **Heading of the Part**: Hospital Services

2) **Code Citation**: 89 Ill. Adm. Code 148

3) **Section Number**: 148.140  
**Emergency Action**: Amendment

4) **Statutory Authority**: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 94-48

5) **Effective Date**: January 9, 2006

6) **If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire**: Not applicable

7) **Date Filed with the Index Department**: January 9, 2006

8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Reason for Emergency**: This emergency amendment concerning hospital outpatient rates is being filed pursuant to the State's budget implementation plan for fiscal year 2006. In fiscal year 2005, outpatient rate modifications were implemented in response to mandates under the Health Insurance Portability and Accountability Act (HIPAA) that were expected to result in increased spending. The necessary service code change has now been completed, allowing restoration of outpatient rates to the original levels. Immediate implementation is necessary to provide adequate rates and ensure the availability of essential hospital outpatient services. Section 5-45 of Public Act 94-48 specifically authorizes emergency rulemaking for the implementation of these changes for fiscal year 2006.

10) **Complete Description of the Subjects and Issues Involved**: Hospital outpatient rate modifications were implemented for fiscal year 2005 to hold aggregate projected spending at a neutral level. These changes were enacted in response to mandates under the Health Insurance Portability and Accountability Act (HIPAA) that may have resulted in increased spending above the budgeted fiscal year amount. This anticipated growth based on changes in case mix was forecast to potentially adversely impact the outpatient budget. However, the service code change has been completed and outpatient rates are being restored to original levels under this emergency amendment.
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These rate changes are expected to result in an approximate increase in spending during fiscal year 2006 of $4.7 million.

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

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<td>148.295</td>
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12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.

13) Information and questions regarding this amendment shall be directed to:

   Joanne Scattoloni
   Office of the General Counsel, Rules Section
   Illinois Department of Healthcare and Family Services
   201 South Grand Avenue East, Third Floor
   Springfield, Illinois  62763-0002
   (217) 524-0081

The full text of the Emergency Amendment begins on the next page:
NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

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148.40 Special Requirements
148.50 Covered Hospital Services
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148.82 Organ Transplant Services
148.85 Supplemental Tertiary Care Adjustment Payments
148.90 Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
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Population of Over Three Million

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148.210 Filing Cost Reports

148.220 Pre September 1, 1991, Admissions

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148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements

148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals

148.260 Calculation and Definitions of Inpatient Per Diem Rates

148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals

148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements

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148.340 Subacute Alcoholism and Substance Abuse Treatment Services

148.350 Definitions (Repealed)

148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)

148.368 Volume Adjustment (Repealed)

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148.500 Definitions
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SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

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148.TABLE B Bureau of Labor Statistics Equivalence
148.TABLE C List of Metropolitan Counties by SMSA Definition


SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398
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amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.140 Hospital Outpatient and Clinic Services

EMERGENCY

a) Fee-For-Service Reimbursement

1) Reimbursement for hospital outpatient services shall be made on a fee-for-service basis, except for:

A) Those services that meet the definition of the Ambulatory Procedure Listing (APL) as described in subsection (b) of this Section.

B) End stage renal disease treatment (ESRDT) services, as described in subsection (c) of this Section.

C) Those services provided by a Certified Pediatric Ambulatory Care
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Center (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D).

D) Those services provided by a Critical Clinic Provider as described in subsection (e) of this Section.

2) Except for the procedures under the APL groupings described in subsection (b) of this Section, fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.

3) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rate described in subsection (a)(2) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (a)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

4) Maternal and Child Health Program rates, as described in 89 Ill. Adm. Code 140 Table M, shall be paid to Certified Hospital Ambulatory Primary Care Centers (CHAPCC), as described in 89 Ill. Adm. Code 140.461(f)(1)(A) and Section 148.25(b)(5)(A), Certified Hospital Organized Satellite Clinics (CHOSC), as described in 89 Ill. Adm. Code 140.461(f)(1)(B) and Section 148.25(b)(5)(B), and Certified Obstetrical Ambulatory Care Centers (COBACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(C), and Section 148.25(b)(5)(C). Maternal and Child Health Program rates shall also be paid to Certified Pediatric Ambulatory Care
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Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), for covered services as described in 89 Ill. Adm. Code 140.462(e)(3), that are provided to non-assigned Maternal and Child Health Program clients, as described in 89 Ill. Adm. Code 140.464(b)(1).

5) Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), shall be reimbursed in accordance with 89 Ill. Adm. Code 140.464(b)(2) for assigned clients.

6) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

7) With the exception of the retrospective adjustment described in subsection (a)(3) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this Section.

b) Ambulatory Procedure Listing (APL)

Effective January 1, 2006

Under the APL, a list was developed that defines those technical procedures that require the use of the hospital outpatient setting, its technical staff or equipment. These procedures are separated into separate groupings based upon the complexity and historical costs of the procedures. The groupings are as follows:

A) Surgical Groups

i) Surgical group 1(a) consists of intense surgical procedures. Group 1(a) surgeries require an operating suite with continuous patient monitoring by anesthesia personnel. This level of service involves advanced specialized skills and highly technical operating room personnel using high technology equipment. The rate for this procedure shall be $1,794.00.

ii) Surgical group 1(b) consists of moderately intense surgical

Effective July 1, 2004, the Department will reimburse hospitals for certain hospital outpatient procedures as described in subsection (b)(1) of this Section.
procedures. Group 1(b) surgeries generally require the use of an operating room suite or an emergency room treatment suite, along with continuous monitoring by anesthesia personnel and some specialized equipment. The rate for this procedure shall be $1,049.00.

iii) Surgical group 1(c) consists of low intensity surgical procedures. Group 1(c) surgeries may be done in an operating suite or an emergency room and require relatively brief operating times. Such procedures may be performed for evaluation or diagnostic reasons. The rate for this procedure shall be $752.00.

iv) Surgical group 1(d) consists of surgical procedures of very low intensity. Group 1(d) surgeries may be done in an operating room or emergency room, have a low risk of complications, and include some physician-administered diagnostic and therapeutic procedures. The rate for this procedure shall be $287.00.

B) Diagnostic and Therapeutic Groups

i) Diagnostic and therapeutic group 2(a) consists of advanced or evolving technologically complex diagnostic or therapeutic procedures. Group 2(a) procedures are typically invasive and must be administered by a physician. The rate for this procedure shall be $941.00.

ii) Diagnostic and therapeutic group 2(b) consists of technologically complex diagnostic and therapeutic procedures that are typically non-invasive. Group 2(b) procedures typically include radiological consultation or a diagnostic study. The rate for this procedure shall be $304.00.

iii) Diagnostic and therapeutic group 2(c) consists of other diagnostic tests. Group 2(c) procedures are generally non-invasive and may be administered by a technician and monitored by a physician. The rate for this procedure shall be $176.00.
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iv) Diagnostic and therapeutic group 2(d) consists of therapeutic procedures. Group 2(d) procedures typically involve parenterally administered therapeutic agents. Either a nurse or a physician is likely to perform such procedures. The rate for this procedure shall be $136.00.

C) Group 3 reimbursement for services provided in a hospital emergency department will be made in accordance with one of the three levels described in this Section. Emergency Services mean those services that are for a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect that the absence of immediate attention would result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The determination of the level of service reimbursable by the Department shall be based upon the circumstances at the time of the initial examination, not upon the final determination of the client's actual condition, unless the actual condition is more severe.

i) Emergency Level I refers to Emergency Services provided in the hospital's emergency department for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that pose an immediate significant threat to life or physiologic function or requires an intense level of physician or nursing intervention. An "intense level" is defined as more than two hours of documented one-on-one nursing care or interactive treatment. The rate for this service shall be $181.00.

ii) Emergency Level II refers to Emergency Services that do not meet the definition in this Section of Emergency Level I care, but that are provided in the hospital emergency department for a medical condition manifesting itself by acute symptoms of sufficient severity. The rate for this service shall be $67.00.
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iii) Non-Emergency/Screening Level means those services provided in the hospital emergency department that do not meet the requirements of Emergency Level I or II stated in this Section. For such care, the Department will reimburse the hospital either applicable current FFS rates for the services provided or a screening fee, but not both. The rate for this service shall be $26.00.

D) Group 4 for observation services is established to reimburse such services that are provided when a patient's current condition does not warrant an inpatient admission but does require an extended period of observation in order to evaluate and treat the patient in a setting that provides ancillary resources for diagnosis or treatment with appropriate medical and skilled nursing care. The hospital may bill for both observation and other APL procedures but will be reimbursed only for the procedure (group) with the highest reimbursement rate. Observation services will be reimbursed under one of three categories:

i) for at least 60 minutes but less than six hours and 31 minutes of services, the rate shall be $74.00;

ii) for at least six hours and 31 minutes but less than 12 hours and 31 minutes of services, the rate shall be $222.00; or

iii) for at least 12 hours and 31 minutes or more of services, the rate shall be $443.00.

E) Group 5 for psychiatric treatment services is established to reimburse for certain outpatient treatment psychiatric services that are provided by a hospital that is enrolled with the Department to provide inpatient psychiatric services. Under this group, the Department will reimburse, at different rates, Type A and Type B Psychiatric Clinic Services, as defined in Section 148.40(d)(1). A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

i) The rate for Type A psychiatric clinic services shall be $68.00.
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ii) The rate for Type A psychiatric clinic services provided by a Children's Hospital shall be $102.00.

iii) The rate for Type B psychiatric clinic services shall be $101.00.

iv) The rate for Type B psychiatric clinic services provided by a Children's Hospital shall be $102.00.

F) Group 6 for physical rehabilitation services is established to reimburse for certain outpatient physical rehabilitation services. Under this group, the Department will reimburse for services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation services at a different rate than will be reimbursed for physical rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation services. A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

i) The rate for rehabilitation services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation shall be $130.00.

ii) The rate for rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation shall be $115.00.

iii) The rate for rehabilitation services provided by Children's Hospitals shall be $130.00.

2) Each of the groups described in subsection (b)(1) of this Section will be reimbursed by the Department considering the following:

A) The Department will provide cost outlier payments for specific devices and drugs associated with specific APL procedures. Such payments will be made if:

i) The device or drug is on an approved list maintained by the Department. In order to be approved, the Department will consider requests from medical providers and shall base its
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...decision on medical appropriateness of the device or drug and the costs of such device or drug; and

ii) The provision of such devices or drugs is deemed to be medically appropriate for a specific client, as determined by the Department's physician consultants.

B) Additional payment for such devices or drugs, as described in subsection (b)(2)(A) of this Section, will require prior authorization by the Department unless it is determined by the Department's professional medical staff that prior authorization is not warranted for a specific device or drug. When such prior authorization has been denied for a specific device or drug, the decision may be appealed as allowed by 89 Ill. Adm. Code 102.80(a)(7) and in accordance with the provisions for assistance appeals at 89 Ill. Adm. Code 104.

C) The amount of additional payment for devices or drugs, as described in subsection (b)(2)(A) of this Section, will be based on the following methodology:

i) The product of a cost to charge ratio that, in the case of cost reporting hospitals as described in Section 148.130(d), or in the case of other non-cost reporting providers, equals 0.5 multiplied by the provider's total covered charges on the qualifying claim, less the APL payment rate multiplied by four;

ii) If the result of subsection (b)(2)(C)(i) of this Section is less than or equal to zero, no additional payment will be made. If the result is greater than zero, the additional payment will equal the result of subsection (b)(2)(C)(i) of this Section, multiplied by 80 percent. In such cases, the provider will receive the sum of the APL payment and the additional payment for such high cost devices or drugs.

D) For county-owned hospitals located in an Illinois county with a population greater than three million, reimbursement rates for each of the reimbursement groups shall be equal to the amounts described in subsection (b)(1) of this Section multiplied by a factor of 2.722.856, except that physical rehabilitation services provided
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by a general care hospital not enrolled with the Department to provide outpatient physical rehabilitation services shall be reimbursed at a rate of $230.00 and the reimbursement rate for Type B psychiatric clinic services shall be $224.00.

E) Reimbursement rates for hospitals not required to file an annual cost report with the Department may be lower than those listed in this Section.

F) Reimbursement for each APL group described in this subsection (b) shall be all-inclusive for all services provided by the hospital, regardless of the amount charged by a hospital. No separate reimbursement will be made for ancillary services or the services of hospital personnel. Exceptions to this provision are that hospitals shall be allowed to bill separately, on a fee-for-service basis, for professional outpatient services of a physician providing direct patient care who is salaried by the hospital, and occupational or speech therapy services provided in conjunction with rehabilitation services as described in subsection (b)(1)(F) of this Section. For the purposes of this Section, a salaried physician is a physician who is salaried by the hospital; a physician who is reimbursed by the hospital through a contractual arrangement to provide emergency department care. Under APL reimbursement, salaried physicians do not include radiologists, pathologists, nurse practitioners, or certified registered nurse anesthetists and no separate reimbursement will be allowed for such providers.

3) The assignment of procedure codes to each of the reimbursement groups in subsection (b)(1) of this Section are detailed in the Department's Hospital Handbook and in notices to providers.

4) A one-time fiscal year 2000 payment will be made to hospitals. Payment will be based upon the services, specified in this Section, provided on or after July 1, 1998, and before July 1, 1999, which were submitted to the Department and determined eligible for payment (adjudicated) by the Department on or prior to April 30, 2000, excluding services for Medicare/Medicaid crossover claims and claims which resulted in a zero payment by the Department. A one-time amount of:
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A) $27.75 will be paid for each service for procedure code W7183 (Psychiatric clinic Type A for adults).

B) $24.00 will be paid for each service for APL Group 5 (Psychiatric clinic Type A only) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

C) $15.00 will be paid for each service for APL Group 6 (Physical rehabilitation services) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

5) County Facility Outpatient Adjustment

A) Effective for services provided on or after July 1, 1995, county owned hospitals in an Illinois county with a population of over three million shall be eligible for a county facility outpatient adjustment payment. This adjustment payment shall be in addition to the amounts calculated under this Section and are calculated as follows:

i) Beginning with July 1, 1995, hospitals under this subsection shall receive an annual adjustment payment equal to total base year hospital outpatient costs trended forward to the rate year minus total estimated rate year hospital outpatient payments, multiplied by the resulting ratio derived when the value 200 is divided by the quotient of the difference between total base year hospital outpatient costs trended forward to the rate year and total estimated rate year hospital outpatient payments divided by one million.

ii) The payment calculated under this subsection (b)(5)(A) may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations.

iii) The county facility outpatient adjustment under this subsection shall be made on a quarterly basis.

B) County Facility Outpatient Adjustment Definition. The definitions of terms used with reference to calculation of the county facility
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outpatient adjustment are as follows:

i) "Base Year" means the most recently completed State fiscal year.

ii) "Rate Year" means the State fiscal year during which the county facility adjustment payments are made.

iii) "Total Estimated Rate Year Hospital Outpatient Payments" means the Department's total estimated outpatient date of service liability, projected for the upcoming rate year.

iv) "Total Hospital Outpatient Costs" means the statewide sum of all hospital outpatient costs derived by summing each hospital's outpatient charges derived from actual paid claims data multiplied by the hospital's cost-to-charge ratio.

6) No Year-End Reconciliation
With the exception of the retrospective rate adjustment described in subsection (b)(8) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (b).

7) Rate Adjustments
With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in subsection (b)(5) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (b)(5) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

8) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located.
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All specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to hospitals reimbursed under the Ambulatory Care Program in the same manner as to encounter rate hospitals and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

9) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

c) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:

1) For inpatient hospital services provided pursuant to Section 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.240 through 148.300 and 89 Ill. Adm. Code 149.

2) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate which will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2163 (1994). This rate will be that rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (1994).

3) Payment for non-routine services. For services which are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (c)(3) but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.

4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.

5) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in this subsection (c) shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:
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A) The reimbursement rates described in this subsection (c) shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

6) With the exception of the retrospective rate adjustment described in subsection (c)(5) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (c).

7) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) of this Section shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility’s fiscal year.

d) Non Hospital-Based Clinic Reimbursement

1) County-Operated Outpatient Facility Reimbursement

Reimbursement for all services provided by county-operated outpatient facilities, as described in Section 148.25(b)(2)(C), that do not qualify as either a Maternal and Child Health Program managed care clinics, as described in 89 Ill. Adm. Code 140.461(f), or as a Critical Clinic Provider, as described in subsection (e) of this Section, shall be on an all-inclusive per encounter rate basis as follows:

A) Base Rate. The per encounter base rate shall be calculated as follows:

i) Allowable direct costs shall be divided by the number of direct encounters to determine an allowable cost per encounter delivered by direct staff.

ii) The resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section, shall be multiplied by the Medicare allowable overhead rate factor to calculate the
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overhead cost per encounter.

iii) The resulting product, as calculated in subsection (d)(1)(A)(ii) of this Section, shall be added to the resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section to determine the per encounter base rate.

iv) The resulting sum, as calculated in subsection (d)(1)(A)(iii) of this Section, shall be the per encounter base rate.

B) Supplemental Rate

i) The supplemental service cost shall be divided by the total number of direct staff encounters to determine the direct supplemental service cost per encounter.

ii) The supplemental service cost shall be multiplied by the allowable overhead rate factor to calculate the supplemental overhead cost per encounter.

iii) The quotient derived in subsection (d)(1)(B)(i) of this Section, shall be added to the product derived in subsection (d)(1)(B)(ii) of this Section, to determine the per encounter supplemental rate.

iv) The resulting sum, as described in subsection (d)(1)(B)(iii) of this Section, shall be the per encounter supplemental rate.

C) Final Rate

i) The per encounter base rate, as described in subsection (d)(1)(A)(iv) of this Section, shall be added to the per encounter supplemental rate, as described in subsection (d)(1)(B)(iv) of this Section, to determine the per encounter final rate.

ii) The resulting sum, as determined in subsection (d)(1)(C)(i) of this Section, shall be the per encounter final rate.

iii) The per encounter final rate, as described in subsection
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(d)(1)(C)(ii) of this Section, shall be adjusted in accordance with subsection (d)(2) of this Section.

2) Rate Adjustments

Rate adjustments to the per encounter final rate, as described in subsection (d)(1)(C)(iii) of this Section, shall be calculated as follows:

A) The reimbursement rates described in subsections (d)(1)(A) through (d)(1)(C) and (e)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

C) The final rate described in subsection (d)(1)(C) of this Section shall be no less than $147.09 per encounter.

3) County-operated outpatient facilities, as described in Section 148.25(b)(2)(C), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (d).

4) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) which pertain to the service billed are applicable to encounter rate hospitals in the same manner as to hospitals reimbursed under the Ambulatory Care Program and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

e) Critical Clinic Providers
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1) Effective for services provided on or after September 27, 1997, a clinic owned or operated by a county with a population of over three million, that is within or adjacent to a hospital, shall qualify as a Critical Clinic Provider if the facility meets the efficiency standards established by the Department. The Department's efficiency standards under this subsection (e) require that the quotient of total encounters per facility fiscal year for the Critical Clinic Provider divided by total full time equivalent physicians providing services at the Critical Clinic Provider shall be greater than:

A) 2700 for reimbursement provided during the facility's cost reporting year ending during 1998,

B) 2900 for reimbursement provided during the facility's cost reporting year ending during 1999,

C) 3100 for reimbursement provided during the facility's cost reporting year ending during 2000,

D) 3600 for reimbursement provided during the facility's cost reporting year ending during 2001, and

E) 4200 for reimbursement provided during the facility's cost reporting year ending during 2002.

2) Reimbursement for all services provided by any Critical Clinic Provider shall be on an all-inclusive per-encounter rate which shall equal reported direct costs of Critical Clinic Providers for each facility's cost reporting period ending in 1995, and available to the Department as of September 1, 1997, divided by the number of Medicaid services provided during that cost reporting period as adjudicated by the Department through July 31, 1997.

3) Critical Clinic Providers, as described in this subsection (e), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (e).

4) The reimbursement rates described in this subsection (e) shall be no less than the reimbursement rates in effect on July 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the
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annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

f) Critical Clinic Provider Pharmacies
Prescribed drugs, dispensed by a pharmacy that is a Critical Clinic Provider, that are not part of an encounter reimbursable under subsection (e) of this Section shall be reimbursed at the rate described in subsection (e)(2) of this Section.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days)
SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 3, 2006 through January 9, 2006 and have been scheduled for review by the Committee at its January 18, 2006 or February 14, 2006 meeting in Springfield. 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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Part (Heading and Code Citation): Agrichemical Facility Response Action Program; 8 Ill. Adm. Code 259

1) Rulemaking:

A) Description: Retail agrichemical facilities conducting remediation activities of soil or groundwater contamination from fertilizer releases may opt to request a written approval from the Department of Agriculture for the voluntary site assessment and corrective action. The owner or operator of the facility can apply for Department review and approval for plans and reports detailing the scope and implementation of the environmental response actions. Upon successful completion of the fertilizer release cleanup and remediation, the Department shall issue a notice of closure indicating that site specific cleanup objectives have been met and no further remedial action is required to remedy the fertilizer release pursuant to the Illinois Pesticide Act [415 ILCS 60/19.3].

B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60/19]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. A public hearing will be held near the end of the public comment period.

D) Date Agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities, small businesses, or not for profit corporations. Small businesses, such as some types of agrichemical facilities, will benefit from the remediation potion allowed by the proposed rules.

