

# 2005

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Senior Citizens and Disabled Persons Prescription Drug Discount
- 2) Code Citation: 80 Ill. Adm. Code 2151
- 3) Section Number: 2151.40      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 45 of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act [320 ILCS 55].
- 5) A Complete Description of the Subjects and Issues Involved: Reducing the enrollment fee and including language to waive fee.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson  
Illinois Department of Central Management Services  
720 Stratton Office Building  
Springfield, Illinois 62706  
217/785-1793

- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: None

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 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 amendment was not included on either of the 2 most recent regulatory agendas because: the changes were recent, resulting from a desire to make the program more affordable for the senior and disabled citizens of the State of Illinois.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE F: EMPLOYEE INSURANCE  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2151  
SENIOR CITIZENS AND DISABLED PERSONS  
PRESCRIPTION DRUG DISCOUNT PROGRAM

SUBPART A: PURPOSE AND DEFINITIONS

Section	Purpose
2151.10	Purpose
2151.20	Definitions

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

2151.30	Eligibility
2151.40	Enrollment Fee
2151.50	Other Administrative Responsibilities of the Department

SUBPART C: RESPONSIBILITIES OF THE PROGRAM ADMINISTRATOR

2151.60	Eligibility Determination
2151.70	Enrollment
2151.80	Re-enrollment
2151.90	Other Administrative Responsibilities
2151.100	Termination of Program Administrator

SUBPART D: FUNDING

2151.110	Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund
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SUBPART E: DISCOUNTS

2151.120	Discounts
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AUTHORITY: Implementing, and authorized by Section 45 of, the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act [320 ILCS 55].

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 4379, effective February 20, 2004; emergency expired July 18, 2004; adopted at 28 Ill. Reg. 12071, effective August 12, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

**Section 2151.40 Enrollment Fee**

*To participate in the program, an approved applicant must pay \$~~9.99~~<sup>25</sup> 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 and/or waive the fee for a specified period of time, 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.*

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Services
- 2) Code Citation: 89 Ill. Adm. Code 590
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
590.410	Amendment
590.490	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking is being proposed to clarify language related to purchasing of a customer's van and to identify reader/notetaker/driver rates in this Part. In the past, these rates have been tied to the Home Services Program's Personal Assistant Rate. This rulemaking will outline that the hourly rate be an amount that is at least 20% greater than the State of Illinois' minimum wage rate.
- 6) Will this proposed rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762  
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated at the time of the submission of the last regulatory agenda.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 590  
SERVICES

SUBPART A: GENERAL ISSUES

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590.10	General Applicability
590.20	Availability of Services
590.30	Effect of Financial Status on Services
590.35	Effect of Comparable Benefits
590.40	Choice of Service Providers
590.45	DHS-ORS Bidding Procedure

SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

Section	
590.50	Provision of Services
590.60	Qualification of Medical and Psychological Service Providers
590.70	Treatment of Acute Conditions
590.80	Medication and Treatment
590.90	Hearing Aids
590.100	Binaural Hearing Aids
590.110	Speech and Language Services
590.120	Low Vision Devices
590.130	Mental Restoration Services
590.140	Heart Surgeries
590.150	Kidney Transplant and Related Services
590.160	Chiropractic Services
590.170	Prosthetic and Orthotic Devices
590.180	Wheelchairs
590.190	Prohibited Services

SUBPART C: TRAINING AND RELATED SERVICES

Section	
590.200	Provision of Services

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## NOTICE OF PROPOSED AMENDMENTS

590.210	Qualification of Training Facilities/Institutions
590.220	Purpose and Types of Training
590.230	Financial Guidelines for Training Services
590.240	Graduate School Training
590.250	Choice of Training Facility/Institution
590.260	Summer School
590.270	Grades
590.280	Health Status
590.290	On-the-Job Training
590.300	Default on Educational Loans

## SUBPART D: SELF EMPLOYMENT PROGRAM

Section	
590.310	Provision of Services
590.315	Eligibility
590.320	Self-Employment Program
590.330	Ineligible Costs
590.340	Bidding Requirements (Repealed)
590.350	Recovery of Tools, Equipment, Supplies and Initial Stock
590.360	Transfer of Title
590.370	Limitation of Financial Participation (Repealed)

## SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section	
590.375	Provision of Services
590.380	Vendor Requirements
590.390	Bidding Requirements (Repealed)
590.400	Vehicle Adaptation
590.410	DHS- <del>DRSORS</del> Financial Participation in Van Adaptation
590.420	Environmental Modification
590.430	Written Agreements for Environmental Modification
590.440	Compliance with Capital Development Board Specifications

## SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

Section	
590.450	Provision of Services
590.460	Types of Services

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 590.470 Services
- 590.480 Qualifications for Services Provided by Individuals
- 590.490 Payment for Support Services Provided by Individuals and Conditions of Service Provision