F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
DEPARTMENT OF AGRICULTURE

JANUARY 2006 REGULATORY AGENDA

217/785-2427
217/524-4882 (fax)

G) Related rulemakings and other pertinent information: The rules for the Land Application Authorization Program, 8 Ill. Adm. Code 258, are related to this rulemaking.

b) Part (Heading and Code Citation): Livestock Management Facility Regulations; 8 Ill. Adm. Code 900

1) Rulemaking:

A) Description: The current regulations require owners of livestock facilities to mail copies of the Notice of Intent to Construct form to owners of property located within the setback distances, depending on the type of facility. The procedures and timeframes are very prescriptive and have caused the cessation of projects. The proposed amendments would include an opportunity for the owner to correct any deficiencies prior to the rescission of the setback compliance acknowledgment or the imposition of further enforcement action.

B) Statutory Authority: Livestock Management Facilities Act [510 ILCS 77]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. A public hearing will be held near the end of the public comment period.

D) Date Agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. Small businesses, such as some types of livestock facilities, may benefit from the additional time period prior to an enforcement action.

F) Agency contact person for information:
DEPARTMENT OF AGRICULTURE

JANUARY 2006 REGULATORY AGENDA

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL  62794-9281
217/785-2427
FAX:  217/524-4882

G)  Related rulemakings and other pertinent information: None

c)  Part (Heading and Code Citation): Farmland Preservation Act, 8 Ill. Adm. Code 700

1)  Rulemaking:

   A)  Description: The Farmland Preservation Act requires that state agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois’ agricultural land base from needless state agency farmland conversion impacts.

   B)  Statutory Authority: Farmland Preservation Act [505 ILCS 75/1-8]

   C)  Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. A public hearing will be held near the end of the public comment period.

   D)  Date Agency anticipates First Notice: April 2006

   E)  Effect on small businesses, small municipalities or not for profit corporations: No impacts anticipated.

   F)  Agency contact person for information:

       Steve Chard
       Illinois Department of Agriculture
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P.O. Box 19281
Springfield IL  62794-9281
217/785-2661
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Soil and Water Conservation Districts Act; 8 Ill. Adm. Code 650

1) Rulemaking:

A) Description: The rules need to be amended to clarify terms and update references to present technology.

B) Statutory Authority: Soil and Water Conservation Districts Act [70 ILCS 405/1]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register.

D) Date Agency anticipates First Notice: April 2006

E) Effect on small businesses, small municipalities or not for profit corporations: No impacts anticipated.

F) Agency contact person for information:

Steve Chard
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL  62794-9281
217/785-2661
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Animal Welfare Act; 8 Ill. Adm. Code 25
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1) Rulemaking:

A) Description: Cites to the Code of Federal Regulations will be updated. Male dogs standing for service at kennels will be required to have an annual negative test for canine brucellosis.

B) Statutory Authority: Implementing and authorized by the Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. The Advisory Board of Livestock Commissioners is scheduled to meet in the Fall 2005.

D) Date Agency anticipates First Notice: August 2005

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.

F) Agency contact person for information:

Dr. Colleen O’Keefe
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL  62794-9281.
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Grain Code; 8 Ill. Adm. Code 281

1) Rulemaking:

A) Description: The administrative rules are being updated pursuant to the Grain Code in Public Act 93-0225, effective 7/21/03. Statutory amendments include the use of electronic warehouse receipts and other electronic documents to be used in the industry;
an increase in licensing fees; a three-tier examination system of licensees based on the type of grain merchandising activity utilized by the respective companies; an assessment of first sellers of grain to grain dealers that will be utilized to rebuild and maintain the equity in the Illinois Grain Insurance Fund; and assessments of lenders possessing collateral warehouse receipts or executing repurchase agreements with licensees.

B) **Statutory Authority:** Grain Code [240 ILCS 40]

C) **Scheduled meeting/hearing dates:** Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.

D) **Date Agency anticipated First Notice:** February 2006

E) **Effect on small businesses, small municipalities or not for profit corporations:** No adverse impact is expected.

F) **Agency contact person for information:**

Stuart Jackson
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield IL 62794-9281
217/785-8302
FAX: 217/524-7801

G) **Related rulemakings and other pertinent information:** None

**g) Part (Heading and Code Citation):** Weights and Measures Act; 8 Ill. Adm. Code 600

1) **Rulemaking:**

A) **Description:** Define and provide enforcement for Maintenance Requirement contained in the General Code of the National Institute of Standards and Technology’s Handbook 44.
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Repeal implementation date for Grain Moisture Meter specifications and tolerances. Rule provided an extension to the implementation date contained in Handbook 44. (Effective date in rule is January 1, 2000.)

B) Statutory Authority:  Weights and Measures Act [225 ILCS 470]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the Illinois Register.

D) Date Agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. This rule will only affect small businesses that do not properly maintain their weighing and measuring devices.

F) Agency contact person for information:

Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL  62794-9281
217/785-8301
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Administrative Rules (Formal Administrative Proceedings; Contested Cases; Petitions; Public Disclosure); 8 Ill. Adm. Code 1

1) Rulemaking:

A) Description: The Department’s procedural rules will be updated, including adding a provision establishing a fee for any party requesting a copy of an administrative hearing transcript, and reorganized.
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B) Statutory Authority: Sections 5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60] and the Freedom of Information Act [5 ILCS 140]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the Illinois Register.

D) Date Agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for profit corporations: Any party requesting a copy of an administrative hearing transcript will be responsible for the costs associated with the transcription.

F) Agency contact person for information:

Linda Rhodes
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL  62794-9281
217/785-5713
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Freedom of Information Act; 2 Ill. Adm. Code 701

1) Rulemaking:

A) Description: Amendments to this Part will update these rules in accordance with statutory amendments. The fee schedule in Section 701.140 will also be amended and updated.

B) Statutory Authority: Freedom of Information Act [5 ILCS 140]
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C) Scheduled meeting/hearing date: None

D) Date Agency anticipates First Notice: First Notice publication is not required under this Part.

E) Effect on small businesses, small municipalities or not for profit corporations: There will be an increase in duplication costs for those requesting copies under the FOIA.

F) Agency contact person for information:

Linda Rhodes
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL  62794-9281
217/785-5713
FAX:  217/785-4505

G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds; 8 Ill. Adm. Code 270

1) Rulemaking:

A) Description: New regulations will be developed regarding advertising in State Fair publications [20 ILCS 210/6] and leasing buildings during the State Fair. Amendments to "Facility Availability" (Section 270.420) will be amended to facilitate additional rentals to maximize income throughout the non-fair season. A clarification is needed to further explain the Department's policy of allowing last year's lessees to have first right to the same dates in subsequent years in Section 270.380 concerning "Application for Space".

Amendments to “Non-Fair Space Rental, Payment Process, Camping, Facility Availability, Insurance, Concessions, Gambling, Raffles, Prizes, Beverages, Rate Schedules, Contract and General Stabling Rules will be amended to facilitate additional rentals to
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maximize income throughout the non-fair season. In addition, the amendments will bring the rules in line with new procedures on the DuQuoin and Illinois State Fairgrounds.

B) **Statutory Authority:** State Fair Act [20 ILCS 210] and Section 40.14 and Section 16 of the Civil Administrative code of Illinois [20 ILCS 5/16 and 40.14]

C) **Scheduled meeting/hearing date:** Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register.*

D) **Date Agency anticipates First Notice:** March 2006

E) **Effect on small businesses, small municipalities or not for profit corporations:** This rulemaking will affect those wishing to rent space/buildings on the fairgrounds and those advertising in fair publications.

F) **Agency contact person for information:**

Shari West  
Illinois Department of Agriculture  
P. O. Box 19281  
Springfield IL 62794-9281  
217/558-0014  
FAX: 217/785-4505

G) **Related rulemakings and other pertinent information:** None

k) **Part (Heading and Code Citation):** Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Programs, Illinois; 8 Ill. Adm. Code 290

1) **Rulemaking:**

A) **Description:** The Department will amend Section 290.210(a) to change “registered Illinois conceived and foaled horses that were conceived before May 30, 1995" to “registered Illinois conceived and foaled horses prior to May 30, 1995.”
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C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the Illinois Register.

D) Date Agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for profit corporations: No impacts anticipated.

F) Agency contact person for information:

Tex Moats
Illinois Department of Agriculture
State Fairgrounds
Springfield IL  62794-9281
217/782-4231
FAX: 217/524-6194

G) Related rulemakings and other pertinent information: None

1) Part (Heading and Code Citation): Illinois Seed Law; 8 Ill. Adm. Code 230

1) Rulemaking:

A) Description: The rule changes will allow the Department to offer different tests that are currently available for seed products and allow the establishment of fees for these tests (i.e. TZ, seed count, etc.).

Section 230.70 may be amended to allow the Department to increase seed permit fees.

Section 230.80 may be amended to allow the Department to increase fees for established services offered (i.e. purity, germination and noxious weed seed testing).
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These amendments allow for the Department to update its services offered to those groups or individuals wishing to utilize them.

B) Statutory Authority: The Illinois Seed Law [505 ILCS 110]

C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the Illinois Register.

D) Date Agency anticipates First Notice: April 2006

E) Effect on small businesses, small municipalities or not for profit corporations: Anyone utilizing the Department’s seed lab will have to pay a fee or increase in fee.

F) Agency contact person for information:

Jim Larkin
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL  62794-9281
217/785-8212
FAX:  217/524-7801

G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Meat and Poultry Inspection Act; 8 Ill. Adm. Code 125

1) Rulemaking:

A) Description: Section 125.90 will be amended to delete “Section 2.26” and replace with “225 ILCS 650/13 since Section 2.26 of the Act has been repealed.

Other non-substantive changes will be made to the rules to bring them in line with the Meat and Poultry Inspection Act [225 ILCS 650].
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Expanding provisions for existing Section 125.141 by requiring all licensed plants, Type I and Type II, to operate and maintain Sanitation SOP at all times.

B) **Statutory Authority:** Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]

C) **Scheduled meeting/hearing dates:** Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) **Date Agency anticipates First Notice:** March 2006

E) **Effect on small businesses, small municipalities or not for profit corporations:** All Type I establishments are operating under provisions of Sanitation SOP since October 1, 1997. Currently the recordkeeping requirement is limited to operations conducted under inspection. Due to increases in numbers for operations conducted outside of official hours, but still involving meat and poultry products, becomes necessary to expand existing requirements for providing uniform sanitation procedures. Only 8% of very small businesses (Type II) will be required to adopt these rules. The Department will provide guidance and assistance during implementation process.

F) **Agency contact person for information:**

Dr. Kris Mazurczak  
Illinois Department of Agriculture  
State Fairgrounds  
Springfield IL 62794-9281  
217/782-3817  
FAX: 217/524-7801

G) **Related rulemakings and other pertinent information:** None
Part (Heading and Code Citation): Standard Procurement; 44 Ill Adm. Code 1

1) Rulemaking:

A) Description: Provide guidelines for use when the small business set-aside requirement may be waived.

B) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register.

D) Date agency anticipates First Notice: January, 2006

E) Affect on small businesses, small municipalities or not for profit corporations: Any retail business whose annual sales and receipts do not exceed $6 million and any wholesale business whose annual sales do not exceed $10 million would be affected. While the waiver of the set-aside would affect small businesses, they will still have the opportunity to submit a bid or proposal for the contract at issue. They will not be excluded simply by virtue of being a small business.

F) Agency contact person for information:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706
217/785-1793

G) Related rulemakings and other pertinent information: This amendment is a result of CPO Bulletin #35. Proposed amendments to this part exist as published as an emergency in 29 Illinois Register 20540 and first notice in 29 Illinois Register 20140, dated October 21, 2005 that provide more definition to the existing rule on the multiple award method of source selection and contracting. Additional proposed amendments to this part exist as published in Illinois Register 15678, dated October 21, 2005 that primarily reflect new laws (e.g., the Domestic Products Act and amendments to the Procurement Code), address issues raised by the
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Auditor General, make the procurement process more open and accessible (e.g., requiring that bid prices shall be read aloud rather than recorded and requiring review and approval of sole source requests) and make adjustments to reflect better practices (e.g., managing tie bids and processing of protests).

b) Part (Heading and Code Citation): Administration of Funds Created by the Wireless Emergency Telephone Safety Act; 83 Ill. Adm. Code 1000

1) Rulemaking:

A) Description: The Wireless Emergency Telephone Safety Act [50 ILCS 751] established a mechanism by which to fund the provision of the wireless 9-1-1 and wireless E9-1-1 service. Central Management Services had this administrative responsibility and promulgated rules. Public Act 93-0839 since amended the Act and gives the responsibility of administering funds collected under authority of the Act to the Illinois Commerce Commission. The Commerce Commission proposed rules as published in 29 Illinois Register 8551 dated June 24, 2005. Because CMS no longer has authority to administer the rule and the responsibility now belongs to another agency, the entire rule will be repealed.


C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register.

D) Date agency anticipates First Notice: Not yet scheduled

E) Affect on small businesses, small municipalities or not for profit corporations: Any affected entity will simply work with the Illinois Commerce Commission instead of Central Management Services.

F) Agency contact person for information:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Springfield, Illinois 62706
217/785-1793

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Merit and Fitness; 80 Ill. Adm. Code 302

1) Rulemaking:

A) Description: Amendments will be made to layoff provisions affecting Merit Compensation employees resulting from Public Act 93-0839.

B) Statutory Authority: The Personnel Code [20 ILCS 415] and Public Act 93-0839

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register.

D) Date agency anticipates First Notice: Not yet scheduled

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706
217/785-1793

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Conditions of Employment (80 Ill. Adm. Code 303)

1) Rulemaking:

A) Description: A new Section will be proposed relating to Family Military Leave resulting from Public Act 94-0589.
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B) Statutory Authority: Public Act 94-0589

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register.

D) Date agency anticipates First Notice: Not yet scheduled

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706
217/785-1793

G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: Revisions may be made to provisions in Section 303.130 relating to maternity/paternity and adoption leave in order to ensure that the terms of the rule are non-discriminatory.

B) Statutory Authority: The Personnel Code [20 ILCS 415/8c(2)]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register.

D) Date agency anticipates First Notice: Not yet scheduled

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706
217/785-1793

G) Related rulemakings and other pertinent information: None
a) **Part (Heading and Code Citation):** Pay Plan; 80 Ill. Admin. Code 310

1) **Rulemaking:**

   A) **Description:** Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:

   In Section 310.280, Designated Rate, changes in salaries, the addition of new positions, and deletion of positions no longer utilized as approved by the Governor.

   In Section 310.Appendix A, Negotiated Rates of Pay tables, changes because of bargaining unit agreements that are signed before July 1, 2006.

   In various sections, changes to classifications either being established, revised, or removed with the approval of the Civil Service Commission.

   In various sections, changes to the format of the Pay Plan to reduce duplicate information and provide easier access to information contained within the Pay Plan.

   B) **Statutory Authority:** Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a]

   C) **Scheduled meeting/hearing dates:** Interested persons may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

   D) **Date agency anticipates First Notice:** Amendments to Section 310.280, Designated Rate, will be filed as the Governor approves changes throughout the year.

   Peremptory amendments based on new memoranda of understanding or other bargaining unit agreements will be filed as negotiations are completed.

   Peremptory amendments based on new, revised, or abolished classifications represented by the bargaining units, and proposed
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amendments based on new, revised, or abolished classifications not represented by the bargaining units, will be filed as the classification actions are approved by the Civil Service Commission.

Amendments to sections to add clarity will be filed as the Governor approves changes.

E) Affect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.

F) Agency contact person for information:

Mr. Jason Doggett
Acting Manager
Compensation Section
Division of Technical Services and Agency Training and Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building
Springfield IL  62706
217/782-7964

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding State employee salary rates and policies.
a) Part (Heading and Code Citation): Procedures For Collection Of Asbestos Fees; 35 Ill. Adm. Code 269

1) Rulemaking:

A) Description: The proposed new rule will set forth the procedures the Agency will use to collect asbestos fees under Section 9.13 of the Environmental Protection Act.


C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date Agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that must file an original 10-day notice of intent to renovate or demolish pursuant to 40 CFR 61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air Pollutants or NESHAP), would be subject to the procedures to set forth in this new rule.

F) Agency contact person for information:

   Charles E. Matoesian  
   Division of Legal Counsel  
   Illinois Environmental Protection Agency  
   1021 North Grand Avenue East  
   P.O. Box 19276  
   Springfield IL  62794-9276  
   217/782-5544

G) Related Rulemaking and other pertinent information: None

b) Part (Heading and Code Citation): Construction Permit Application Fees For Air Pollution Sources; 35 Ill. Adm. Code 250

1) Rulemaking:
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A) **Description:** The proposed new rule will set forth the procedures the Agency will use to collect construction permit application fees for air pollution sources under Section 9.12 of the Environmental Protection Act.

B) **Statutory authority:** Authorized by Section 9.12 of the Environmental Protection Act [415 ILCS 5/9.12]

C) **Scheduled meeting/hearings dates:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small business, small municipalities or not-for-profit corporations:** Any small businesses, small municipalities, or not-for-profit corporations that submit construction permit applications that trigger the fee provisions would be subject to the procedures set forth in this new rule.

F) **Agency contact person for information:**

   Gina Roccaforte  
   Division of Legal Counsel  
   Illinois Environmental Protection Agency  
   1021 North Grand Avenue East  
   P.O. Box 19276  
   Springfield IL 62794-9276  
   217/782-5544

G) **Related rulemaking and other pertinent information:** None

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c) **Part (Heading and Code Citation):** Procedures For Collection Of Air Pollution Site Fees; 35 Ill. Adm. Code 251

1) **Rulemaking:**

A) **Description:** The proposed rule will modify the current rule to address recent amendments made to Section 9.6 of the Environmental Protection Act. In addition, the proposed rule will make miscellaneous changes.

B) **Statutory authority:** Authorized by Section 9.6 of the Environmental Protection Act [415 ILCS 5/9.6].
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C) **Scheduled meeting/hearings dates:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small business, small municipalities or not-for-profit corporations:** Any small businesses, small municipalities, or not-for-profit corporations that must pay site fees would be subject to the modified applicability provisions.

F) **Agency contact person for information:**

Charles E. Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL  62794-9276
217/782-5544

G) **Related rulemaking and other pertinent information:** None

d) **Part (Heading and Code Citation):** Clean Air Act Permit Program Procedures; 35 Ill. Adm. Code 270.

1) **Rulemaking:**

A) **Description:** The proposed rule will modify the current rule to address recent amendments to the Clean Air Act Permit Program (CAAPP) fee schedule. In addition, the proposed rule will make miscellaneous changes.

B) **Statutory authority:** Authorized by Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5].

C) **Scheduled meeting/hearings dates:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small business, small municipalities or not-for-profit**
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corporations: Any small businesses, small municipalities, or not-for-profit corporations that are subject to CAAPP fees would be subject to the proposed rule.

F) Agency contact person for information:

Charles Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL  62794-9276
217/782-5544

G) Related rulemaking and other pertinent information: None


1) Rulemaking:

A) Description: The amendments to these Agency rules will update definitions and explanations of administrative procedures and provide current information to owners, operators, and official custodians of public water supplies. More recent design and operational criteria will be incorporated to provide information necessary for the design, operation, and maintenance of public water supplies and to facilitate the permitting process. In addition, the amendments will exempt from restricted status certain public water supplies that exceed the combined radium standard, provided the supplies meet certain conditions.

The amendments to these Agency rules will also incorporate technical, financial, and managerial requirements for new public water supplies (PWS). The proposed amendments are required by the 1996 amendments to the federal Safe Drinking Water Act (SDWA). On May 22, 1998, the Illinois General Assembly passed SB 545 which, inter alia, amends Sections 15 and 18 of the Environmental Protection Act to require that new PWS have the technical, financial, and managerial capacity to meet federal and State drinking water regulations. The Governor signed this bill into law on August 14, 1998, as P.A. 90-0773.
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B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date Agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: These amendments will generally benefit small businesses, small municipalities, and not-for-profit entities by clarifying the requirements for operations and permits. There may be some additional reporting requirements. These amendments may also affect new small businesses, new small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities own or operate a "public water supply" as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL  62794-9276
217/782-5544

G) Related rulemakings and other pertinent information: The Agency is preparing a rulemaking proposal to establish the requirements that must be met by public water supplies that exceed the combined radium standard or the gross alpha particle activity standard, to avoid being placed on restrictive status.

f) Part (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Permit Fees For Installing or Extending Water Main; 35 Ill. Adm. Code 690
1) Rulemaking:

A) **Description:** In June 2003, the Governor signed into law P.A. 93-0032, which established a new fee structure for installing and extending water mains. The amendments to this rule will formally incorporate the new fee. The collection of fees in the amendments reflect the increases mandated by the new law for construction permits, emergency construction permits, or as-built plans to install or extend water mains.

B) **Statutory authority:** Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19]

C) **Scheduled meeting/hearing dates:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small business, small municipalities or not-for-profit corporations:** These amendments will affect small businesses, small municipalities, and not-for-profit entities to the extent that these entities design, operate, or maintain a public water supply, or engage in the permitting process. The Agency anticipates that the amendments will generally benefit these entities by clarifying the requirements for facility operations and permits. The amendments do not impose additional reporting requirements.

F) **Agency contact person for information:**

Stefanie Diers  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276  
217/782-5544

G) **Related rulemaking and other pertinent information:** None
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g) Part (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Procedures For Issuing Loans From The Public Water Supply Loan Program; 35 Ill. Adm. Code 662 and 663

1) Rulemaking:

A) Description: The Agency has issued tax-exempt bonds to increase funding for the Public Water Supply Loan Program. The Agency will review Parts 662 and 663 to determine how these parts may be amended to accommodate future leveraging of the program.


C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date Agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will clarify the requirements of the Public Water Supply Loan Program that relate to the issuance of tax-exempt bonds.

F) Agency contact person for information:

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544

G) Related rulemaking and other pertinent information: None

h) Part Heading and Code Citation: Procedures For Issuing Loans From The Water Pollution Control Revolving Loan Fund; 35 Ill. Adm. Code 365
1) **Rulemaking:**

A) **Description:** This rulemaking will amend the Agency’s present Water Pollution Control Loans to update and make them consistent with current Federal guidance and the Agency’s rules for the Public Water Supply Loan Program, 35 Ill. Adm. Code 663.

B) **Statutory authority:** The amended rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8].

C) **Scheduled meeting/hearing date:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small businesses, small municipalities or not-for-profit corporations:** These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will simplify the procedures for obtaining loans from the wastewater treatment loan program.

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking as follows:

   Stefanie Diers  
   Division of Legal Counsel  
   Illinois Environmental Protection Agency  
   1021 North Grand Avenue East  
   P.O. Box 19276  
   Springfield, Illinois 62794-9276  
   217/782-5544

G) **Related rulemaking and other pertinent information:** None

i) **Part (Heading and Code Citation):** Procedures For Issuing Loans From The Water Pollution Control Revolving Loan Fund; 35 Ill. Adm. Code 366

1) **Rulemaking:**

A) **Description:** The Agency will propose amendments to revise procedures
for the allocation of funds. Funds in the Water Pollution Control Revolving Fund are subject to an equal division between the service area of the Metropolitan Water Reclamation District of Greater Chicago and the area consisting of the rest of the State. Currently, new funds that are not allocated during the fiscal year are carried over and may be used only for projects in the particular geographical area for which the funds were initially allocated. These amendments would allow funds not obligated in a given fiscal year to be treated as new funds when carried over to the following fiscal year. As new funds, they would once again be subject to the equal division between the two major geographic areas for the purpose of developing an Intended Use Plan only. These amendments also specify at what point these funds lose their geographic identity when utilized for the funding of projects not included in the Intended Use Plan.

B) **Statutory authority:** The amended rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8]

C) **Scheduled meeting/hearing date:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small businesses, small municipalities or not-for-profit corporations:** These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will simplify the procedures for obtaining loans from the wastewater treatment loan program.

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

G) **Related rulemaking and other pertinent information:** None
ENVIRONMENTAL PROTECTION AGENCY

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j) **Part (Heading and Code Citation):** Procedures For Issuing Loans From The Water Pollution Control Program for Non-Point Pollution Control Projects; New Part

1) **Rulemaking:**

   A) **Description:** This rulemaking will create procedures for eligible local government units, other governmental entities, non-governmental entities or any combination thereof, to obtain loans from the Water Pollution Control Loan Program for projects to control non-point sources of pollution.

   B) **Statutory authority:** The proposed rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8]

   C) **Scheduled meeting/hearing date:** The Agency has not yet scheduled meetings or hearings on this proposal.

   D) **Date Agency anticipates First Notice:** Spring 2006

   E) **Effect on small businesses, small municipalities or not-for-profit corporations:** These rules will benefit these entities by creating procedures to enable these and other entities to obtain loans from the Water Pollution Control Loan Program for projects to control non-point sources of pollution.

   F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking as follows:

   Stefanie Diers  
   Division of Legal Counsel  
   Illinois Environmental Protection Agency  
   1021 North Grand Avenue East  
   P.O. Box 19276  
   Springfield, Illinois 62794-9276  
   217/782-5544

   G) **Related rulemaking and other pertinent information:** None
ENVIRONMENTAL PROTECTION AGENCY

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k) Part(s) (Headings and Code Citations): Procedures And Criteria For Reviewing Applications For Provisional Variances; 35 Ill. Adm. Code 180

1) Rulemaking:

A) Description: The proposal will amend 35 Ill. Adm. Code 180 to reflect the amendments to Sections 35(b), 36, and 37 of the Environmental Protection Act. Amendments to Sections 35(b), 36, and 37 of the Act give authority to the Agency to grant provisional variances rather than the Pollution Control Board. The proposed amendments may also update the Part and correct typographical errors.

B) Statutory authority: Implementing and authorized by Sections 35(b) of the Environmental Protection Act [415 ILCS 5/35(b)]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities, or not-for-profit corporation: Any small businesses, small municipalities, or not-for-profit corporations that file a petition for a provisional variance pursuant to Section 35(b) of the Act will be affected by the proposed amendments.

F) Agency contact person for information:

Annet Godiksen
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

G) Related rulemakings and other pertinent information: None

l) Part (Heading and Code Citation): Amendment to Procedure for the Certification of Operators of Wastewater Treatment Works; 35 Ill. Adm. Code 380

1) Rulemaking:
ENVIRONMENTAL PROTECTION AGENCY

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A) Description: Proposed amendments will modify the groupings of industrial wastewater treatment works and qualifications needed by Wastewater Operators.

B) Statutory authority: Implementing and authorized by Section 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 and 5/27]

C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations operating wastewater treatment works may be affected by the proposed amendments.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Petitions for exemptions from mercury and mercury-added products prohibitions; Part number not yet assigned.

1) Rulemaking:

A) Description: Pursuant to Section 22.23b(c) of the Environmental Protection Act, the Agency plans to propose rules for the processing of petitions for exemptions from the mercury and mercury-added products prohibitions of Section 22.23b of the Act.
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B) **Statutory authority:** Authorized by Section 22.23b(c) of the Environmental Protection Act [415 ILCS 5/22.23b(c)]

C) **Scheduled meeting/hearings dates:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date Agency anticipates First Notice:** Spring 2006

E) **Effect on small business, small municipalities or not-for-profit corporations:** Any small business, small municipality, or not-for-profit corporation that manufactures a mercury switch or mercury relay, or a scientific instrument or piece of instructional equipment containing mercury added during its manufacture, and that petitions the Agency for an exemption from the provisions of Section 22.23b of the Act will be subject to the proposed rules.

F) **Agency contact person for information:**

   M. Kyle Rominger  
   Division of Legal Counsel  
   Illinois Environmental Protection Agency  
   1021 North Grand Avenue East  
   P.O. Box 19276  
   Springfield IL  6294-9276  
   217/782-5544

G) **Related Rulemaking and other pertinent information:** None

n) **Part (Heading and Code Citation):** Procedures for the Agency’s expedited review of RCRA corrective action plans and reports; New Part.

1) **Rulemaking:**

   A) **Description:** The proposed new rule will set forth the procedures the Agency will use to perform an expedited review of RCRA corrective action plans and reports.

   B) **Statutory authority:** Authorized by Section 22.3a of the Environmental Protection Act [415 ILCS 5/22.3a]
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C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date Agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: None known.

F) Agency contact person for information:

   Kim Geving
   Division of Legal Counsel
   Illinois Environmental Protection Agency
   1021 North Grand Avenue East
   P.O. Box 19276
   Springfield IL  62794-9276
   217/782-5544

G) Related Rulemaking and other pertinent information: None

o) Part (Heading and Code Citation): Environmental Laboratory Certification Fee Rules; 35 Ill. Adm. Code 185

1) Rulemaking:

   A) Description: This rulemaking will set forth the procedures the Agency will use to determine environmental laboratory assessment under 17.8 of the Environmental Protection Act.

   B) Statutory authority: Implementing and authorized by Section 17.8 of the Environmental Protection Act [415 ILCS 5/17.8]

   C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

   D) Date agency anticipates First Notice: Spring 2006

   E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that requests certification for its laboratories.
ENVIRONMENTAL PROTECTION AGENCY

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F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

G) Related rulemakings and other pertinent information: None

p) Part (Heading and Code Citation): Annual Testing Fees for Analytical Services; 35 Ill. Adm. Code 691

1) Rulemaking:

A) Description: This rulemaking will update a citation in Section 691.102.

B) Statutory authority: Implementing and authorized by Section 17.7 of the Environmental Protection Act [415 ILCS 5/17.7]

C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: None

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
ENVIRONMENTAL PROTECTION AGENCY

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G) Related rulemakings and other pertinent information: None

q) Part (Heading and Code Citation): Alternative Fuels Program; 35 Ill. Adm. Code 275

1) Rulemaking:

A) Description: The proposed amendments will expand the renewable fuels grants and rebate program to allow for a rebate for use of B20 (20% biodiesel). The proposed amendments will also update and clarify provisions in the rule.

B) Statutory authority: Authorized by Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 120/30]

C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date Agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that use or may potentially use B20 as fuel.

F) Agency contact person for information:

   Charles E. Matoesian
   Division of Legal Counsel
   Illinois Environmental Protection Agency
   1021 North Grand Avenue East
   P.O. Box 19276
   Springfield IL   62794-9276
   217/782-5544

G) Related Rulemaking and other pertinent information: None

r) Part (Heading and Code Citation): Access to Public Records of the Illinois Environmental Protection Agency; 2 Ill. Adm. Code 1828

1) Rulemaking:
ENVIROMENTAL PROTECTION AGENCY

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A) **Description:** The Agency is preparing a rulemaking to amend its access to public records regulations to reflect changes made to the Freedom of Information Act [5 ILCS 140] and to update Illinois EPA procedures in receiving and processing Freedom of Information Act requests.

B) **Statutory authority:** Authorized by Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)]

C) **Scheduled meeting/hearing dates:** The Agency has not yet scheduled meetings or hearings on this proposal.

D) **Date agency anticipates First Notice:** Spring 2006

E) **Effect on small business, small municipalities, or not-for-profit corporation:** There may be an effect on any small business, small municipality, or not-for-profit corporation that engages in making a Freedom of Information Act request.

F) **Agency contact person for information:**

   Annet Godiksen  
   Division of Legal Counsel  
   Illinois Environmental Protection Agency  
   1021 North Grand Avenue East  
   P.O. Box 19276  
   Springfield IL  62794-9276  
   217/782-5544

G) **Related rulemakings and other pertinent information:** None

s) **Part (Heading and Code Citation):** Permit Fees for Installing or Extending Sewers; 35 Ill. Adm. Code 320

1) **Rulemaking:**

A) **Description:** This rulemaking will update the procedures the Agency uses to collect permit fees under Part 320 and the amounts of those fees in response to changes to Section 12.2 of the Environmental Protection Act [415 ILCS 5/12.2].
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B) Statutory authority: Implementing and authorized by Section 12.2 of the Environmental Protection Act [415 ILCS 5/12.2]

C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality or not-for-profit corporation that is required to obtain a permit from the Agency pursuant to Section 12(b) of the Environmental Protection Act [415 ILCS 5/12(b)] may be impacted by this rulemaking.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

   Deborah J. Williams
   Division of Legal Counsel
   Environmental Protection Agency
   1021 North Grand Avenue East
   P.O. Box 19276
   Springfield, Illinois 62794-9276
   217/782-5544

G) Related rulemakings and other pertinent information: This rulemaking is related to several other rulemakings listed in this Regulatory Agenda that are being developed to update or add new Parts to address changes and additions made to the permit fees charged by the Agency’s Bureau of Water.

Part (Heading and Code Citation): Permit Fees for National Pollutant Discharge Elimination System Permits and Domestic Sewage Sludge Generator or User Permits; New Part

1) Rulemaking:

   A) Description: This rulemaking will set forth the procedures the Agency will use to collect fees under 12.5 of the Environmental Protection Act [415 ILCS 5/12.5].
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B) Statutory authority: Implementing and authorized by Section 12.5 of the Environmental Protection Act [415 ILCS 5/12.5]

C) Scheduled meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that is required to obtain a National Pollutant Discharge Elimination System [NPDES] permit or sludge generator or user permit from the Agency may be impacted by this rulemaking.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

   Deborah J. Williams
   Division of Legal Counsel
   Environmental Protection Agency
   1021 North Grand Avenue East
   P.O. Box 19276
   Springfield, Illinois  62794-9276
   217/782-5544

G) Related rulemakings and other pertinent information: This rulemaking is related to several other rulemakings listed in this Regulatory Agenda that are being developed to update or add new Parts to address changes and additions made to the permit fees charged by the Agency’s Bureau of Water.

u) Part (Heading and Code Citation): Permit Fees for State Water Quality Certifications; New Part

1) Rulemaking:

A) Description: This rulemaking will set forth the procedures the Agency will use to collect fees under 12.6 of the Environmental Protection Act [415 ILCS 5/12.6].
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B) Statutory authority: Implementing and authorized by Section 12.6 of the Environmental Protection Act [415 ILCS 5/12.6]

C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that is required to obtain a state water quality certification from the Agency pursuant to Section 401 of the Clean Water Act may be impacted by this rulemaking.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

    Deborah J. Williams
    Division of Legal Counsel
    Environmental Protection Agency
    1021 North Grand Avenue East
    P.O. Box 19276
    Springfield, Illinois 62794-9276
    217/782-5544

G) Related rulemakings and other pertinent information: This rulemaking is related to several other rulemakings listed in this Regulatory Agenda that are being developed to update or add new Parts to address changes and additions made to the permit fees charged by the Agency’s Bureau of Water.
I. DIVISION OF BANKING

a) Part (Heading and Code Citation): Residential Mortgage License Act of 1987; 38 Ill. Adm. Code 1050

1) Rulemaking:

A) Description: Numerous clarifications and enhancements to the rules may be proposed, including increasing minimum surety bond requirements, requiring licensees in all instances to notify the Division of loan repurchase demands, providing that brokerage agreements, file maintenance and other rule provisions must be consistent with Public Act 94-280, clarifying what constitutes an additional full service office for purposes of the Act, adding procedures for school licensure and course approval under the Act, removing certain obsolete examiner reimbursement language, placing guidelines for surrender of mortgage broker/banker licenses and guidelines for exempting processors from licensure in the rules, amending the loan originator application procedure to reflect that taking and passing the entrance test constitutes the first step to obtaining a certificate of registration, clarifying those owners/licensees required to register as loan originators, providing for changes of loan originator status, establishing a loan originator temporary right to work, and clarifying that the Division can deny or discipline a loan originator application or registration for unpaid financial obligations owed to the Agency.

B) Statutory Authority: [205 ILCS 635]

C) Scheduled meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: February 2006.

E) Effect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Department of Financial and Professional Regulation
Attention: Barb Smith
II. DIVISION OF FINANCIAL INSTITUTIONS

a) Part (Heading and Code Citation): Consumer Installment Loan Act; 38 Ill. Adm. Code 110

1) Rulemaking:

A) Description: Technical clean up changes will be made.

B) Statutory Authority: [205 ILCS 670]

C) Scheduled meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown.

E) Effect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

   Department of Financial and Professional Regulation
   Attention: Barb Smith
   320 West Washington, 3rd Floor
   Springfield IL  62786
   217/785-0813
   Fax: 217/557-4451

G) Related rulemakings and other pertinent information: None

III. DIVISION OF INSURANCE

a) Part (Heading and Code Citation): Registration of Insurers; 50 Ill. Adm. Code 852
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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1) Rulemaking:

A) **Description:** Section 852.30 will be amended to clarify an exemption that is no longer applicable as written.

B) **Statutory Authority:** [215 ILCS 5/155.18a]

C) **Scheduled meeting/hearing date:** No hearings or meetings have been scheduled.

D) **Date agency anticipates First Notice:** Unknown

E) **Effect on small businesses, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**
   
   Department of Financial and Professional Regulation  
   Attention: Barb Smith  
   320 West Washington, 3rd Floor  
   Springfield IL  62786  
   217/785-0813  
   Fax: 217/557-4451

G) **Related rulemakings and other pertinent information:** None

b) **Part (Heading and Code Citation):** Preferred Provider Program Administrators; 50 Ill. Adm. Code 2051

1) **Rulemaking:**

A) **Description:** Revisions will be made to update current requirements, establish more appropriate requirements for administrators of Health Care Service Discount Plans, and clarify insurance company form and network filing requirements.

B) **Statutory Authority:** [215 ILCS 5/Art.XX 1/2 and 401]

C) **Scheduled meeting/hearing date:** No hearings or meetings have been scheduled.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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D) Date agency anticipates First Notice: February 2006

E) Effect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Department of Financial and Professional Regulation
Attention: Barb Smith
Springfield IL 62786
217/785-0813
Fax: 217/557-4451

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Group Coordination of Benefits; 50 Ill. Adm. Code 2009

1) Rulemaking:

A) Description: This Part will be amended to comply with changes to the NAIC Model Regulation.

B) Statutory Authority: [215 ILCS 5/367]

C) Scheduled meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: March, 2006

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL 62786
IV. DIVISION OF PROFESSIONAL REGULATION


1) Rulemaking:

A) Description: Technical clean-up changes will be made.

B) Statutory Authority: [225 ILCS 305]

C) Scheduled meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed architects may be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL  62786
217/785-0813
Fax: 217/557-4451

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Home Medical Equipment and Services Provider License Act; 68 Ill. Adm. Code 1253

1) Rulemaking:
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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A) Description: The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) will no longer conduct new accreditation surveys for managed care organizations, preferred provider organizations and integrated delivery systems as of December 31, 2005, but organizations currently accredited by the Joint Commission will continue to receive the services normally provided to them for the duration of each organization's current accreditation and period. The rules will be amended to reflect this change.

B) Statutory Authority: [225 ILCS 5]

C) Schedules meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed home medical equipment providers may be affected.

F) Agency contact person for information:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL  62786
217/785-0813
Fax: 217/557-4451

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Illinois Land Surveyor Act of 1989; 68 Ill. Adm. Code 1270

1) Rulemaking:

A) Description: Various technical revisions may be made.

B) Statutory Authority: [225 ILCS 330]
Scheduled meeting/hearing date: No hearings or meetings have been scheduled.

Date agency anticipates First Notice: Unknown

Effect on small businesses, small municipalities or not for profit corporations: Licensed land surveyors may be affected.

Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813
Fax: 217/557-4451

Related rulemakings and other pertinent information: None

Part (Heading and Code Citation): Marriage and Family Therapy Licensing Act

Rulemaking:

Description: Various sections may be amended to address the evaluation process for graduates from non approved educational programs.

Statutory Authority: [225 ILCS 55]

Schedule meeting/hearing date: No hearings or meetings have been scheduled.

Date agency anticipates First Notice: Unknown

Effect on small businesses, small municipalities or not for profit corporations: Individuals wishing to become licensed as a marriage and family therapist may be affected.

Agency contact person for information:

Department of Financial and Professional Regulation
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2006 REGULATORY AGENDA

Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813
Fax: 217/557-4451

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Massage Licensing Act; 68 Ill Adm. Code 1284

1) Rulemaking:

A) Description: The continuing education requirements for licensed massage therapists will be added.

B) Statutory Authority: [225 ILCS 57]

C) Scheduled meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed massage therapists will be affected.

F) Agency contact person for information:

Department of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813
Fax: 217/782-7645

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Nursing Home Administrators Licensing and Disciplinary Act; 68 Ill. Adm. Code 1310

1) Rulemaking:
A) **Description:** Requirements for obtaining a nursing home administrator temporary license will be clarified. Other technical revisions may be made.

B) **Statutory Authority:** [225 ILCS 70]

C) **Scheduled meeting/hearing date:** No hearings or meetings have been scheduled.

D) **Date agency anticipates First Notice:** Unknown

E) **Effect on small businesses, small municipalities or not for profit corporations:** Those making application for a temporary nursing home administrator license may be affected.

F) **Agency contact person for information:**

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL  62786
217/785-0813
Fax: 217/557-4451

G) **Related rulemakings and other pertinent information:** None

g) **Part (Heading and Code Citation):** Professional Engineering Practice Act of 1989; 68 Ill. Adm. Code 1380

1) **Rulemaking:**

A) **Description:** Technical revisions may be made.

B) **Statutory Authority:** [225 ILCS 325]

C) **Scheduled meeting/hearing date:** No hearings or meetings have been scheduled.

D) **Date agency anticipates First Notice:** Unknown
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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E) Effect on small businesses, small municipalities or not for profit corporations: Licensed professional engineers may be affected.

F) Agency contact person for information:

   Department of Professional Regulation
   Attention: Barb Smith
   320 West Washington, 3rd Floor
   Springfield IL  62786
   217/785-0813
   Fax: 217/557-4451

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Rules of Practice in Administrative Hearings; 68 Ill. Adm. Code 1110

1) Rulemaking:

   A) Description: Guidelines may be added to address contumacious conduct in administrative hearings.

   B) Statutory Authority: [5 ILCS 100/5-10(a)(1)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois.

   C) Scheduled meeting/hearing date: No hearings or meetings have been scheduled.

   D) Date agency anticipates First Notice: Unknown

   E) Effect on small businesses, small municipalities or not for profit corporations: None.

   F) Agency contact person for information:

      Department of Professional Regulation
      Attention: Barb Smith
      320 West Washington, 3rd Floor
      Springfield IL  62786
      217/785-0813
Related rulemakings and other pertinent information: Administrative hearing rules for all the Divisions will be reviewed.

Part (Heading and Code Citation): Structural Engineering Practice Act of 1989; 68 Ill. Adm. Code 1480

1) Rulemaking:
   
   A) Description: Various technical revisions may be made.
   
   B) Statutory Authority: [225 ILCS 340]
   
   C) Scheduled meeting/hearing date: No hearings or meetings have been scheduled.
   
   D) Date agency anticipates First Notice: Unknown
   
   E) Effect on small businesses, small municipalities or not for profit corporations: Licensed structural engineers may be affected.
   
   F) Agency contact person for information:

   Department of Professional Regulation
   Attention: Barb Smith
   320 West Washington, 3rd Floor
   Springfield IL  62786
   217/785-0813
   Fax: 217/557-4451

   G) Related rulemakings and other pertinent information: None

Part (Heading and Code Citation): Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act; 68 Ill. Adm. Code 1285

1) Rulemaking:
   
   A) Description: Clarification of experience requirements and other technical clean-up changes may be made.
B) **Statutory Authority:** [225 ILCS 130]

C) **Scheduled meeting/hearing date:** No hearings or meetings have been scheduled.