## SUBPART G: COMPUTER EQUIPMENT AND SENSORY AID LOAN

## Section

- 590.500 Provision of Services (Repealed)
- 590.510 Definitions (Repealed)
- 590.520 Purpose of Equipment Loans (Repealed)
- 590.530 Criteria for Loan of Equipment/Aids (Repealed)
- 590.540 Equipment/Aids Loan Request Procedures and Approval Process (Repealed)
- 590.550 Duration of Loans (Repealed)
- 590.560 Maintenance and Return of Equipment/Aids (Repealed)
- 590.570 Assistance in Obtaining Permanent Equipment/Aids (Repealed)
- 590.580 Limitations on Available Equipment/Aids (Repealed)

## SUBPART H: OTHER SERVICES

## Section

- 590.590 Provision of Services
- 590.600 Transportation and Temporary Lodging
- 590.610 Other Goods and Services
- 590.620 Equipment Sets

## SUBPART I: PLACEMENT

## Section

- 590.630 Provision of Placement Services
- 590.640 Description of Services

## SUBPART J: INCREASED COSTS

## Section

- 590.650 Provision of Services
- 590.660 Increased Costs
- 590.670 Determination of the Need for Increased Costs
- 590.675 Determination of Client Financial Participation in Maintenance (Repealed)
- 590.680 Exceptions

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART K: POST-EMPLOYMENT SERVICES

- 590.700 Provision of Services
- 590.710 Definitions
- 590.720 Scope of Services

## SUBPART L: TRANSITION

- 590.730 Provision of Services
- 590.740 Definitions
- 590.750 Secondary Transitional Experience Program (STEP)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11812, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20461, effective November 15, 1993; amended at 18 Ill. Reg. 11275, effective June 30, 1994; emergency amendment at 18 Ill. Reg. 16468, effective October 20, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 7260, effective May 12, 1995; amended at 19 Ill. Reg. 7435, effective May 19, 1995; amended at 19 Ill. Reg. 10153, effective June 29, 1995; amended at 19 Ill. Reg. 10709, effective June 29, 1995; amended at 20 Ill. Reg. 6319, effective April 18, 1996; amended at 20 Ill. Reg. 6523, effective April 18, 1996; amended at 20 Ill. Reg. 10375, effective July 19, 1996; amended at 21 Ill. Reg. 1395, effective January 17, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 201, effective December 15, 1998; amended at 23 Ill. Reg. 7502, effective June 17, 1999; emergency amendment at 24 Ill. Reg. 6728, effective April 14, 2000, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 10372, effective July 1, 2000, for a maximum of 150 days; emergency expired on November 27, 2000; amended at 24 Ill. Reg. 13687, effective August 23, 2000; amended at 24 Ill. Reg. 18561, effective November 30, 2000; amended at 25 Ill. Reg. 4568, effective April 1, 2001; amended at 27 Ill. Reg. 12602, effective July 21, 2003; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

| Section 590.410 DHS-~~DRSORS~~ Financial Participation in Van Adaptation

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- a) DHS-~~DRSORS~~ shall not participate in the purchase of any vehicle nor the purchase of the adaptive equipment that has been installed in a vehicle prior to the purchase of the vehicle by the customer, without approval of the appropriate Bureau Chief.
- b) A one time unusual allowable expense, to reduce customer financial participation, is available (see 89 Ill. Adm. Code 562) for the purchase of a van for transportation if the van is required for the customer to meet the employment goal and if:
- 1) due to the nature of the customer's disability, he/she is unable to use an automobile, whether modified or not, or make use of public transportation;
  - 2) DHS-~~DRSORS~~ agrees, as evidenced by the Assessment (89 Ill. Adm. Code 553.100), that the purchase of the adaptive equipment is essential for the customer's use of the vehicle;
  - 3) the van ~~was~~ purchased by, and title is held in the name of, the customer or is being purchased by the customer, the customer's spouse, or the customer's parent;
  - 4) the van is purchased in the same calendar year or within the past 12 months as the adaptive equipment.
- c) When it is determined the customer is eligible for the unusual allowable expense, it shall be calculated as follows:
- 1) \$7,000 shall be deducted from the price the customer paid for the van; and
  - 2) the customer may claim the remainder of the purchase price, up to \$6,000, as the one time unusual allowable expense to determine his/her financial eligibility for DHS-~~DRSORS~~ assistance (see 89 Ill. Adm. Code 562).
- d) DHS-~~DRSORS~~ shall not participate in any cost associated with the removal, replacement, repainting, relocation or restoration of such items as cabinets, beds, appliances, etc. associated with the cost of adapting an individual client's van. Neither shall DHS-~~DRSORS~~ pay for any costs associated with the adaptation of a vehicle that are required due to the inappropriateness of the vehicle to meet the client's needs.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- e) DHS-~~DRSORS~~ financial participation for the conversion of a mini-van (less than a full-sized van (Section 590.380(b)) shall not exceed that which is reasonable and customary to adapt a full-sized van. Such a determination shall be based on DHS-~~DRSORS~~ records regarding previous van conversions and information received from the vendor and/or evaluator.
- f) When a used vehicle is to be adapted, the vehicle must have an expected useful life of at least 5 years when considering the condition and mileage of the vehicle prior to adaptation. Condition of the van shall be verified by at least one reputable mechanic/adaptor. Any repairs determined necessary as a result of the evaluations by the mechanic/adaptor shall be made, at the expense of the client, prior to the time DHS-~~DRSORS~~ will participate in the cost of adaptation.
- g) Any vehicle, new or used, to be adapted by DHS-~~DRSORS~~ must be equipped with all necessary factory-installed options so that the vehicle may be modified, using non-standard equipment, at the least possible cost.
- h) The client is expected to insure and properly maintain any vehicle in which DHS-~~DRSORS~~ has participated in the adaptation. Manufacturers' specifications are to be followed in terms of proper care and maintenance.
- i) All clients considering vehicle adaptation should consult with DHS-~~DRSORS~~ staff prior to the purchase of any vehicle to ensure the vehicle's adaptability prior to purchase of the vehicle and to ensure DHS-~~DRSORS~~ will, if the client is eligible and vehicle adaptation is an appropriate service for the client, participate in the adaptation of the specific vehicle, pursuant to the provisions of this Subpart.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