D) **Date agency anticipates First Notice:** Unknown

E) **Effect on small businesses, small municipalities or not for profit corporations:** Individuals wishing to become registered as a surgical assistant or surgical technologist may be affected.

F) **Agency contact person for information:**

   Division of Professional Regulation  
   Attention: Barb Smith  
   320 West Washington, 3rd Floor  
   Springfield IL 62786  
   217/785-0813  
   Fax: 217/557-4451

G) **Related rulemakings and other pertinent information:** None
DEPARTMENT OF HUMAN SERVICES

JANUARY 2006 REGULATORY AGENDA

a) Part (Heading and Code Citation): Americans with Disabilities Act Grievance Procedure; 4 Ill. Adm. Code 300

1) Rulemaking: Amendment

   A) Description: Amendments will be made to change address to the ADA Coordinator (401 S. Clinton, 4th Fl.), rename section that serves at ADA Coordinator (Bureau of Accessibility and Safety Systems) and add grievance form number (444-4715 – Americans with Disabilities/Section 504 Grievance Request).

   B) Statutory Authority: Implementing and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]

   C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

   D) Date agency anticipates First Notice: 01/20/06

   E) Affect small business, small municipalities or not for profit corporations: None

   F) Agency contact person for information:

      Tracie Drew, Bureau Chief
      Bureau of Administrative Rules and Procedures
      Department of Human Services
      100 South Grand Avenue, East
      Springfield, Illinois 62762
      217/785-9772

   G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Recipient's Property; 59 Ill. Adm. Code 110

1) Rulemaking: Amendment
DEPARTMENT OF HUMAN SERVICES

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A) **Description:** Amend this rule to clarify possession of various electronic components and media.

B) **Statutory Authority:** Implementing Section 20 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/20] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and by Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5]

C) **Scheduled Meeting/Hearing Date:** The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) **Date agency anticipates First Notice:** 02/01/06

E) **Affect small business, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/785-9772

G) **Related rulemakings and other pertinent information:** None

1) **Rulemaking:** Amendment

   A) **Description:** This rulemaking will be a major re-write in order to comply with federal expectations for Medicaid reimbursement and elimination of Mental Health components of the and creation of new MH Residential Rule.
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B) **Statutory Authority:** Implementing the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and the Health Care Worker Background Check Act [225 ILCS 46], and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5]

C) **Scheduled Meeting/Hearing Date:** The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) **Date agency anticipates First Notice:** 03/01/06

E) **Affect small business, small municipalities or not for profit corporations:** Yes, this proposed rulemaking provides the operating guidelines for organizations that operate CILA programs and would place a regulatory structure on the operations of certain residential settings, which are operated by not-for-profit corporations.

F) **Agency contact person for information:**

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois 62762  
217/785-9772

G) **Related rulemakings and other pertinent information:** None

d) **Part(s) (Heading and Code Citation):** Family Assistance and Home-Based Support Program for Persons with Mental Disabilities; 59 Ill. Adm. Code 117

1) **Rulemaking:** Amendment

A) **Description:** This rule is being amended to delete all references to the Home-Based Support Program for persons with developmental disabilities. The Family Assistance Program and the Home-Based Support
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Program for persons with mental illness will remain part of this rule. This HBS Program for persons with DD will be combined with the re-write of Rule 115 and 119.

B) **Statutory Authority:** Implementing the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-1] and the Family Assistance Law for Mentally Disabled Children [405 ILCS 80/3-1] and authorized by Section 2-16 of the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-16], Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Act [20 ILCS 1705/5]

C) **Scheduled Meeting/Hearing Date:** The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) **Date agency anticipates First Notice:** 02/01/06

E) **Affect small business, small municipalities or not for profit corporations?** Yes. There are some small business and not-for-profit corporations that provide these services.

F) **Agency contact person for information:**
   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   (217) 785-9772

G) **Related rulemakings and other pertinent information:** This is part of the re-write of 59 Ill. Adm. Code 115 and 119.

   e) **Part (Heading and Code Citation):** Minimum Standards for Certification of Developmental Training Programs; 59 Ill. Adm. Code 119

   1) **Rulemaking:** Amendment
A) Description: This rulemaking will be a major re-write in order to comply with federal expectations for Medicaid reimbursement and to expand coverage to other types of day programs.

B) Statutory Authority: Implementing Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations: Yes, this proposed rulemaking provides the operating guidelines for participation in the program for organizations that operate day programs.

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/785-9772

G) Related rulemakings and other pertinent information: This re-write is connected with the re-write of 59 Ill. Adm. Code 115.

f) Part (Heading and Code Citation): Medicaid Home and Community-Based Services; 59 Ill. Adm. Code 120

1) Rulemaking: Amendment

   A) Description: This rule will be changed due to the re-write of 59 Ill. Adm. Code 115 and 119. Duplication will be eliminated.
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B) Statutory Authority: Implementing Section 3 of the Community Services Act [405 ILCS 30/3] and Sections 5-1 through 5-11 of the Public Aid Code [305 ILCS 5/5-1 through 5-11] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations: No.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: This re-write is connected with the re-write of 59 Ill. Adm. Code 115 and 119.

g) Part (Heading and Code Citation): Recipient Discharge/Linkage/Aftercare; 59 Ill. Adm. Code 125

1) Rulemaking: Amendment

A) Description: Major revisions of this rule are necessary to meet current needs or alternatively pulling mental health components from this rule to create a new mental health focused rule.
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B) Statutory Authority: Implementing and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Sections 5, 15, 15.1, 15a, 15b and 16 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5, 15, 15.1, 15a, 15b and 16]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations: Yes. This rulemaking will affect how the Department handles discharges and continuity of care in the community and therefore affects community mental health agencies.

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/ 785-9772

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Children's Mental Health Screening, Assessment and Support Services; 59 Ill. Adm. Code 131

1) Rulemaking: Emergency Amendment

A) Description: Allow DHS-funded children and adolescents to receive crises treatment services provided by a psychiatrist/physician during the in-patient hospital stay as well as SASS outpatient psychiatric evaluation.
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B) Statutory Authority: Authorized by and implementing the Children's Mental Health Act of 2003 [405 ILCS 49] and Section 5-5.23 of the Illinois Public Aid Code [305 ILCS 5/5-5.23]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 01/01/06

E) Affect small business, small municipalities or not for profit corporations: Yes. This rulemaking will allow for payment of currently uncovered services.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Sexually Violent Persons; 59 Ill. Adm. Code 299

1) Rulemaking: Amendment

A) Description: Clarify various provisions relative to the Hargett decision.

B) Statutory Authority: Implementing and authorized by the Sexually Violent Persons Commitment Act [725 ILCS 20]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
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D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations: No

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois 62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Family Planning Services Code; 77 Ill. Adm. Code 635

1) Rulemaking: Amendment

   A) Description: This rulemaking will revise language to comply with current federal guidelines and updates to correct terminology.

   B) Statutory Authority: Implementing and authorized by Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55]

   C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

   D) Date agency anticipates First Notice: 06/30/06

   E) Affect small business, small municipalities or not for profit corporations: Yes. DHS-contracted service providers that are small not-for-profit agencies.

   F) Agency contact person for information:
DEPARTMENT OF HUMAN SERVICES

JANUARY 2006 REGULATORY AGENDA

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Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
217/785-9772

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): WIC Vendor Management Code; 77 Ill. Adm. Code 672

1) Rulemaking: Amendment

A) Description: This rulemaking will add requirements that Infant Formula be purchased from approved sources, ensure that vendors make less than half of their income for food stamp eligible foods from transacting WIC food instruments and include a definition of "Pattern of Overcharges".

B) Statutory Authority: Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255]. Public Law 108-265 "The Child Nutrition and WIC Reauthorization Act of 2004". FNS final regulations may be available in December '05 or January '06

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 01/15/06

E) Affect small business, small municipalities or not for profit corporations: Yes. Qualification to be a WIC vendor will require that stores be able to show on request that they are not making more than half of their food stamp eligible food sales to customers using WIC Food Instruments. This will be easier for stores in the Food Stamp Program which use automated scanners to record sales. The Department expects that only a few stores will be adversely affected by this and is preparing to help those stores meet the new requirements.
F) **Agency contact person for information:**

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois  62762  
217/785-9772

G) **Related rulemakings and other pertinent information:**  None

I) **Part (Heading and Code Citation):** Award and Monitoring of Funds; 77 Ill. Adm. Code 2030

1) **Rulemaking:** Amendment

A) **Description:** This rulemaking will be repealed and included in 77 Ill. Adm. Code 2060 as a new subsection.

B) **Statutory Authority:** Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]

C) **Scheduled Meeting/Hearing Date:** The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) **Date agency anticipates First Notice:** 02/01/06

E) **Affect small business, small municipalities or not for profit corporations:** No

F) **Agency contact person for information:**

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue, East  
Springfield, Illinois  62762  
217/785-9772
G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Compulsive Gambling; 77 Ill. Adm. Code 2059

1) Rulemaking: Repeal

A) Description: This rule will be repealed and included in 77 Ill. Adm. Code 2060 as a new subsection.


C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations: No.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None

n) Part (Heading and Code Citation): Alcoholism & Substance Abuse Treatment & Intervention Licenses; 77 Ill. Adm. Code 2060
DEPARTMENT OF HUMAN SERVICES

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1) Rulemaking: Amendment

A) Description: This rule will be amended to update clinical and licensure standards as well as to add new subsections relative to funding, Medicaid standards and compulsive gambling treatment and intervention standards.

B) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5] and the Alcoholism and Other Drug Dependency Act [20 ILCS 301]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations? None

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
217/785-9772

G) Related rulemakings and other pertinent information: None

o) Part (Heading and Code Citation): Subacute Alcoholism & Substance Abuse Treatment Services; 77 Ill. Adm. Code 2090

1) Rulemaking: Repeal

A) Description: This rule will be repealed and Medicaid provisions covered in this rule will be included in 77 Ill. Adm. Code 2060 as a new subsection.
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B) Statutory Authority: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations: No.

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois 62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

p) Part (Heading and Code Citation): Child Care; 89 Ill. Adm. Code 50

1) Rulemaking: Amendment

   A) Description: Reduce the work requirement for full-time students enrolled in the Non-TANF Education and Training Program and limit participation in post-secondary education to 60 non-consecutive months total (for those not working at all).

   B) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13]
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C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 05/01/06

E) Affect small business, small municipalities or not for profit corporations? No

F) Agency contact person for information:
   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois 62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

q) Part (Heading and Code Citation): Child Care; 89 Ill. Adm. Code 50

1) Rulemaking: Amendment

A) Description: Pursuant to provisions of Public Act 93-0361, increase the income eligibility guidelines for child care to 50% of the 2007 State Median Income

B) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13] and P. A. 93-0361

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 05/01/06
DEPARTMENT OF HUMAN SERVICES

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E) Affect small business, small municipalities or not for profit corporations?
Yes. This rulemaking may affect child care providers.

F) Agency contact person for information:
   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

r) Part (Heading and Code Citation): Child Care; 89 Ill. Adm. Code 50

1) Rulemaking: Amendment

A) Description: This rulemaking will clarify and strengthen self-employment language and include rules for those who are working at home.

B) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations?
May affect some self-employment enterprises

F) Agency contact person for information:
   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
DEPARTMENT OF HUMAN SERVICES

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100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: This rulemaking is being proposed in response to a JCAR recommendation that DHS specify all the standards that must be met and the relevant documentation required to verify legitimate employment or self-employment without regard to where the work is performed.

s) Part (Heading and Code Citation): Child Care; 89 Ill. Adm. Code 50

1) Rulemaking: Amendment

A) Description: This rulemaking will establish sanctions for parents who commit program violations that result in overpayment and who make no attempt to repay.

B) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations? No.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772
DEPARTMENT OF HUMAN SERVICES

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G) Related rulemakings and other pertinent information: None

t) Part (Heading and Code Citation): Child Care; 89 Ill. Adm. Code 50

1) Rulemaking: Amendment

A) Description: This rulemaking will establish certification requirements for license-exempt providers by requiring them to submit a copy of their government-issued photo ID and a copy of their social security card.

B) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations? No.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
217/785-9772

G) Related rulemakings and other pertinent information: None

u) Part (Heading and Code Citation): Temporary Assistance for Needy Families; 89 Ill. Adm. Code 112

1) Rulemaking: Amendment
A) **Description:** This rulemaking will eliminate the requirement that the TANF client be present at one redetermination of eligibility in a 12-month period.

B) **Statutory Authority:** Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13]

C) **Scheduled Meeting/Hearing Date:** The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) **Date agency anticipates First Notice:** 01/01/06

E) **Affect small business, small municipalities or not for profit corporations?** No.

F) **Agency contact person for information:**

   Tracie Drew, Bureau Chief  
   Bureau of Administrative Rules and Procedures  
   Department of Human Services  
   100 South Grand Avenue, East  
   Springfield, Illinois 62762  
   217/785-9772

G) **Related rulemakings and other pertinent information:** None

v) **Part (Heading and Code Citation):** Aid to the Aged, Blind or Disabled; 89 Ill. Adm. Code 113

1) **Rulemaking:** Amendment

   A) **Description:** This rulemaking will amend Section 113.253 – Allowances for Increases in SSI Benefits. Increase the Grant Adjustment Allowance to pass along the 2006 COLA SSI increase.

   B) **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]
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C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 03/01/06

E) Affect small business, small municipalities or not for profit corporations? No

F) Agency contact person for information:

    Tracie Drew, Bureau Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue, East
    Springfield, Illinois  62762
    217/785-9772

G) Related rulemakings and other pertinent information: None

w) Part (Heading and Code Citation): Aid to the Aged, Blind or Disabled; 89 Ill. Adm. Code 113

1) Rulemaking: Amendment

A) Description: This rulemaking will amend Section 113.260 – Sheltered Care/Personal or Nursing Care Rates. Increased as a result of the 2006 SSI COLA.


C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 03/01/06
DEPARTMENT OF HUMAN SERVICES

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E) Affect small business, small municipalities or not for profit corporations?
Some sheltered care facilities may be affected by this rulemaking.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None

x) Part (Heading and Code Citation): Medical Payment; 89 Ill. Adm. Code 140

1) Rulemaking: Amendment

A) Description: This rulemaking will be amended for the purposes of giving
more incentive in the downsizing of private ICFs/DD and to make a minor
technical correction suggested by a DHFS audit.

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

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to
comment on these rules during the First Notice Period. Hearings will be
held if necessary as required by the Illinois Administrative Procedures Act
[5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations?
Yes, this rulemaking will affect small business.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
DEPARTMENT OF HUMAN SERVICES

JANUARY 2006 REGULATORY AGENDA

Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None

y) Part (Heading and Code Citation): New Rule regarding Autism Research Fund.

1) Rulemaking: New Rulemaking

A) Description: PA 94-0442 requires DHS to promulgate a rule to create a scientific review committee to review grant applications to be funded by the Autism Research Fund created via an income tax checkoff.

B) Statutory Authority: PA 94-0442

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations? No

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/785-9772

G) Related rulemakings and other pertinent information: None
DEPARTMENT OF HUMAN SERVICES

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z) Part (Heading and Code Citation): Universal Newborn Hearing Screening Program; 89 Ill. Adm. Code 504

1) Rulemaking: Amendment

A) Description: Amend Section 504.30, Section 504.40, and Section 504.60 to reflect current practice.

B) Statutory Authority: Implementing and authorized by the Hearing Screening for Newborns Act [410 ILCS 213]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

D) Date agency anticipates First Notice: 07/01/06

E) Affect small business, small municipalities or not for profit corporations? No.

F) Agency contact person for information:

    Tracie Drew, Bureau Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue, East
    Springfield, Illinois  62762
    217/785-9772

G) Related rulemakings and other pertinent information: None

aa) Part (Heading and Code Citation): Assessment for Determining Eligibility and Rehabilitation Needs; 89 Ill. Adm. Code 553

1) Rulemaking: Amendment

A) Description: Amendments will be made to 553.130 to make it correspond with changes that were recently made to 553.140. The changes to 553.130 were inadvertently left out. This pertains to the Order of Selection.
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B) Statutory Authority: Implementing and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

bb) Part (Heading and Code Citation): Role of Residential Educational Facilities Operated by The Illinois Department of Human Services; 89 Ill. Adm. Code 750

   1) Rulemaking: Amendment

   A) Description: This rulemaking will add a new subpart regarding the role of the advisory boards for the residential schools.

   B) Statutory Authority: Implementing and authorized by Sections 3(b), (f) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(b), (f), and (k)]

   C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be
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held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 02/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois  62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

cc) Part (Heading and Code Citation): Definition of Terms; 89 Ill. Adm. Code 751

1) Rulemaking: Amendment

   A) Description: This rulemaking may require changes based on new IDEA regulations.

   B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10]

   C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

   D) Date agency anticipates First Notice: 06/01/06

   E) Affect small business, small municipalities or not for profit corporations: None
DEPARTMENT OF HUMAN SERVICES

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F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None

dd) Part (Heading and Code Citation): Admission Procedures; 89 Ill. Adm. Code 755

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new IDEA regulations.

B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772
G) Related rulemakings and other pertinent information: None

ee) Part (Heading and Code Citation): Special Education Program and Services; 89 Ill. Adm. Code 765

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new IDEA regulations.

B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

    Tracie Drew, Bureau Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue, East
    Springfield, Illinois  62762
    217/785-9772

G) Related rulemakings and other pertinent information: None

ff) Part (Heading and Code Citation): Identification, Evaluation, and Placement of Students; 89 Ill. Adm. Code 795

1) Rulemaking: Amendment
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A) **Description:** This rulemaking may require changes based on new IDEA regulations.

B) **Statutory Authority:** Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13]

C) **Scheduled Meeting/Hearing Date:** The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) **Date agency anticipates First Notice:** 06/01/06

E) **Affect small business, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois 62762
   217/785-9772

G) **Related rulemakings and other pertinent information:** None

**gg)** **Part (Heading and Code Citation):** Special Transportation; 89 Ill. Adm. Code 815

1) **Rulemaking:** Amendment

A) **Description:** This rulemaking may require changes based on new IDEA regulations.

B) **Statutory Authority:** Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13]
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C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

   Tracie Drew, Bureau Chief
   Bureau of Administrative Rules and Procedures
   Department of Human Services
   100 South Grand Avenue, East
   Springfield, Illinois 62762
   217/785-9772

G) Related rulemakings and other pertinent information: None

hh) Part (Heading and Code Citation): Rules of Conduct, Discipline, Suspension and Discharge Procedures; 89 Ill. Adm. Code 827

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new IDEA regulations.

B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06
DEPARTMENT OF HUMAN SERVICES

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E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
217/785-9772

G) Related rulemakings and other pertinent information: None

ii) Part (Heading and Code Citation): Impartial Due Process Hearing; 89 Ill. Adm. Code 828

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new IDEA regulations.

B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
DEPARTMENT OF HUMAN SERVICES

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Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None

jj) Part (Heading and Code Citation): Sex Equity; 89 Ill. Adm. Code 829

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new IDEA regulations.

B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois  62762
217/785-9772

G) Related rulemakings and other pertinent information: None
kk) Part (Heading and Code Citation): Therkelsen/Hansen College Loan Fund; 89 Ill. Adm. Code 830

1) Rulemaking: Amendment

A) Description: This rulemaking may require amendments for clarification and streamlining purposes.

B) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 06/01/06

E) Affect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

    Tracie Drew, Bureau Chief
    Bureau of Administrative Rules and Procedures
    Department of Human Services
    100 South Grand Avenue, East
    Springfield, Illinois 62762
    217/785-9772

G) Related rulemakings and other pertinent information: None
DEPARTMENT OF NATURAL RESOURCES

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a) Part (Heading and Code Citation):  Rulemaking and Organization; 2 Ill. Adm. Code 825

1) Rulemaking:

A) Description: Proposed amendments will update procedures for rulemaking and the organization structure.

B) Statutory Authority: Implementing and authorized by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: May 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation):  Freedom of Information; 2 Ill. Adm. Code 826

1) Rulemaking:

A) Description: Update the Departments procedures for issuing information pursuant to the Freedom of Information Act.

B) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140/1 et seq.]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: May 2006
DEPARTMENT OF NATURAL RESOURCES

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E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information:  None

c) Part (Heading and Code Citation):  Public Use of State Parks and Other Properties of the Department of Natural Resources; 17 Ill. Adm. Code 110

1) Rulemaking: Update Violations Section and add language regarding dogs lawfully used to track wounded deer.

A) Description:

B) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-520, 805-525, 805-330, 805-335 and 805-515]

C) Scheduled meeting/hearing dates:  None

D) Date agency anticipates First Notice: February 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
d) Part (Heading and Code Citation): Competitive Tournament Fishing on State Owned and/or Leased Water Areas; 17 Ill. Adm. Code 115

1) Rulemaking:
   
   A) Description: Amendments are necessary to update sites.
   
   B) Statutory Authority: Implementing and authorized by Section 468 of the "State Parks Act" [20 ILCS 835/4] and Sections 1.5 and 2.1 of the Fish and Aquatic Life Code [515 ILCS 5/1-125 and 5-5].
   
   C) Scheduled meeting/hearing dates: None
   
   D) Date agency anticipates First Notice: March 2006
   
   E) Affect on small businesses, small municipalities or not for profit corporations: None
   
   F) Agency contact person for information:

   Jack Price
   One Natural Resources Way
   Springfield IL  62702-1271
   217/782-1809

   G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Camping on Department of Natural Resources Properties; 17 Ill. Adm. Code 130

1) Rulemaking:

   A) Description: Amendments are necessary to update the regulations for Camping on Department of Natural Resources Properties.
DEPARTMENT OF NATURAL RESOURCES

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B) Statutory Authority: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835/1 and 4(1) and (5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: February 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Regulations Concerning Horse Barns at Sites Having Equestrian Use Areas; 17 Ill. Adm. Code 140

1) Rulemaking:

A) Description: Amendments are necessary to update regulations for overnight barn stabling of horses at Department sites having equestrian use areas.

B) Statutory Authority: Implementing and authorized by Sections 1, 4, 4c and 6 of the "State Parks Act" [20 ILCS 835/1, 4, 4c and 6]; and by Section 5 of the State Parks Designation Act [20 ILCS 840/5].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: March 2006
DEPARTMENT OF NATURAL RESOURCES

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E) Affect on small businesses, small municipalities or not for profit corporations: Will affect persons with concession contracts with DNR.

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Regulations for the Letting of Concessions, Farm Leases, Sale of Buildings and Facilities, and Demolitions; 17 Ill. Adm. Code 150

1) Rulemaking:

A) Description: Amendments to this Part are necessary to update regulations and selection criteria regarding concession leases, agricultural management leases, sale of buildings and facilities and demolitions.

B) Statutory Authority: Implementing and authorized by Sections 63a6, 63a14, and 63a21 of the Civil Administrative Code of Illinois [20 ILCS 805/63a6, 63a14, and 63a21]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: March 2006

E) Affect on small businesses, small municipalities or not for profit corporations: Will affect persons with concession agreements, lease agreements or contracts with DNR.

F) Agency contact person for information:

Jack Price
One Natural Resources Way
DEPARTMENT OF NATURAL RESOURCES

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Springfield IL 62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Hunting and Trapping Accidents; 17 Ill. Adm. Code 515

1) Rulemaking:

A) Description: Amendments are necessary to update regulations for reporting hunting and trapping accidents to the Department.

B) Statutory Authority: Implementing and authorized by Section 3.40 of the Wildlife Code [520 ILCS 5/3.40] and Section 63a37 of The Civil Administrative Code of Illinois [20 ILCS 805/63a37]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: April 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Special Purpose Permits; 17 Ill. Adm. Code 522

1) Rulemaking:

A) Description: This new Part establishes regulations for wildlife rehabilitation special purpose permittees.
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B) **Statutory Authority:** Implementing and authorized by Sections 1-125, 5-5, 20-100 and 20-105 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 5-5, 20-100 and 20-105] and Sections 2.1, 3.22 and 3.36 of the Wildlife Code [520 ILCS 5/2.1, 3.22 and 3.36]

C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** November 2003

E) **Affect on small businesses, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) **Related rulemakings and other pertinent information:** None

j) **Part (Heading and Code Citation):** Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting; 17 Ill. Adm. Code 530

1) **Rulemaking:**

A) **Description:** Amendments are necessary to update this Part for the 2006 hunting season.

B) **Statutory Authority:** Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.26, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]

C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** January 2006
DEPARTMENT OF NATURAL RESOURCES

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E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting; 17 Ill. Adm. Code 550

1) Rulemaking:

A) Description: Amendments are necessary to update regulations for the 2006 hunting season.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None
DEPARTMENT OF NATURAL RESOURCES
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I) Part (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Trapping; 17 Ill. Adm. Code 570

1) Rulemaking:
   A) Description: This Part is being amended to update regulations for the 2006 trapping season.
   B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5]
   C) Scheduled meeting/hearing dates: None
   D) Date agency anticipates First Notice: March 2006
   E) Affect on small businesses, small municipalities or not for profit corporations: None
   F) Agency contact person for information:
      Jack Price
      One Natural Resources Way
      Springfield IL  62702-1271
      217/782-1809
   G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Duck, Goose and Coot Hunting; 17 Ill. Adm. Code 590

1) Rulemaking:
   A) Description: This Part is being amended to update regulations for the 2006 season.
   B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8 and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2,
n) Part (Heading and Code Citation): Squirrel Hunting; 17 Ill. Adm. Code 690

1) Rulemaking:

A) **Description:** This Part is being amended to update regulations for the 2006 hunting season.

B) **Statutory Authority:** Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5]

C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** January 2006

E) **Affect on small businesses, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**
DEPARTMENT OF NATURAL RESOURCES

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Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information:  None

o) Part (Heading and Code Citation):  The Taking of Wild Turkeys – Fall Gun Season; 17 Ill. Adm. Code 715

1) Rulemaking:

A) Description:  This Part is being amended to update regulations for the 2006 hunting season.

B) Statutory Authority:  Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11]

C) Scheduled meeting/hearing dates:  None

D) Date agency anticipates First Notice:  January 2006

E) Affect on small businesses, small municipalities or not for profit corporations:  None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information:  None

p) Part (Heading and Code Citation):  The Taking of Wild Turkeys – Fall Archery Season; 17 Ill. Adm. Code 720

1) Rulemaking:
DEPARTMENT OF NATURAL RESOURCES

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A) **Description:** This Part is being amended to update regulations for the 2006 hunting season.

B) **Statutory Authority:** Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** January 2006

E) **Affect on small businesses, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**

Jack Price  
One Natural Resources Way  
Springfield IL  62702-1271  
217/782-1809

G) **Related rulemakings and other pertinent information:** None

q) **Part (Heading and Code Citation):** Dove Hunting; 17 Ill. Adm. Code 730

1) **Rulemaking:**

A) **Description:** This Part is being amended to update regulations for the 2006 hunting season.

B) **Statutory Authority:** Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** January 2006

E) **Affect on small businesses, small municipalities or not for profit corporations:** None
DEPARTMENT OF NATURAL RESOURCES

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F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information:  None

r) Part (Heading and Code Citation):  Crow, Woodcock, Snipe, Rail and Teal Hunting; 17 Ill. Adm. Code 740

1) Rulemaking:

A) Description:  This Part is being amended to update regulations for the 2006 hunting season.

B) Statutory Authority:  Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987)

C) Scheduled meeting/hearing dates:  None

D) Date agency anticipates First Notice:  February 2006

E) Affect on small businesses, small municipalities or not for profit corporations:  None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information:  None
Part (Heading and Code Citation): Hunting Season for Game Breeding and Hunting Preserve Areas; 17 Ill. Adm. Code 745

1) Rulemaking:
   A) Description: This Part is being amended to update regulations on establishing hunting season for game breeding and hunting preserve areas.
   B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.1, 2.2, 3.27, 3.28, 3.29 and 3.30 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.1, 2.2, 3.27, 3.28 and 3.29]
   C) Scheduled meeting/hearing dates: None
   D) Date agency anticipates First Notice: March 2006
   E) Affect on small businesses, small municipalities or not for profit corporations: None
   F) Agency contact person for information:
      Jack Price
      One Natural Resources Way
      Springfield IL  62702-1271
      217/782-1809
   G) Related rulemakings and other pertinent information: None

Part (Heading and Code Citation): Commercial Fishing and Musseling in Certain Waters of the State; 17 Ill. Adm. Code 830

1) Rulemaking:
   A) Description: Amendments will be made to update regulations.
C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** February 2006

E) **Affect on small businesses, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**

Jack Price  
One Natural Resources Way  
Springfield IL  62702-1271  
217/782-1809

G) **Related rulemakings and other pertinent information:** None

u) **Part (Heading and Code Citation):** Designation of Restricted Waters in the State of Illinois; 17 Ill. Adm. Code 2030

1) **Rulemaking:**

A) **Description:** Proposed amendments will update list of designated waters.

B) **Statutory Authority:** Implementing and authorized by Section 5-7 and 5-12 of the boar Registration and Safety Act [625 ILCS 45/5-7 and 5-12]

C) **Scheduled meeting/hearing dates:** None

D) **Date agency anticipates First Notice:** May 2006

E) **Affect on small businesses, small municipalities or not for profit corporations:** None

F) **Agency contact person for information:**

Jack Price  
One Natural Resources Way
DEPARTMENT OF NATURAL RESOURCES

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Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information:  None

v) Part (Heading and Code Citation):  Interstate Wildlife Violator Compact; 17 Ill. Adm. Code 2535

1) Rulemaking:

   A) Description:  Proposed New Rule containing regulations for entering into interstate compacts concerning conservation law violators with one or more other states.

   B) Statutory Authority:  20 ILCS 805/805-545

   C) Scheduled meeting/hearing dates:  None

   D) Date agency anticipates First Notice:  March 2006

   E) Affect on small businesses, small municipalities or not for profit corporations:  None

   F) Agency contact person for information:

       Jack Price
       One Natural Resources Way
       Springfield IL  62702-1271
       217/782-1809

   G) Related rulemakings and other pertinent information:  None

w) Part (Heading and Code Citation):  Relocation Assistance and Payments Program; 17 Ill. Adm. Code 2575

1) Rulemaking:

   A) Description:  Update regulations pertaining to relocation and reestablishment of persons, businesses, farm operations and
nonprofit organizations displaced as a result of the acquisition of land for State conservation projects.

B) **Statutory Authority**: Implementing and authorized by Sections 1 through 5 of the Displaced Person Relocation Act [310 ILCS 40/1-5], Section 3 of the State Forest Act [525 ILCS 40/3], Section 2 of the State Parks Act [20 ILCS 835/2], Section 1.9 of the Wildlife Code [520 ILCS 5/1.9] and Section 7.05 of the Illinois Natural Areas Preservation Act [525 ILCS 30/7.05]

C) **Scheduled meeting/hearing dates**: None

D) **Date agency anticipates First Notice**: March 2006

E) **Affect on small businesses, small municipalities or not for profit corporations**: None

F) **Agency contact person for information**:

   Jack Price  
   One Natural Resources Way  
   Springfield IL 62702-1271  
   217/782-1809

G) **Related rulemakings and other pertinent information**: None

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**Part (Heading and Code Citation)**: Public Museum Grants Program; 17 Ill. Adm. Code 3200

1) **Rulemaking**:

   A) **Description**: Update regulations for administration of the public museum grant program.

   B) **Statutory Authority**: Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)]

   C) **Scheduled meeting/hearing dates**: None
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D) Date agency anticipates First Notice: March 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

G) Related rulemakings and other pertinent information: None

y) Part (Heading and Code Citation): The Illinois Oil and Gas Act; 62 Ill. Adm. Code 240

1) Rulemaking:

A) Description: These amendments are being proposed to increase the amount for civil penalties for non-compliance with the rules, clarify who is required to be notified of administrative hearings by the Division of Oil and Gas, to require the GPS locations for new wells, and to clarify existing language in the rules.

B) Statutory Authority: Implementing and authorized by Sections 6 and 8a of "The Illinois Oil and Gas Act" [225 ILCS 725/6 and 8a]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2006

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jack Price
One Natural Resources Way
Springfield IL  62702-1271
DEPARTMENT OF NATURAL RESOURCES

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G) Related rulemakings and other pertinent information: None
a) Part (Heading and Code Citation): Family Practice Residency Code; 77 Ill. Adm. Code 590

1) Rulemaking

A) Description: Subpart C: Medical Student Scholarships
This Subpart includes provisions for the distribution of medical student scholarships. Amendments will clarify limitations on use of scholarship funds, terms of performance, designation of shortage areas and notification of shortage area designations.

B) Statutory Authority: Family Practice Residency Act [110 ILCS 935]

C) Schedule of meeting/hearing dates: Proposed amendments will be reviewed by the State Board of Health.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses will not be affected by this rulemaking.

F) Information concerning this regulatory agenda shall be directed to:
   
   Susan Meister
   Division of Legal Services
   535 W. Jefferson, 5th Floor
   Springfield, Illinois 62761
   217/782-2043

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Illinois Formulary for the Drug Product Selection Program; 77 Ill. Adm. Code 790

1) Rulemaking

A) Description: This rulemaking will clarify the Department’s authority and procedures for the addition of multiple-source drug products to the Illinois Formulary that are not subject to a New Drug Application (NDA) or Abbreviated New Drug Application (ANDA) by the federal Food and
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Drug Administration (FDA). It will also clarify the general procedures for inclusion in the Illinois Formulary of products listed in the FDA’s publication, Approved Drug Products with Therapeutic Equivalence Evaluations.


C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health.

D) Date agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for-profit corporations: These amendments will provide for the immediate inclusion of additional generic drug products in the Illinois Formulary, available for Illinois pharmacists’ prescription interchange.

F) Information concerning this regulatory agenda shall be directed to:

Susan Meister
Division of Legal Services
535 W. Jefferson, 5th Floor
Springfield, Illinois  62761
217/782-2043

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois; 77 Ill. Adm. Code 855

1) Rulemaking

A) Description: This rulemaking involves revisions to the rules governing asbestos abatement activities in public and private schools and commercial and public buildings in Illinois. Proposed changes to the rules include: 1) clarification of incorporated materials to eliminate specific areas of inconsistency and to update referenced documents; 2) addition of definitions for “demolition,” “incidental breakage” and other terms
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associated with non-friable floor tile removal; 3) increased licensing fees for workers and professionals; 4) clarification of notification requirements and procedures and clearance air sampling procedures for abatement of asbestos in commercial and public buildings; 5) addition of whole floor tile removal procedures for commercial and public buildings and schools; 6) provision of standards for floor tile supervisor and worker training.

B) Statutory Authority: Section 6 (b)(i)(2)(d) of the Asbestos Abatement Act [105 ILCS 105] and the Commercial and Public Building Asbestos Abatement Act [225 ILCS 207]

C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health. Public Hearings will be scheduled during the first notice period for this rulemaking.

D) Date agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not-for-profit corporations: It is anticipated that the proposed changes will have minimum impact on the regulated industry.

F) Information concerning this regulatory agenda shall be directed to:

Susan Meister
Division of Legal Services
535 W. Jefferson, 5th Floor
Springfield, Illinois 62761
217/782-2043

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Lead Poisoning Prevention Code; 77 Ill. Adm. Code 845

1) Rulemaking

A) Description: The existing rules set forth the requirements for the approval of training providers and the licensing of persons who conduct lead abatement and mitigation activities in dwellings and child care facilities. Additionally, the regulations cite the minimum work practices to be
utilized when conducting lead investigations and remediation services to protect the public from associated hazards of lead exposure. This rulemaking involves a number of revisions to the lead poisoning prevention rules. Proposed changes include: 1) clarifying existing definitions applicable to lead activities; 2) eliminating redundancies of referenced incorporated federal regulations; 3) clarifying the work practices to be used by the Department or delegate agency for conducting investigations of regulated facilities that have been associated with a child with an elevated blood lead level; 4) establishing minimum work practices for lead investigations to be utilized by the regulated industry for conducting lead investigations in regulated facilities that are not associated with a child identified with an elevated blood lead level; 5) clarifying and expanding the minimum requirements for training course providers to receive Department approval to offer certified lead training for professionals seeking lead certification and licensing in Illinois; 6) clarifying the work practices to be prescribed by the Department or delegate agency for persons conducting lead mitigation or abatement of identified lead hazards in response to an investigation of regulated facilities associated with a child with an elevated blood lead level; 7) establishing minimum work practices for lead mitigation and abatement to be utilized by the regulated industry for conducting lead mitigation and abatement in regulated facilities that are not associated with a child identified with an elevated blood lead level; 8) clarifying existing requirements for licensed lead contractors to establish safe, effective and appropriate mitigation and abatement control plans to protect occupants of regulated facilities from lead hazards that may occur as a result of disturbed lead or generated as part of their lead work; 9) establishing record keeping requirements for licensed lead professionals and contractors; 10) clarifying the existing requirements for a licensed lead supervisor to oversee, manage and direct activities on lead mitigation and abatement projects; 11) clarifying existing requirements and standards for identification of lead, lead-bearing substances and lead hazards to be consistent with federal requirements; 12) establishing new regulations to be applied for fines and penalties applicable to licensed lead professionals, lead contractors and approved lead training course providers for violations of the Act or Code; and 13) establishing standards for administrative hearings.

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C) Schedule of meeting/hearing dates: Amendments have been approved by the State Board of Health.

D) Date agency anticipates First Notice: March 2006

E) Effect on small businesses, small municipalities or not for profit corporations: It is anticipated that the proposed changes will have minimum impact on the regulated industry.

F) Information concerning this regulatory agenda shall be directed to:

Susan Meister
Division of Legal Services
535 W. Jefferson, 5th Floor
Springfield, Illinois  62761
217/782-2043

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Certificates of Free Sale and Health Certificates; 77 Ill. Adm. Code 792

1) Rulemaking:

A) Description: This rulemaking will provide definitions and describe the procedures for firms requesting certificates of free sale and/or health certificates from the Department. Instructions for completing Department-provided application forms, preparation of certificates, preparation of certificates of authority, and payment of fees are detailed.

B) Statutory Authority: Implementing and authorized by Section 21.3 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/1]

C) Schedule of meeting/hearing dates: The amendments will be reviewed by the State Board of Health.

D) Date agency anticipates First Notice: April 2006
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E) **Effect on small businesses, small municipalities or not-for-profit corporations:** None known at this time

F) **Information concerning this regulatory agenda shall be directed to:**

   Susan Meister  
   Division of Legal Services  
   535 W. Jefferson, 5th Floor  
   Springfield, Illinois 62761  
   217/782-2043

G) **Related rulemakings and other pertinent information:** None

f) **Part (Heading and Code Citation):** Illinois Water Well Construction Code; 77 Ill. Adm. Code 920

1) **Rulemaking:**

   A) **Description:** This rulemaking will clarify the requirements for grouting drilled wells, establish the minimum time to grout a well following the removal of the drill rig from the drill site and requirements for bored well construction materials, clarify the notification requirement for sealing abandoned wells and the setback requirements between closed-loop wells, water wells and sources of contamination.

   B) **Statutory Authority:** Illinois Water Well Construction Code [415 ILCS 30]

   C) **Schedule of meeting/hearing dates:** This rulemaking has been reviewed by the Illinois Water Well and Pump Installation Contractor’s License Board.

   D) **Date agency anticipates First Notice:** February 2006

   E) **Effect on small businesses, small municipalities or not-for-profit corporations:** The rulemaking will have no effect on small businesses, small municipalities, and not-for-profit corporations.

   F) **Information concerning this regulatory agenda shall be directed to:**
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Susan Meister
Division of Legal Services
535 W. Jefferson, 5th Floor
Springfield, Illinois 62761
217/782-2043

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Water Well and Pump Installation Contractor’s License Code; 77 Ill. Adm. Code 915

1) Rulemaking:

A) Description: This rulemaking will specify the documentation required to verify that an individual has the required experience installing water wells and water well pumps; increase the time period that requests for continuing education sessions must be submitted to the Department from 4 weeks to 120 days before any training session is presented; specify the time the Department must be notified in advance by those conducting required continuing education sessions and establish requirements for approving continuing education topics.

B) Statutory Authority: Water Well and Pump Installation Contractor’s License Act [415 ILCS 30/1]

C) Schedule of meeting/hearing dates: This rulemaking has been reviewed by the Illinois Water Well and Pump Installation Contractor’s License Board.

D) Date agency anticipates First Notice: February 2006

E) Effect on small businesses, small municipalities or not-for-profit corporations: The rulemaking will have no effect on small businesses, small municipalities, and not-for-profit corporations.

F) Information concerning this regulatory agenda shall be directed to:

Susan Meister
Division of Legal Services
535 W. Jefferson, 5th Floor
DEPARTMENT OF PUBLIC HEALTH

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G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Intermediate Care for the Developmentally Disabled Facilities Code; 77 Ill. Adm. Code 350

1) Rulemaking
   A) Description: This rulemaking will amend staffing and employee orientation and training requirements in facilities of 16 or fewer beds.

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

   C) Scheduled meeting/hearing dates: Long Term Care Facility Advisory Board, July 2005 meeting

   D) Date agency anticipates First Notice: January 2006

   E) Effect on small businesses, small municipalities, or not-for-profit corporations: These amendments may affect long-term care facilities that are small businesses and not-for-profit corporations.

   F) Requests for information concerning this regulatory agenda shall be directed to:

      Susan Meister
      Division of Legal Services
      Illinois Department of Public Health
      535 West Jefferson
      Springfield, Illinois 62761
      217/782-2043

   G) Related rulemaking and other information: None

i) Part (Heading and Code Citation): End Stage Renal Disease Facility Code; 77 Ill. Adm. Code 235

   1) Rulemaking:
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A) **Description**: These rules will implement the End Stage Renal Disease Facility Act [210 ILCS 62]. The rules will include standards for infection control, personnel, patient-care services, records, physical plant, and quality assessment and improvement. Procedures for licensure application, inspections, notice of violation, plans of correction, sanctions, and hearings will be established.

B) **Statutory Authority**: End Stage Renal Disease Facility Act [210 ILCS 62]

C) **Scheduled meeting/hearing dates**: These rules will be reviewed by the ESRD Advisory Committee.

D) **Date agency anticipates First Notice**: Spring or summer 2006

E) **Effect on small businesses, small municipalities, or not-for profit corporations**: These amendments may affect small businesses and not-for-profit corporations that become licensees.

F) **Requests for information concerning this regulatory agenda shall be directed to**: 

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson  
Springfield, Illinois 62761  
217/782-2043

G) **Related rulemaking and other information**: None

j) **Part (Heading and Code Citation)**: Children’s Respite Care Center Demonstration Program Code (77 Ill. Adm. Code 260)

1) **Rulemaking**:

A) **Description**: These rules will be amended in response to P.A. 93-0402 (effective January 1, 2004), which amended the Alternative Health Care Delivery Act to change the name and the scope of service provided by this model. Children’s community-based health care center models will be allowed to provide the same services as children’s respite care centers,
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with the addition of providing transitional stays of up to 120 days, medical
day care weekend camps, and diagnostic studies that are typically done in
the home. The centers will service “children with special health care
needs” who are younger than 22 years of age.

B) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]

C) Scheduled meeting/hearing dates: These amendments will be reviewed by
the State Board of Health on March 9, 2006 prior to publication as a
proposed rulemaking.

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small businesses, small municipalities, or not-for-profit
corporations: The one current licensee in this program is a not-for-profit
corporation.

F) Requests for information concerning this regulatory agenda shall be
directed to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson
Springfield, Illinois  62761
217/782-2043

G) Related rulemaking and other information: None

k) Part (Heading and Code Citation): Assisted Living and Shared Housing Establishment
Code; 77 Ill. Adm. Code 295

1) Rulemaking

A) Description: The rules are being amended to implement P.A. 93-141,
which amended the Assisted Living and Shared Housing Act to add a
provision for “floating” licenses. Section 295.3040 also is being amended
to conform to the Health Care Worker Background Check Code (77 Ill.
Adm. Code 955). Other sections of the code are being amended to clarify
existing language.
B) **Statutory Authority:** Assisted Living and Shared Housing Act [210 ILCS 9]

C) **Schedule of meeting/hearing dates:** Assisted Living Advisory Board, February 9, 2006

D) **Date agency anticipates First Notice:** March 2006

E) **Effect on small businesses, small municipalities, or not-for-profit corporations:** These amendments may affect small business and not-for-profit corporations.

F) **Requests for information concerning this regulatory agenda shall be directed to:**

   Susan Meister  
   Division of Legal Services  
   Illinois Department of Public Health  
   535 W. Jefferson St.  
   Springfield, Illinois 62761  
   217/782-2043

G) **Related rulemaking and other information:** See (f)

l) **Part (Heading and Code Citation):** Assisted Living and Shared Housing Establishment Code; 77 Ill. Adm. Code 295

1) **Rulemaking**

A) **Description:** The proposed amendments will increase licensing fees, add language regulating the submission, review and approval of construction drawings and increase the Department’s regulatory authority over Assisted Living and Shared Housing establishments.

B) **Statutory Authority:** Assisted Living and Shared Housing Act [210 ILCS 9]

C) **Scheduled meeting/hearing dates:** Assisted Living Advisory Board, February 9, 2006
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D) Date agency anticipates First Notice: March 2006

E) Effect on small business, small municipalities, or not-for-profit corporations: These amendments may affect small business and not-for-profit corporations.

F) Requests for information concerning this regulatory agenda shall be directed to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217/782-2043

G) Related rulemaking and other information: See (e)

m) Part (Heading and Code Citation): Hospital Licensing Requirements; 77 Ill. Adm. Code 250

1) Rulemaking:

A) Description: The proposed amendments will implement Public Act 94-349, which amended the Hospital Licensing Act [210 ILCS 85] to prohibit mandatory nurse overtime.

B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

C) Scheduled meeting/hearing dates: Hospital Licensing Board, summer 2006.

D) Date agency anticipates First Notice: Summer or fall, 2006

E) Effect on small businesses, small municipalities, or not-for-profit corporations: These amendments may affect facilities that are small businesses and not-for-profit corporations.
F) Requests for information concerning this regulatory agenda shall be directed to:

Susan Meister  
Division of Legal Services  
Illinois Dept. of Public Health  
535 W. Jefferson St.  
Springfield, Illinois 62761  
217/782-2043

G) Related rulemaking and other information: None

n) Part (Heading and Code Citation): Hospital Licensing Requirements; 77 Ill. Adm. Code 250

1) Rulemaking:

A) Description: The proposed amendments will implement Public Act 93-0041, which amended the Hospital Licensing Act [210 ILCS 85] regarding plan review and fees, waivers, informal dispute resolution, findings and quality improvement.

B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

C) Scheduled meeting/hearing dates: Hospital Licensing Board

D) Date agency anticipates First Notice: Spring 2006

E) Effect on small businesses, small municipalities, or not-for-profit corporations: These amendments may affect facilities that are small business and not-for-profit corporations.

F) Requests for information concerning this regulatory agenda shall be directed to:

Susan Meister  
Division of Legal Services  
Illinois Dept. of Public Health  
535 W. Jefferson St.  
Springfield, Illinois 62761
G) Related rulemaking and other information: See (i)

o) Part (Heading and Code Citation): Hospital Licensing Requirements; 77 Ill. Adm. Code 250 and Community Living Facilities Code; 77 Ill. Adm. Code 370

1) Rulemaking:

A) Description: These above-listed rules will be amended to require compliance with the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]; Community Living Facilities Licensing Act [210 ILCS 35].

C) Scheduled meeting/hearing dates: State Board of Health; Hospital Licensing Board

D) Date agency anticipates First Notice: 2006

E) Effect on small businesses, small municipalities, or not-for-profit corporations: These amendments may affect facilities that are small business and not-for-profit corporations.

F) Requests for information concerning this regulatory agenda shall be directed to:

Susan Meister
Division of Legal Services
Illinois Dept. of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217/782-2043

G) Related rulemaking and other information: See (h)

p) Part (Heading and Code Citation): Hospital Report Card Code; 77 Ill. Adm. Code 255

1) Rulemaking:
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A) **Description:** These rules will implement the Hospital Report Card Act (Public Act 93-0563). The rules will require hospitals to make nurse staffing schedules, nurse staffing assignment rosters, the methods for determining and adjusting staffing levels, and staff training information available within specific time frames upon request from the public. The rules will also establish a format for quarterly reports to be submitted by hospitals to the Department July 1, October 1, and January 1 and April 1 each year for the previous quarter. The format for annual reports, to be submitted by April of each year for the previous year, will also be included.

B) **Statutory Authority:** Hospital Report Card Act [Public Act 93-0563]

C) **Schedule of meeting/hearing dates:** These rules were approved by the State Board of Health.

D) **Date agency anticipates First Notice:** February 2006

E) **Effect on small businesses, small municipalities or not-for-profit corporations:** This rulemaking should not affect small businesses, but small municipalities and not-for-profit corporations that own or operate hospitals may be affected.

F) **Information concerning this regulatory agenda shall be directed to:**

Susan Meister
Division of Legal Services
535 W. Jefferson, 5th Floor
Springfield, Illinois 62761
217/782-2043

G) **Related rulemakings and other pertinent information:** After the Hospital Report Card Code is adopted, the Hospital Licensing Requirements (77 Ill. Adm. Code 250) will be amended to reference these rules.

q) **Part (Heading and Code Citation):** Narrative and Planning Policies ; 77 Ill. Adm. Code Ch. II, Section 1100

1) **Rulemaking:**
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A) **Description**: This rulemaking will amend Part 1100 by reformatting several sections, incorporating and clarifying definitions from Part 1110 and Part 1120, and consolidating planning policies into one section. Revisions will be made to cardiac catheterization and cardiac surgery, revised bed need methodologies, a new section on Long Term Care, and revisions to categories of service classified as specialized long term care. Rules will also be revised to include updates in applicable laws and statutes.

B) **Statutory Authority**: Illinois Health Facilities Planning Act [20 ILCS 3960]

C) **Scheduled meeting/hearing dates**: Spring/Summer 2006

D) **Date agency anticipates First Notice**: Summer 2006

E) **Effect on small businesses, small municipalities or not for profit corporations**: These amendments may affect health care facilities and providers that are small businesses and not-for-profit corporations.

F) **Agency contact person for information**:

Claire Burman
Coordinator, Rules Development
Illinois Health Facilities Planning Board
100 West Randolph Street, Floor #6
Chicago, Illinois  60602
312/814-2565

G) **Related rulemakings and other pertinent information**: None

r) **Part (Heading and Code Citations)**: Processing, Classification Policies and Review Criteria; 77 Ill. Adm. Code Ch. II, Section 1110

1) **Rulemaking**:

A) **Description**: This rulemaking will amend processing, classification policies and review criteria for specified services.
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B) **Statutory Authority:** Illinois Health Facilities Planning Act[20 ILCS 3960]

C) **Scheduled meeting/hearing dates:** Summer 2006

D) **Date agency anticipates First Notice:** Summer 2006

E) **Effect on small businesses, small municipalities or not-for-profit corporations:** These amendments may affect health care facilities and providers that are small businesses and not-for-profit corporations.

F) **Agency contact person for information:**

Claire Burman  
Coordinator, Rules Development  
Illinois Health Facilities Planning Board  
100 West Randolph Street, Floor #6  
Chicago, Illinois  60602  
312/814-2565

G) **Related rulemakings and other pertinent information:** None
a) Part (Heading and Code Citation): Income Tax; 86 Ill. Adm. Code 100

1) Rulemaking:

A) Description: New rules will be added to Part 100 concerning the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209); the reallocation of items under IITA Section 404; pass-through of investment credits from partnerships and Subchapter S corporations to their partners and shareholders; filing of refund claims, offsets of refunds against other liabilities and other collection matters, statutes of limitations, and interest computations.

Part 100 will be amended by adding rules and amending existing rules governing the allocation and apportionment of income under Article 3 of the IITA.

Part 100 will be amended to update the provisions defining unitary business groups and computing the combined tax liability of unitary business groups.

Part 100 will be amended by adding rules providing guidance on the addition and subtraction modifications allowed in IITA Section 203, on the credit for residential property taxes paid in IITA Section 208, on the acceptance of substitute W-2s, rounding amounts on returns to the nearest dollar and on the issue of when a taxpayer is subject to tax in another state under IITA Section 303(f).

Part 100 will be amended by updating the provisions for credits for taxes paid to other states, innocent spouse relief, exempt income, filing of withholding exemption certificates by employees and the handling of those certificates by employers, and subtractions for medical savings accounts to reflect changes in relevant laws and to address new issues.

Part 100 will be amended to provide guidance for payment of estimated taxes during short taxable years, during years in which marital status changes, and for computation of penalties for late payment of estimated taxes.

Part 100 will be amended to clarify definitions of terms in IITA Section 1501(a).
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Part 100 will be amended to implement legislation enacted in 2004 and 2005, including the tax shelter registration and disclosure provisions and penalties for noncompliance, the definition of business income, recapture of business expenses, disallowance of deductions for payments to 80-20 companies, amendments to the filing production services credit statute, and investment partnership provisions.

Finally, the Department will continue the updating and correction of Part 100.

B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending Part 100 on a regular basis during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

F) Agency contact person for information:

    Paul S. Caselton
    Deputy General Counsel, Income Tax
    Illinois Department of Revenue
    101 W. Jefferson, 5-500
    Springfield IL 62794
    217/524-3951

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Rental Housing Support Program; 86 Ill. Adm. Code 121

1) Rulemaking:
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A) Description: New rules will be created under Part 121 to implement the new Rental Housing Support Program.

B) Statutory Authority: 55 ILCS 5/3-5018

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: February or March 2006

E) Effect on small business, small municipalities or not for profit corporations: Deminimus. Small business and not for profit organizations are subject to the $10 recording fee for real estate related documents. Units of local government are exempt under the statute.

F) Agency contact person for information:

Mark Dyckman
Deputy General Counsel
Illinois Department of Revenue
100 West Randolph, 7-900
Chicago, Illinois 60601
312/814-3522

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Retailers' Occupation Tax; 86 Ill. Adm. Code 130

1) Rulemaking:

A) Description: Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments, decisional law and Department policies. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings. Some of the highlights of these changes include:

1. Revision of Section 130.340, governing the rolling stock exemption, in response to changes to that exemption made by Public Act 93-1033.
2. Revision of Section 130.605 to reflect the provisions of Public Act 93-1068. That act provides that the exemption generally available to nonresidents that purchase motor vehicles in Illinois that will not be titled here does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for the use in that state of a motor vehicle sold and delivered in that state to an Illinois resident who will title that vehicle in Illinois. This section will also be amended to provide that drive-away decals may not be issued to specified types of vehicles, including, but not limited to, all-terrain vehicles along with a similar reference in Section 130.120(m).

3. Revision of Section 130.415 (transportation and delivery charges) to add examples and to clarify the requirement of a separate agreement between seller and purchaser, particularly in the case of Internet, mail order, telephone and television orders.

4. Promulgation of a regulation explaining the taxation of seminar materials.

5. Amendment of Section 130.2145 to explain the tax liability of hotels for room rental charges made in connection with events during which food is provided by the hotels, such as conferences and weddings.

6. Amendment of Section 130.310 governing taxation of food, drugs and medical appliances to clarify the manner in which the tax rate on food is determined and to clarify the manner in which the exemption for drugs and medical appliances is administered.

7. Amendment of Section 130.2005 regarding nonprofit service enterprises to clarify how tax-exempt organizations handle fundraising events other than occasional dinners and bake sales and similar events.

8. Amendment of Section 130.325 regarding the graphic arts equipment exemption to clarify how the exemption applies when a purchase involve multiple payments or multiple deliveries.
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9. The Department anticipates creating a new section regarding the intermodal facilities building materials exemption that will be created by Senate Bill 572.

10. Amendment of Section 130.2013 regarding the lessors credit to clarify the how the credit is reported to the customer who is purchasing the previously leased item.

11. Amendment of Section 130.2165 regarding veterinarians to clarify when the tax is applicable in situations involving over-the-counter transactions versus service transactions.

12. Amendment of Section 130.455 regarding motor vehicle trade-ins to clarify issues regarding trade-ins including how advance trade-ins apply in auction situations.

13. Amendment of Section 130.2115 regarding special order items to clarify how repeat orders of special order items are taxed.

14. Amendment of Section 130.415 regarding shipping and handling charges to clarify what tax rate applies to taxable handling charges for an order that contains both high tax rate and low tax rate items.

B) Statutory Authority: 35 ILCS 120

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations. Transportation companies and their suppliers will be affected by the rolling stock regulations. Restaurants, grocers and other establishments selling food products will be affected by changes to Section 130.310, as will persons selling drugs and medical appliances. Businesses selling motor vehicles will be affected by the changes proposed
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to Section 130.605. Hotels will be affected by the changes proposed to Section 130.2145. Tax exempt organizations will be affected by the changes proposed to Section 130.2005. Sellers of all-terrain vehicles (ATVs) will be affected by the changes proposed to Section 130.120 and 130.605.

F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales & Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield IL  62794
   217/782-2844

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Service Occupation Tax; 86 Ill. Adm. Code 140

1) Rulemaking:

   A) Description: Amendments will be made as part of a general update to clarify application of the Service Occupation Tax and to reflect recent decisional law, statutory changes and Department policy. One of the highlights of these changes is a revision to Section 140.108 to add an example of a company that provides water service as a de minimis serviceman.

   B) Statutory Authority: 35 ILCS 115

   C) Scheduled meetings/hearing dates: No schedule has been established at this time.

   D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.
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E) **Effect on small business, small municipalities or not-for-profit corporations:** Servicemen transferring tangible personal property incident to service will be affected by these rules.

F) **Agency contact person for information:**

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

G) **Related rulemakings and other pertinent information:** None

e) **Part (Heading and Code Citation):** Use Tax; 86 Ill. Adm. Code 150

1) **Rulemaking:**

A) **Description:** Amendments will be made to update the Use Tax regulations to reflect new statutory developments, decisional law and Department policies. Examples include regulations that set forth the Department’s policies regarding the types of activities and relationships that establish nexus for Use Tax collection.

B) **Statutory Authority:** 35 ILCS 105

C) **Scheduled meetings/hearing dates:** No schedule has been established at this time.

D) **Date agency anticipates First Notice:** We anticipate filing rulemakings amending Part 150 during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations:** These amendments will affect persons subject to the Use Tax.

F) **Agency contact person for information:**

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
DEPARTMENT OF REVENUE

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Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Service Use Tax; 86 Ill. Adm. Code 160

1) Rulemaking:

A) Description: Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments, decisional law and Department policies.

B) Statutory Authority: 35 ILCS 110

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 160 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Service Use Tax, including persons required to collect Use Tax from Illinois purchasers.

F) Agency contact person for information:

    Jerilynn Gorden
    Deputy General Counsel, Sales and Excise Tax
    Illinois Department of Revenue
    101 W. Jefferson, 5-500
    Springfield, IL 62794
    217/782-2844

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Informal Conference Board; 86 Ill. Adm. Code 215
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1) Rulemaking:

A) Description: Part 215 will be amended to update the guidelines for operation of the Department of Revenue's Informal Conference Board, and add a new rule which will limit a taxpayer’s ability to request informal review within the Office of Administrative Hearings under Reg. Sec. 200.135 if the taxpayer has received an Informal Conference Board Decision which addresses the merits of the proposed audit adjustments.

B) Statutory Authority: 20 ILCS 2505/2505-510

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing these rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any taxpayer that has been audited by the Department of Revenue.

F) Agency contact person for information:

Louise Calvert
Administrator, Informal Conference Board
Illinois Department of Revenue
100 W. Randolph St., 7-341
Chicago, Illinois  60601
312/814-1722

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Bingo License and Tax Act; 86 Ill. Adm. Code 430

1) Rulemaking:

A) Description: Regulations will be updated to reflect the provisions of Public Act 93-742, which authorizes the Department to issue 3-year bingo licenses, including a regular licenses, limited licenses or senior citizen restricted
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licenses. The regulations will also be amended to clarify record keeping requirements and the documentation required for a license application.

B) Statutory Authority: 230 ILCS 25/1

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for bingo licenses will be affected by this rulemaking.

F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales and Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield IL  62794
   217/782-2844

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Pull Tabs and Jar Games; 86 Ill. Adm. Code 432

   1) Rulemaking:

      A) Description: Regulations will be amended to clarify record keeping requirements and the documentation required for a license application.

      B) Statutory Authority: 230 ILCS 20/1

      C) Scheduled meetings/hearing dates: No schedule has been established at this time.

      D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
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E) **Effect on small business, small municipalities or not for profit corporations:**
   Entities eligible for pull tabs and jar games licenses will be affected by this rulemaking.

F) **Agency contact person for information:**
   
   Jerilynn Gorden  
   Deputy General Counsel, Sales and Excise Tax  
   Illinois Department of Revenue  
   101 W. Jefferson, 5-500  
   Springfield IL 62794  
   217/782-2844

H) **Related rulemakings and other pertinent information:** None

j) **Part (Heading and Code Citation):** Charitable Games; 86 Ill. Adm. Code 435

1) **Rulemaking:**

   A) **Description:** Regulations will be amended to clarify record keeping requirements and the documentation required for a license application.

   B) **Statutory Authority:** 230 ILCS 30/1

   C) **Scheduled meetings/hearing dates:** No schedule has been established at this time.

   D) **Date agency anticipates First Notice:** We anticipate filing rulemakings during the next six months of this year.

   E) **Effect on small business, small municipalities or not for profit corporations:** Entities eligible for a charitable games license will be affected by this rulemaking.

   F) **Agency contact person for information:**

   Jerilynn Gorden  
   Deputy General Counsel, Sales and Excise Tax  
   Illinois Department of Revenue  
   101 W. Jefferson, 5-500
I) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Telecommunications Excise Tax; 86 Ill. Adm. Code 495

1) Rulemaking:

A) Description: Regulations will be updated to reflect new statutory provisions, decisional law and Department policy. Examples include:

1. Regulations that explain the manner in which DSL services are taxed.

2. Regulations that explain the taxation of telecommunications that are provided by cable and satellite television companies as part of internet access services and the taxation of Voice Over Internet Protocol (VOIP).


4. Regulations that explain the telecommunications tax liabilities involved when multiple parties are joined together in different conference calling arrangements.

B) Statutory Authority: 35 ILCS 630; Public Acts 92-526; 92-0602; 92-878 and 93-286

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings to Par 495 during the next six months of this year.
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E) **Effect on small business, small municipalities or not for profit corporations:** Retailers of telecommunications and their telecommunications customers will be affected by these regulations.

F) **Agency contact person for information:**

   Jerilynn Gorden  
   Deputy General Counsel, Sales and Excise Tax  
   Illinois Department of Revenue  
   101 W. Jefferson, 5-500  
   Springfield IL  62794  
   217/782-2844

G) **Related rulemakings and other pertinent information:** None

l) **Part (Heading and Code Citation):** Motor Fuel Tax; 86 Ill. Adm. Code 500

   1) **Rulemaking:**

   A) **Description:** Regulations will be updated to reflect new statutory provisions, new provisions and procedures under the International Fuel Tax Agreement, and changes in Department procedures.

   B) **Statutory Authority:** 35 ILCS 505/14

   C) **Scheduled meetings/hearing dates:** No schedule has been established at this time.

   D) **Date agency anticipates First Notice:** We anticipate filing rulemakings to Part 500 during the next six months of this year.

   E) **Effect on small business, small municipalities or not for profit corporations:** Motor fuel distributors, suppliers and receivers, as well as persons licensed under the International Fuel Tax Agreement, will be affected by these regulations.

   F) **Agency contact person for information:**

      Jerilynn Gorden  
      Deputy General Counsel, Sales and Excise Tax
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Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844

G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Non-Home Rule Municipal Retailers' Occupation Tax; 86 Ill. Adm. Code 693

1) Rulemaking:

A) Description: Section 693.101 will be amended to reference the increase in the maximum tax rate authorized from ½% to 1% pursuant to Public Act 94-679, effective January 1, 2006.

B) Statutory Authority: 65 ILCS 5/8-11-1.1; 65 ILCS 5/8-11-1.3

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Non-home rule municipalities are authorized to impose the tax at a maximum rate of 1% (formerly ½ %). All businesses that are engaged in making sales of tangible personal property at retail in such non-home rule municipalities will be subject to tax at a maximum rate of 1% (formerly ½%).

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL 62794
217/782-2844
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G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Part 694.

n) Part (Heading and Code Citation): Non-Home Rule Municipal Service Occupation Tax; 86 Ill. Adm. Code 694

1) Rulemaking:

A) Description: Section 694.101 will be amended to reference the increase in the maximum tax rate authorized from ½% to 1% pursuant to Public Act 94-679, effective January 1, 2006.

B) Statutory Authority: 65 ILCS 5/8-11-1.1; 65 ILCS 5/8-11-1.4

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Non-home rule municipalities are authorized to impose the tax at a maximum rate of 1% (formerly ½%). All businesses that are engaged in making sales of service when tangible personal property is transferred incident to those sales of service in such non-home rule municipalities will be subject to tax at a maximum rate of 1% (formerly ½%).

F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales and Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield IL 62794
   217/782-2844

G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Part 693.
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o) Part (Heading and Code Citation): Uniform Penalty and Interest Act; 86 Ill. Adm. Code 700

1) Rulemaking:

A) Description: The Department will amend the regulations in Part 700 to reflect recent amendments to the Uniform Penalty and Interest Act.

B) Statutory Authority: 20 ICLS 2505/2505-795

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filings during the next six months of this year.

E) Effect on small business, small municipalities and not for profit corporations: These rulemakings will provide guidance for any business or not for profit corporation that incurs tax liabilities potentially subject to penalty or interest obligations under the Uniform Penalty and Interest Act.

F) Agency contact person for information:

Paul Caselton
Deputy General Counsel, Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield IL  62794
217/524-3951

G) Related rulemakings and other pertinent information: None

p) Part (Heading and Code Citation): Public Information, Rulemaking And Organization; 86 Ill. Adm. Code 1200

1) Rulemaking:

A) Description: Section 1200.110 will be amended to list additional information that is required from a taxpayer for a Private Letter Ruling request. Such additional information will include for example the
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taxpayer’s Illinois Business Tax (IBT) number and Federal Employer Identification Number (FEIN) or other tax related identification numbers.

B) **Statutory Authority**: 20 ILCS 2515/2515-3

C) **Scheduled meetings/hearing dates**: No schedule has been established at this time.

D) **Date agency anticipates First Notice**: We anticipate filing rulemakings during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations**: All businesses, small municipalities, and not for profit corporations that request a Private Letter Ruling from the Department will have to provide such additional information as part of their request.

F) **Agency contact person for information**: Jerilynn Gorden
   Deputy General Counsel, Sales and Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield IL  62794
   217/782-2844

G) **Related rulemakings and other pertinent information**: None

q) **Part (Heading and Code Citation)**: New Part – Governing Electronic Filing of Corporate Income Tax Returns

1) **Rulemaking**:

   A) **Description**: The Department will promulgate regulations providing the procedures for corporations, partnerships and tax exempt organizations to file their Illinois income tax returns electronically.

   B) **Statutory Authority**: 35 ILCS 5/502

   C) **Scheduled meetings/hearing dates**: No schedule has been established at this time.
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D) Date agency anticipates First Notice: We anticipate filings during the next six months of this year.

E) Effect on small business, small municipalities and not for profit corporations: This rulemaking will provide guidance for corporations who will file their Illinois income tax returns electronically.

F) Agency contact person for information:

Rickey A. Walton
Special Assistant Attorney General
Illinois Department of Revenue
100 W. Randolph St., 7-900
Chicago IL 60601
312/814-3185

G) Related rulemakings and other pertinent information: None

r) Part (Heading and Code Citation): New Part – Governing Internet Filing of Sales and Use Tax Returns

1) Rulemaking:

A) Description: Regulations will be promulgated to provide the specific procedures and requirements for persons using an Internet-based system to file sales and use tax returns.

B) Statutory Authority: 20 ILCS 2505/2505-210

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Persons using the Internet to file sales and use tax returns will be affected by these rules.
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F) Agency contact person for information:

     Jerilynn Gorden  
     Deputy General Counsel, Sales and Excise Tax  
     Illinois Department of Revenue  
     101 W. Jefferson, 5-500  
     Springfield IL  62794  
     /7) 782-2844

G) Related rulemakings and other pertinent information: None

s) Part (Heading and Code Citation): New Part – Governing Business District Taxes

1) Rulemaking:

   A) Description: Regulations will be promulgated to set out specific procedures and requirements for the business district taxes authorized by P.A 93-1053.

   B) Statutory Authority: 65 ILCS 5/11-74.3-6

   C) Scheduled meetings/hearing dates: No schedule has been established at this time.

   D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

   E) Effect on small business, small municipalities or not for profit corporations: Municipalities are authorized to impose these taxes within business districts established by those municipalities. All businesses that are engaged in making sales of tangible personal property at retail and sales of service when tangible personal property is transferred incident to those sales of service within a business district where those taxes are imposed will be subject to those taxes.

   F) Agency contact person for information:

     Jerilynn Gorden  
     Deputy General Counsel, Sales and Excise Tax  
     Illinois Department of Revenue  
     101 W. Jefferson, 5-500
DEPARTMENT OF REVENUE

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Springfield IL  62794
217/782-2844

G)  Related rulemakings and other pertinent information: None

I)  Part (Heading and Code Citation): Lottery; 11 Ill. Adm. Code 1770

1) Rulemaking:

A) Description: Part 1770 will be amended to permit a lottery license number to be retained in certain circumstances that otherwise constitute changes of ownership. Specifically under consideration are the transfer of business ownership to one or more immediate family members and changes in corporate officers for a retail chain.

Part 1770 will be amended to delete a reference to "The Big Game" and replace that reference with the current game name, "Mega Millions."

Part 1770 may be amended to include additional requirements for retailer compliance with the Americans with Disabilities Act.

B) Statutory Authority: 20 ILCS 1605/7.1

C) Scheduled meetings/hearing dates: No meetings or hearings are scheduled.

D) Date agency anticipates First Notice: We anticipate filing first notice for the above rulemaking prior to July 1, 2006.

E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any entity that applies for an Illinois Lottery license.

F) Agency contact person for information:

Lisa Crites
Illinois Department of Revenue
Illinois Lottery Program
101 W. Jefferson, 5-950
Springfield IL  62702
217/524-5253
G) Related rulemakings and other pertinent information: None
a) Part (Heading and Code Citation): General Provisions; 23 Ill. Adm. Code 2700

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

B) Statutory Authority: Implementing the Higher Education Assistance Act [110 ILCS 947]; and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers  
Director, Government Relations  
Illinois Student Assistance Commission  
500 W. Monroe, 3rd floor  
Springfield, Illinois 62704-1876  
217/785-8721

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Illinois National Guard (ING) Grant Program; 23 Ill. Adm. Code 2730
 Rulemaking:

A) **Description:** ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed to this Part to reflect statutory changes contained in Public Act 94-0583, which affects applicant eligibility.

B) **Statutory Authority:** Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]

C) **Scheduled meeting/hearing dates:** At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) **Date agency anticipates First Notice:** January 2006

E) **Affect on small business, municipalities or not for profit corporations:** None

F) **Agency Contact Person for Information:**

   Mrs. Lori Reimers  
   Director, Government Relations  
   Illinois Student Assistance Commission  
   500 W. Monroe, 3rd floor  
   Springfield, Illinois 62704-1876  
   217/785-8721

G) **Related rulemakings and other pertinent information:** None

c) **Part (Heading and Code Citation):** Grant Program for Dependents of Correctional Officers; 23 Ill. Adm. Code 2731
ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2006 REGULATORY AGENDA

1) Rulemaking:
   
   A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

   B) Statutory Authority: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)]

   C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

   D) Date agency anticipates First Notice: January 2006

   E) Affect on small business, municipalities or not for profit corporations: None

   F) Agency Contact Person for Information:

       Mrs. Lori Reimers
       Director, Government Relations
       Illinois Student Assistance Commission
       500 W. Monroe, 3rd floor
       Springfield, Illinois 62704-1876
       217/785-8721

   G) Related rulemakings and other pertinent information: None

   d) Part (Heading and Code Citation): Grant Program for Dependents of Police or Fire Officers; 23 Ill. Adm. Code 2732

   1) Rulemaking:
ILLINOIS REGISTER

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2006 REGULATORY AGENDA

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

B) Statutory Authority: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois 62704-1876
217/785-8721

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Illinois Veteran Grant (IVG) Program; 23 Ill. Adm. Code 2733

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal
statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed to this Part to reflect statutory changes contained in Public Act 94-0583, which affects applicant eligibility.

B) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois 62704-1876
217/785-8721

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Monetary Award Program; 23 Ill. Adm. Code 2735

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological
advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

B) **Statutory Authority:** Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)]

C) **Scheduled meeting/hearing dates:** At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) **Date agency anticipates First Notice:** January 2006

E) **Affect on small business, municipalities or not for profit corporations:** None

F) **Agency Contact Person for Information:**

   Mrs. Lori Reimers  
   Director, Government Relations  
   Illinois Student Assistance Commission  
   500 W. Monroe, 3rd floor  
   Springfield, Illinois 62704-1876  
   217/785-8721

G) **Related rulemakings and other pertinent information:** None

**Part (Heading and Code Citation):** Silas Purnell Illinois Incentive for Access (IIA) Program; 23 Ill. Adm. Code 2736

1) **Rulemaking:**

   A) **Description:** ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in
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procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

B) Statutory Authority: Implementing Section 36 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/36 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

    Mrs. Lori Reimers
    Director, Government Relations
    Illinois Student Assistance Commission
    500 W. Monroe, 3rd floor
    Springfield, Illinois  62704-1876
    217/785-8721

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Robert C. Byrd Scholarship Program; 23 Ill. Adm. Code 2755

1) Rulemaking:

    A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
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B) Statutory Authority: Implementing Section 65.60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/65.60 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois 62704-1876
217/785-8721

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Merit Recognition Scholarship (MRS) Program; 23 Ill. Adm. Code 2761

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
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B) Statutory Authority: Implementing Section 30 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/30 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

   Mrs. Lori Reimers  
   Director, Government Relations  
   Illinois Student Assistance Commission  
   500 W. Monroe, 3rd floor  
   Springfield, Illinois  62704-1876  
   217/785-8721

G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Minority Teachers of Illinois (MTI) Scholarship Program 23 Ill. Adm. Code 2763

1) Rulemaking:

   A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed to this Part to reflect statutory changes contained in Public Act 94-0133, which affect a recipient’s teaching requirements.
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B) Statutory Authority: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois 62704-1876
217/785-8721

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Illinois Future Teacher Corps (IFTC) Program; 23 Ill. Adm. Code 2764

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed for this Part to reflect statutory changes
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contained in Public Act 94-0133, which affect a recipient’s teaching requirements.

B) Statutory Authority: Implementing Section 52 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/52 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None.

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois  62704-1876
217/785-8721

G) Related rulemaking and other pertinent information: None

I) Part (Heading and Code Citation): Illinois Special Education Teacher Tuition Waiver (SETTW) Program; 23 Ill. Adm. Code 2765

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of
amendments are being proposed in this Part to reflect statutory changes contained in Public Act 94-0133, which affect an applicant’s eligibility and a recipient’s teaching requirements.

B) **Statutory Authority**: Implementing Section 65.15 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/65.15 and 20(f)]

C) **Scheduled meeting/hearing dates**: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) **Date agency anticipates First Notice**: January 2006

E) **Affect on small business, municipalities or not for profit corporations**: None

F) **Agency Contact Person for Information**: 

   Mrs. Lori Reimers  
   Director, Government Relations  
   Illinois Student Assistance Commission  
   500 W. Monroe, 3rd floor  
   Springfield, Illinois  62704-1876  
   217/785-8721

G) **Related rulemakings and other pertinent information**: None

m) **Part (Heading and Code Citation)**: Student to Student (STS) Program of Matching Grants; 23 Ill. Adm. Code 2770

1) **Rulemaking**:

   A) **Description**: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in
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procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

B) Statutory Authority: Implementing Section 65 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/65 and 20(f)].

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois 62704-1876
217/785-8721

G) Related rulemakings and other pertinent information: None

n) Part (Heading and Code Citation): Child Welfare Student Loan Forgiveness Program; 23 Ill. Adm. Code 2769

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. This Part is being
proposed to enact the statutory changes contained in Public Act 94-0497, which created this new program.

B) Statutory Authority: Implementing the Child Welfare Student Loan Forgiveness Act [110 ILCS 923].

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2006

E) Affect on small business, municipalities or not for profit corporations: None

F) Agency Contact Person for Information:

Mrs. Lori Reimers
Director, Government Relations
Illinois Student Assistance Commission
500 W. Monroe, 3rd floor
Springfield, Illinois  62704-1876
217/785-8721

G) Related rulemakings and other pertinent information: None

Part (Heading and Code Citation): Teach Illinois Scholarship Program; 23 Ill. Adm. Code 2768

1) Rulemaking:

A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. This Part is being
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proposed to reflect the statutory changes contained in Public Act 94-0205, which created this new program.

B) **Statutory Authority:** Implementing and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947 and 20(f)]

C) **Scheduled meeting/hearing dates:** At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) **Date agency anticipates First Notice:** January 2006

E) **Affect on small business, municipalities or not for profit corporations:** None

F) **Agency Contact Person for Information:**

   Mrs. Lori Reimers  
   Director, Government Relations  
   500 W. Monroe, 3rd floor  
   Springfield, Illinois 62704-1876  
   217/785-8721

G) **Related rulemakings and other pertinent information:** None
ATTORNEY GENERAL

NOTICE OF PUBLIC INFORMATION

MIG/DeWane Landfill

Comment Period on Proposed Consent Decree

NOTICE OF LODGING OF CONSENT DECREE PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

In accordance with 42 USC 9622(d)(2)(A) and (B), notice is hereby given that on January 4, 2006, a proposed consent decree in the case captioned The State of Illinois v. BFI Waste Systems of North America, Inc., et al., Civil Action No. 05 C 50245 (N.D. Illinois), was lodged with the United States District Court for the Northern District of Illinois.

This action under CERCLA Section 107(a) involves a Superfund Site in Belvidere, Boone County, Illinois, commonly known as the MIG/DeWane Landfill Superfund Site. In a three count complaint, Illinois sought response costs and remediation at the Site.

Under the Consent Decree, the Settling Defendants agrees to: (1) Perform the remedial actions selected; (2) reimburse the State for past response costs; (3) pay the State’s future oversight response costs; and (4) covenant not to sue the State for any costs relating to the Site.

The Illinois Attorney General’s Office will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to Gerald T. Karr Senior Assistant Attorney General, Environmental Bureau, 188 West Randolph Street, 20th Floor, Chicago, Illinois 60601, and should refer to The State of Illinois v. BFI Waste Systems of North America, Inc., et al.

The Consent Decree may be examined at: (1) The Illinois Environmental Protection Agency, 1021 North Grand Avenue East, Springfield, Illinois 62794; (2) the Ida Public Library, 320 North State St., Belvidere, IL 61008; and a copy of the Consent Decree without Appendices may be obtained by mailing a request to Gerald Karr at the address above or by faxing or e-mailing a request to gkarr@atg.state.il.us, fax number (312) 814-2347. The consent decree is also posted on the Illinois Environmental Protection Agency website at http://www.epa.state.il.us/public-notices/
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 2005. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Alternative Apportionment
Apportionment – Sales Factor
Estimated Tax
Sales Outside the Ordinary Course
    Of Business (Bulk Sales)
Subtraction Modifications – Other Rulings
Withholding – Other Rulings

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50 cents per page for each page over one.
DEPARTMENT OF REVENUE

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2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us.


3. Name and address of person to contact concerning this information:

   Linda Settle
   Illinois Department of Revenue
   Legal Services Office
   101 West Jefferson Street
   Springfield, Illinois  62794
   Telephone: (217) 782-7055

ALTERNATIVE APPORTIONMENT

IT 05-0007-PLR  10/17/2005  Petition to use alternative apportionment is granted.

APPORTIONMENT – SALES FACTOR

IT 05-0046-GIL  10/26/2005  The numerator of the sales factor of a service provider is determined by sourcing each sale separately according to the income-producing activities related to that sale, not by using the aggregate activities for all sales.

ESTIMATED TAX

IT 05-0048-GIL  11/08/2005  Explanation of use of the annualization method.

SALES OUTSIDE THE ORDINARY COURSE OF BUSINESS (BULK SALES)

IT 05-0047-GIL  11/01/2005  Sale of more than half of the real property used in a business will trigger the bulk sale reporting requirement.

SUBTRACTION MODIFICATIONS – OTHER RULINGS
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2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

IT 05-0008-PLR  11/08/2005  Compensation of a British citizen employed by a British consulate exempted from state income taxation under the 1951 Consular Officers Convention between the United States and Great Britain is not subject to Illinois Income tax.

IT 05-0050-GIL  12/22/2005  Response to survey regarding Illinois taxation of municipal bonds.

WITHHOLDING – OTHER RULINGS

IT 05-0049-GIL  11/22/2005  Application of the "paid in this State" rule for determining when compensation is subject to withholding.
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

   Name of Act: Illinois Department of Revenue Sunshine Act
   Citation: 20 ILCS 2515/1

2. Summary of information:

   Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 2005. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

   The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

   Bingo
   Certificate of Registration
   Charitable Games
   Claims for Credit
   Coins & Precious Metals
   Computer Software
   Construction Contractors
   Delivery Charges
   Enterprise Zones
   Exempt Organizations
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2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

Food
Food, Drugs & Medical Appliances
Governmental Bodies
Gross Receipts
Hotel Operators' Tax
Leasing
Local Taxes
Manufacturing Machinery & Equipment
Miscellaneous
Newsprint & Ink
Nexus
Repairs
Rolling Stock Exemption
Sale for Resale
Service Occupation Tax
Telecommunications Excise Tax
Trade-Ins
Use Tax
Watercraft Use Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for $3.00.

3. Name and address of person to contact concerning this information:

    Marie Keeney
    Legal Services Office
    101 West Jefferson Street
    Springfield, Illinois 62794
    217/782-2844
BINGO

ST 05-0092-GIL 10/05/2005 A limited bingo license allows an organization to conduct bingo at no more than two indoor or outdoor festivals during the calendar year for which the license is issued for a maximum of five consecutive days on each occasion. See 86 Ill. Adm. Code 430.160.

ST 05-0098-GIL 10/13/2005 The provisions of the Raffles Act, 230 ILCS 15/1, govern the conduct of raffles in Illinois.

ST 05-0108-GIL 10/20/2005 Under the Bingo License and Tax Act, all advertising by a licensed organization regarding the conducting of its bingo sessions shall contain the name and bingo license number of the organization. Licensed organizations may not participate in joint advertising with other licensed organizations. See 86 Ill. Adm. Code 430.160.

CERTIFICATE OF REGISTRATION

ST 05-0093-GIL 10/05/2005 This letter discusses registration of servicemen. See 86 Ill. Adm. Code 160.130.

CHARITABLE GAMES

ST 05-0096-GIL 10/12/2005 For information regarding a licensed supplier in the distribution of charitable gaming equipment please see 86 Ill. Adm. Code 435.130.

ST 05-0122-GIL 11/29/2005 Information regarding charitable games may be found at 86 Ill. Adm. Code 435.100 through 435.220.

CLAIMS FOR CREDIT

ST 05-0101-GIL 10/13/2005 If a taxpayer pays an amount of tax under the Retailers' Occupation Tax that is not due, either as a result of a mistake of fact or an
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2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

error of law, the taxpayer may file a claim for credit with the Department. See 86 Ill. Adm. Code 130.1501.

ST 05-0105-GIL  10/19/2005  This letter discusses sales for resale and claims for credit. See 86 Ill. Adm. Code Sections 130.210, 130.1405 and 130.1501.

ST 05-0128-GIL  12/16/2005  This letter discusses claims for credit when a retailer has collected sales tax on a sale for resale. See 86 Ill. Adm. Code 130.1401 and 150.1501.

COINS & PRECIOUS METALS

ST 05-0132-GIL  12/22/2005  This letter provides a reference to the Department’s rules regarding the sale of collector coins. See 86 Ill. Adm. Code 130.1910.

COMPUTER SOFTWARE

ST 05-0017-PLR  10/12/2005  This letter discusses whether certain software agreements qualify as licenses of software and not retail sales of software under the Retailers’ Occupation Tax Act. See 86 Ill. Adm. Code 130.1935.

ST 05-0028-PLR  12/30/2005  If transactions for the licensing of computer software meet all of the criteria provided in subsection (a)(1) of Section 130.1935, neither the transfer of the software nor the subsequent software updates will be subject to Retailers’ Occupation Tax. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 05-0016-PLR  10/07/2005  This letter discusses whether the contractual agreement between a vendor and its customers to install blinds, shutters, roman shades and cornice boards constitutes a construction contract. See 86 Ill. Adm. Code 130.1940 and 130.2075.

ST 05-0023-PLR  12/21/2005  Construction contracts for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data,
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Video, security, and all telecommunication systems do not constitute engaging in a business of selling tangible personal property at retail within the meaning of the Retailers’ Occupation Tax Act if they are sold at one specified contract price. See 35 ILCS 120/1 and 86 Ill. Adm. Code 130.1940(c)(3).

ST 05-0137-GIL 12/29/2005 A contract to incorporate tangible personal property into real property is considered a construction contract. A contractor incurs Use Tax on the cost price of the tangible personal property that is installed. See 86 Ill. Adm. Code 130.1940 and 130.2075.

DELIVERY CHARGES

ST 05-0019-PLR 11/18/2005 This letter discusses how shipping and handling charges should be handled for in-home host or hostess sales.

ST 05-0090-GIL 10/03/2005 This letter discusses shipping and handling charges. See 86 Ill. Adm. Code 130.410 and 130.415.

ST 05-0110-GIL 11/07/2005 Whether delivery charges are taxable depends on whether the charges are included in the selling price of the property which is sold or whether the seller and the buyer contract separately for such transportation or delivery charges by not including those charges in the selling price of the property. See 86 Ill. Adm. Code 130.415.

ST 05-0138-GIL 12/29/2005 The Department’s regulation on the treatment of transportation and delivery charges under the Retailers’ Occupation Tax Act may be found at 86 Ill. Adm. Code 130.415.

ENTERPRISE ZONES

ST 05-0020-PLR 11/18/2005 Under the Enterprise Zone building materials exemption, a deduction from Illinois Retailers’ Occupation Tax liability exists for gross receipts from retail sales of building materials that will be incorporated into real estate located in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act by remodeling,
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rehabilitation or new construction. (See Section 5k of the Retailers’ Occupation Tax Act and 86 Ill. Adm. Code 130.1951(e).)

EXEMPT ORGANIZATIONS

ST 05-0025-PLR 12/22/2005 Construction contractors incorporating tangible personal property into real estate owned by a governmental body can claim an exemption from tax. See 86 Ill. Adm. Code Sections 130.2075(d)(1) and 130.2075(d)(4).

ST 05-0099-GIL 10/13/2005 For a sale to qualify as exempt, because the item is sold to an exempt organization, the seller may not rely on an invalid exemption number, even if accepted in good faith. See 86 Ill. Adm. Code 130.2005.

ST 05-0107-GIL 10/20/2005 An entity which would otherwise qualify for tax-exempt status on its purchases of tangible personal property for use or consumption cannot make tax-free purchases unless it has an active exemption identification number issued by the Department. See 86 Ill. Adm. Code 130.2007.

ST 05-0125-GIL 11/29/2005 When merchandise is sold to a Parent Teacher Association or to a school and that Parent Teacher Association or school will re-sell the merchandise, the entity selling to the Parent-Teacher Association or school must obtain either a Certificate of Resale or a valid “E” number from the Parent Teacher Association or school in order to sell the items tax-free. See 86 Ill. Adm. Code 130.2005.


FOOD
DEPARTMENT OF REVENUE  
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2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES  

ST 05-0094-GIL  10/05/2005  This letter describes how sales of food can be subject to either the lower (1%) State tax rate or the higher (6.25%) State tax rate under the Retailers’ Occupation Tax Act. See Section 130.310.  

ST 05-0126-GIL  12/16/2005  A plain cup of ice for off-premises consumption is taxable at the 6.25% rate plus local taxes. See 86 Ill. Adm. Code 130.310.  

ST 05-0131-GIL  12/21/2005  This letter provides a brief summary of when the high rate of tax for food and the low rate of tax for food apply. See 86 Ill. Adm. Code 130.310.  

FOOD, DRUGS & MEDICAL APPLIANCES  

ST 05-0095-GIL  10/06/2005  Information regarding the taxation of food, drugs, and medical appliances may be found at 86 Ill. Adm. Code 130.310.  

GOVERNMENTAL BODIES  

ST 05-0135-GIL  12/29/2005  This letter provides a reference to the Department’s rules regarding sales though a chit system to governmental bodies. See 86 Ill. Adm. Code 130.2007.  

GROSS RECEIPTS  

ST 05-0121-GIL  11/29/2005  If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125.  

HOTEL OPERATORS' TAX
ST 05-0015-PLR  10/06/2005  Redemption of a hotel chain’s “rewards points” for stay at one of its hotels is not subject to Hotel Operators’ Tax liability. See 35 ILCS 145/1 et seq.

ST 05-0127-GIL  12/16/2005  The Hotel Operators' Occupation Tax is imposed upon hotel operators engaged in the business. Hotel operators are permitted to ask guests renting rooms to pay a corresponding reimbursement for the tax. 86 Ill. Adm. Code 480.101.

ST 05-0133-GIL  12/22/2005  This letter provides a reference to the Department’s rules regarding the permanent resident exclusion under the Hotel Operators’ Tax. See 86 Ill. Adm. Code 480.101.

LEASING

ST 05-0103-GIL  10/13/2005  Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220.

ST 05-0104-GIL  10/19/2005  Discusses tax obligations related to the sales and leases of satellite equipment and programming services and servicing of the satellite equipment. See 86 Ill. Adm. Code 130.220

LOCAL TAXES

ST 05-0022-PLR  12/06/2005  Enough of the selling activity must occur within the home rule municipality to justify concluding that the seller is engaged in business within the home rule municipality with respect to that sale. 86 Ill. Adm. Code 270.115(a)(1). (This is a PLR.)

ST 05-0119-GIL  11/28/2005  This letter directs readers to a previous General Information Letter issued by the Department concerning local taxes and nexus. See 86 Ill. Adm. Code 270.115.
MANUFACTURING MACHINERY & EQUIPMENT

ST 05-0018-PLR  10/12/2005  The taxpayer must be able to establish through adequate records that the machinery or equipment in question is used over 50 percent in an exempt manner in order to claim the manufacturing machinery and equipment exemption from sales tax.  86 Ill. Adm. Code 130.330.

ST 05-0021-PLR  11/29/2005  Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily (over 50%) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease.  See 86 Ill. Adm. Code 130.330.

MISCELLANEOUS

ST 05-0024-PLR  12/22/2005  This letter discusses issues related to the sales tax exemption for Tangible Personal Property Purchased for Use or Consumption within an Enterprise Zone.

ST 05-0102-GIL  10/13/2005  This letter directs licensing of a business for purposes of conducting business in Illinois to the Secretary of State’s office.

ST 05-0106-GIL  10/20/2005  The transfer of assets in a merger of two limited liability companies is not subject to either Retailers' Occupation Tax or Use Tax liability.  See 805 ILCS 180/37-30.


ST 05-0136-GIL  12/29/2005  This letter discusses the taxation of trash collection tags or stickers that are sold separately from the trash bags.  See 86 Ill. Adm. Code 130.120.

ST 05-0139-GIL  12/29/2005  This letter discusses liability for Hotel Operators’ Occupation Tax and Retailers’ Occupation Tax in regard to students attending summer camp programs provided by a college or other school for which they
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

receive credit or some other recognition of completion. See 86 Ill. Adm. Code Sections 480.101 and 130.2005.

ST 05-0144-GIL 12/30/2005 This letter discusses the distinction between a sale at retail and a sale of service. See 86 Ill. Adm. Code 130.101 et seq. and 86 Ill. Adm. Code 140.101 et seq.

NEWSPRINT & INK

ST 05-0112-GIL 11/07/2005 Sales of newspapers and magazines are not subject to Retailers' Occupation Tax when the publication is issued periodically and published at least twice a year. See 86 Ill. Adm. Code 130.2105.

NEXUS


ST 05-0134-GIL 12/27/2005 The definition of a “retailer maintaining a place of business in Illinois” is described in 86 Ill. Adm. Code 150.201(i). This type of retailer is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801.

REPAIRS


ROLLING STOCK EXEMPTION
NOTICE OF PUBLIC INFORMATION

2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

ST 05-0100-GIL  10/13/2005  The certification requirements of a seller in relation to a sale involving rolling stock may be found at 86 Ill. Adm. Code 130.340.

ST 05-0111-GIL  11/07/2005  This letter answers questions regarding the rolling stock exemption, trade-in allowances for aircraft, and amount of tax due when the rolling stock exemption can no longer be claimed. See 86 Ill. Adm. Code Sections 130.340 and 130.425 and 35 ILCS 105/10.

SALE FOR RESALE

ST 05-0120-GIL  11/28/2005  Addresses whether a lessor may purchase as a tax-exempt sale for resale consumable materials to be provided along with rental equipment. See 86 Ill. Adm. Code 130.1401 and 130.1405.

ST 05-0130-GIL  12/20/2005  The purchase of telecommunications cannot be made tax-free as being a purchase for resale unless the purchaser possesses a valid Telecommunications Tax resale number. See 35 ILCS 630/8.

SERVICE OCCUPATION TAX

ST 05-0026-PLR  12/30/2005  The Department recognizes that the construction industry has evolved to where construction contractors may obtain stock or standard roof trusses. See 86 Ill. Adm. Code 130.2115. This letter ruling partially rescinds Private Letter Ruling ST 97-0016-PLR.

ST 05-0027-PLR  12/30/2005  The volume production (50 or more) of an identical roof truss or wall panel in a single order or simultaneous orders will be subject to Retailers’ Occupation Tax liability, rather than Service Occupation Tax liability. This letter clarifies that any subsequent order of an identical roof truss or wall panel after the initial order or simultaneous order will be subject to Retailers’ Occupation Tax liability regardless of whether or not that roof truss or wall panel is part of a roof truss system or wall panel system. See 86 Ill. Adm. Code 130.2115. This letter ruling partially rescinds Private Letter Ruling ST 03-0021-PLR.

ST 05-0109-GIL  10/25/2005  The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this
NOTICE OF PUBLIC INFORMATION

2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

State, based upon the tangible personal property transferred incident to sales of service. See 35 ILCS 115/3.


ST 05-0142-GIL 12/29/2005 This letter rescinds part of ST 00-0087-GIL in regards to the volume production exclusion from the Department’s special order rule set out in 86 Ill. Adm. Code 130.2115.

TELECOMMUNICATIONS EXCISE TAX

ST 05-0116-GIL 11/18/2005 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code Part 495.

TRADE-INS

ST 05-0114-GIL 11/15/2005 Under Illinois law, a trade-in credit is available to a retailer when the purchaser trades in tangible personal property of like kind and character as that which is being sold by the retailer. See 86 Ill. Adm. Code 130.425.

ST 05-0115-GIL 11/17/2005 Neither the rule concerning traded-in property nor the rule concerning trade-in allowances limits the allowance of credit for trade-ins to motor vehicles that are titled in Illinois at the time of the trade-in. Nor do these provisions require that the trade-in vehicle has to have been originally purchased in Illinois and subject to Illinois Retailers’ Occupation Tax or Use Tax on the original purchase in order to qualify for the credit. See 86 Ill. Adm. Code 130.425 and 130.455.
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FOURTH QUARTER INCOME & SALES TAX SUNSHINE INDICES

USE TAX

ST 05-0097-GIL 10/13/2005 This letter concerns the taxability of materials that are damaged in the manufacturing process. See 35 ILCS 105/3-10.

ST 05-0141-GIL 12/29/2005 Under the Use Tax Act, persons who purchase tangible personal property from out-of-State retailers, and either ship or bring that property into Illinois incur Use Tax Liability. The purchaser would get credit against his or her Illinois Use Tax obligations for taxes properly due and paid in another state. See 86 Ill. Adm. Code 150.310(a)(3).

ST 05-0143-GIL 12/30/2005 Although the donee of a gift is not a taxable user, the donor who purchases the property and gives it away in Illinois makes a taxable use of the property when making such gift. See 86 Ill. Adm. Code 150.305(c).

WATERCRAFT USE TAX

ST 05-0091-GIL 10/03/2005 Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase after September 1, 2004. See 86 Ill. Adm. Code 153.105.
WHEREAS, the citizens of Illinois rely on surface water and groundwater for personal consumption, and industries of the State use a significant amount of that water for economic development; and
WHEREAS, the increasing demands on Illinois' water resources and the impacts of drought may lead to conflicts between the multiple water supply users and may adversely affect the health of the State's citizens as well as adversely impacting the environment and the economy; and
WHEREAS, the quantity of surface water and groundwater in Illinois must be properly assessed through a sound planning process as an essential part of any responsible, economically viable and secure water supply development for the citizens of the State; and
WHEREAS, the Illinois Interagency Coordinating Committee on Groundwater, the Illinois State Water Survey, and the Illinois State Water Plan Task Force have identified the Priority Water Quantity Planning Areas that are most at risk for water shortages and conflicts; and
WHEREAS, the Illinois Integrated Water Quantity Planning and Management Committee recommends the development of regional aquifer and watershed plans for managing water supplies;
THEREFORE, BE IT ORDERED that the following actions shall be executed:

Consistent with the authority granted to the Department of Natural Resources under the Rivers, Lakes, and Streams Act, 615 ILCS 5/5 et seq. and the Level of Lake Michigan Act, 615 ILCS 50/1 et seq., the authority of the Department of Natural Resources’ Office of Water Resources under 20 ILCS 801/5-5, the Office of Water Resources, in coordination with the State Water Survey, shall:

1. Define a comprehensive program for State and regional water supply planning and management and develop a strategic plan for its implementation consistent with existing laws, regulations and property rights,

2. Provide for public review of the draft strategic plan for a water supply planning and management program;

3. Establish a scientific basis and an administrative framework for implementing state and regional water supply planning and management;

4. Develop a package of financial and technical support for, and encouragement of, locally based regional water supply planning committees. These committees, whether existing or new entities, shall be organized for participation in the
EXECUTIVE ORDER FOR THE DEVELOPMENT OF STATE AND REGIONAL WATER-SUPPLY PLANS

development and approval of regional plans in the Priority Water Quantity Planning areas;

5. By December 31, 2006, ensure that Regional Water Quantity Plans are in process for at least two Priority Water Quantity Planning Areas.

EFFECTIVE DATE:

This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by Governor: January 9, 2006
Filed with Secretary of State: January 9, 2006
WHEREAS, a longtime community activist and friend of the disenfranchised, Jorja English Palmer passed away December 29, 2005; and

WHEREAS, the seventh child of nine children and the youngest daughter of Frank and Elizabeth (Bessie) Williams, Jorja was born June 16, 1930 in New Madrid, Missouri. When she was only four years old, both of her parents passed away; and

WHEREAS, Jorja and seven siblings subsequently lived with their aunt Esther Mack on the Southside of Chicago, where Jorja attended Willard and Forestville Elementary Schools. She later participated in the Civil Rights Movement while studying at DuSable High School and Chicago City Junior Colleges; and

WHEREAS, as a young mother, Jorja was living in the racially changing community of West Chatham. There, she actively participated in the West Chatham Improvement Association and was selected by their education committee to attend the newly formed Chicago Community Council Organization; and

WHEREAS, Jorja was an important leader in the Chicago Community Council Organization's historic school boycott, in which 80 percent of African American families kept their children out of school to protest the use of portable trailers for schooling; and

WHEREAS, during the 1970's, Jorja engaged in the fight for an African American Chicago school board president and served as a delegate to the historic National Black Political Assembly in Gary, Indiana; and

WHEREAS, in the early 80's, Jorja and her husband, Lu Palmer, launched the largest voter registration drive in American history, which solidified a central constituency of African American voters who persuaded Harold Washington to run for, and eventually win the seat of mayor of Chicago; and

WHEREAS, Mrs. Palmer has made many other significant contributions, and she will undoubtedly be greatly missed by her large family and the many friends she has made over the course of her life:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 4, 2006 as JORJA ENGLISH PALMER DAY in Illinois, in honor and remembrance
PROCLAMATION

of Mrs. Palmer and her many contributions to the African American community, the City of Chicago, and the great state of Illinois.

Issued by the Governor on January 4, 2006.
Filed with the Secretary of State January 4, 2006.

2006-2
BLOOD DONOR MONTH

WHEREAS, approximately four million patients in the United States receive blood transfusions every year, and roughly 38,000 units of blood are required in hospitals and emergency treatment facilities on any given day; and

WHEREAS, unfortunately, blood donations often fall short of demand. While approximately eight million volunteers donate blood every year, just one trauma patient can use more than 100 units of blood, and donated blood has a shelf life of only 42 days; and

WHEREAS, even if volunteers donated blood regularly, donors can only give two units of blood every eight weeks. Consequently, there is a continual need to recruit more donors; and

WHEREAS, January is generally a difficult time to recruit donors. For that reason, organizations all across the country organize blood drives and promote blood donations throughout the month:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim January 2006 as BLOOD DONOR MONTH in Illinois, and encourage all eligible donors to open their hearts this month by giving blood.

Issued by the Governor on January 9, 2006.
Filed with the Secretary of State January 9, 2006.

2006-3
AFRICAN AMERICAN HISTORY MONTH

WHEREAS, Dr. Carter G. Woodson, a noted intellectual of his time, founded the Association for the Study of Afro-American Life and History (ASALH) in 1915. Eleven years later, Dr. Woodson created Negro History Week to celebrate the many contributions of African Americans to American culture and customs; and
PROCLAMATION

WHEREAS, Dr. Woodson designated the second week of February as Negro History Week to coincide with the birthdays of Abraham Lincoln and Frederick Douglass, in honor of their considerable impact on African American history. In 1976, ASALH extended the celebration for the entire month of February; and

WHEREAS, there have been several milestone events in African American history during February, including: passage of the 15th Amendment in 1870, which granted African Americans the right to vote; the inauguration of the first African American Senator, Hiram Revels, also in 1870; and the founding of the National Association for the Advancement of Colored People in 1909; and

WHEREAS, throughout African American History Month, organizations all across the country celebrate African American history with seminars, plays, concerts, art shows, films, dance performances, family workshops, and other expressions of creativity and pride. Here in Illinois, we are proud to join in these spirited commemorations:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2006 as AFRICAN AMERICAN HISTORY MONTH in Illinois, and encourage all citizens to learn about the wonderful contributions that African Americans have made to our state, and to the nation as a whole.

Issued by the Governor on January 9, 2006.
Filed with the Secretary of State January 9, 2006.

2006-4
WOMEN'S HEALTHY HEART MONTH

WHEREAS, heart disease claims the lives of nearly 500,000 women in the United States every year, at a rate of about one death per minute, and is the leading cause of death among women. In Illinois alone, 15,796 women died in 2002 due to diseases of the heart; and

WHEREAS, the majority of women are not aware of their risk factors for a heart attack, nor are they even aware of the signs and symptoms of a heart attack. Risk factors for a heart attack include tobacco use, high blood cholesterol, high blood pressure, physical inactivity, diabetes and obesity; and

WHEREAS, signs and symptoms of a heart attack include uncomfortable pressure, squeezing, fullness or pain in the center of the chest that lasts more than a few minutes, or goes away and comes back; pain or discomfort in one or both arms, the back,
PROCLAMATION

neck, jaw or stomach; shortness of breath along with, or before, chest discomfort; and cold sweat, nausea or lightheadedness; and

WHEREAS, heart disease is a serious problem that unnecessarily affects far too many Americans. Consequently, it is critical that Americans are also more attentive of certain habits that will both greatly improve their health and significantly reduce the risks of heart disease, such as exercising regularly and eating healthy meals and snacks; and

WHEREAS, February of each year is nationally recognized as American Heart Month, Go Red for Women, and this year in Illinois, we want to give special emphasis to women's heart health by declaring February Women's Healthy Heart Month; and

WHEREAS, we are also proud to join various heart health organizations across the country in encouraging Americans to wear red on February 3 in support of the continued efforts to raise awareness of heart disease among women in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2006 as WOMEN'S HEALTHY HEART MONTH in Illinois, and urge all citizens, especially women, to familiarize themselves with the risks and signs and symptoms of a heart attack, as well as the habits they can practice to improve their health and reduce the risks of heart disease.

Issued by the Governor on January 9, 2006.
Filed with the Secretary of State January 9, 2006.

2006-5
AMBUCS NATIONAL VISIBILITY MONTH

WHEREAS, AMBUCS is a national service organization composed of a diverse group of men and women who are dedicated to fostering mobility and independence for those with disabilities; and

WHEREAS, today, there are more than 6,000 AMBUCS members throughout the country who administer wonderful programs such as AMBUCS Scholars. Since its inception, the AMBUCS Scholars program has provided over $6 million to educate physical and occupational therapists; and

WHEREAS, another AMBUCS program, AmBility, supports a variety of projects, including the distribution of therapeutic bicycles to children with disabilities, and ramp construction to make homes and businesses more accessible for the disabled; and
WHEREAS, in addition to those programs, there are 15 AMBUCS chapters in Illinois that also partner with Easter Seals, Special Olympics, and other terrific organizations to broaden their services; and

WHEREAS, during the month of February, the national organization will recognize all AMBUCS chapters and members for their commitment and dedication to helping those with disabilities:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2006 as AMBUCS NATIONAL VISIBILITY MONTH in Illinois in recognition of AMBUCS chapters and members for their noble and worthy service to the community.

Issued by the Governor on January 9, 2006.
Filed with the Secretary of State January 9, 2006.
ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 30, Issue 3 are listed in the Issues Index by Title number, Part number, Volume and Issue.
Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

### PROPOSED RULES

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### ADOPTED RULES

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### EXECUTIVE ORDERS AND PROCLAMATIONS

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### REGULATORY AGENDA

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<tbody>
<tr>
<td>Subscription to the Illinois Register (52 Issues)</td>
<td></td>
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<tr>
<td>Electronic Version of the Illinois Register (E-mail Address Required)</td>
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<td>Back Issues of the Illinois Register (Current Year Only)</td>
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<td>Microfiche sets of the Illinois Register 1977 – 2001</td>
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<tr>
<td>Cumulative/Sections Affected Indices 1990 - 2002</td>
<td></td>
<td></td>
<td>$5.00</td>
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<tr>
<td>(Processing fee for credit cards purchases, if applicable.)</td>
<td></td>
<td></td>
<td>$1.50</td>
</tr>
<tr>
<td>TOTAL AMOUNT OF ORDER</td>
<td></td>
<td></td>
<td>$____________</td>
</tr>
</tbody>
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☐ Check Make Checks Payable To: Secretary of State

☐ VISA ☐ Master Card ☐ Discover (There is a $1.50 processing fee for credit card purchases.)

Card #: ____________________________ Expiration Date: _______

Signature: __________________________

Send Payment To: Secretary of State
Department of Index
Administrative Code Division
111 E. Monroe
Springfield, IL  62756

Fax Order To: (217) 524-0308

Name:  Attention:  ID #:
Address:
City:  State:  Zip Code:
Phone:  Fax:  E-Mail:

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