**Section 590.490 Payment for Support Services Provided by Individuals and Conditions of Service Provision**

- a) Individuals providing PA services shall be paid only for those hours in which services are being provided to the customer in the customer's home or on the customer's worksite and in accordance with the customer's Individualized Plan for Employment (IPE) (89 Ill. Adm. Code 572). An individual employed by the customer to provide PA services shall be paid at an hourly rate equal to that paid

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

to an individual providing PA services through the DHS-~~DRSORS~~ Home Services Program (see 89 Ill. Adm. Code 686.40(a)).

- b) An individual providing reader or notetaker services shall be paid only for those hours in which such services are being directly provided to the customer and in accordance with the customer's IPE (89 Ill. Adm. Code 572). An individual providing reader or notetaker services shall be paid at an hourly rate determined by the Division of Rehabilitation Services. This rate shall be an amount that is at least 20% greater than the State of Illinois' minimum wage rate.~~the hourly rate established by DHS-ORS but never less than the hourly Federal Minimum Wage.~~
- c) An individual providing driver services to a customer shall be paid an hourly rate for all driving and required waiting time and shall be reimbursed for mileage in accordance with State Travel Regulations (see 80 Ill. Adm. Code 3000.Appendix A). An individual providing driver services shall be paid at an hourly rate determined by the Division of Rehabilitation Services. This rate shall be an amount that is at least 20% greater than the State of Illinois' minimum wage rate.~~the hourly rate established by DHS-ORS for such services but never less than the Federal Minimum Wage.~~
- d) An individual providing Interpreter Services, either foreign language, sign language or CART, shall be paid at the hourly, ½ day or full day rate established by DHS-~~DRSORS~~ for his/her level of certification/qualification and in accordance with the following:
- 1) minimum payment shall be for a period of 2 hours even though actual work time may be less;
  - 2) if there is less than a one hour lapse during provision of services (e.g., lunch, break) the individual shall be paid for the entire time span of the assignment;
  - 3) an individual who is required to be on site even though he/she does not interpret shall be paid during that period of time;
  - 4) an individual who must travel more than 20 miles one-way for an assignment shall be paid travel reimbursement in accordance with State Travel Regulations (80 Ill. Adm. Code 3000.Appendix A);
  - 5) no payment shall be made to an individual whose assignment is cancelled

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

more than 48 hours prior to the scheduled beginning of the assignment. If cancellation occurs less than 48 hours prior to the scheduled beginning of the assignment, for single day assignments the individual shall be paid for the entire scheduled assignment time. For multiple day assignments, the individual shall be paid for the time scheduled for the assignment during the first 48 hours of the scheduled assignment;

- 6) if a customer does not appear for a scheduled appointment, the individual shall stay on-site for one hour. If the customer does not appear after the one hour wait, the individual shall consult the DHS-[DRSORS](#) contact person for instructions. The individual shall be paid in accordance with the provisions of subsections (d)(1), (3) and (5) and reimbursed for travel in accordance with subsection (d)(4)-~~above~~;
- 7) if an individual has to cancel a scheduled assignment, he/she shall contact the DHS-[DRSORS](#) contact person immediately and assist in finding a suitable replacement. The suitability of the replacement shall be determined by the DHS-[DRSORS](#) contact person. An individual who cancels a scheduled assignment shall not be paid for any of the scheduled services, reimbursed travel cost, or paid a finders fee for locating a replacement.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payments
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3) Section Number: 686.40                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking adds language that a Personal Assistant (PA) will not be reimbursed for services that are over 16 hours in a 24-hour period. Counselors may grant exceptions for this in an emergency situation, which is outlined in this Section, but the hours may not exceed the annual service cost maximum (SCM). This 16-hour limitation does not apply to PAs providing respite services.
- 6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: none
  - B) Reporting, bookkeeping or other procedures required for compliance: none
  - C) Types of professional skills necessary for compliance: none
- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the last 2 regulatory agendas because: This rulemaking was not anticipated at the time of the July '04 agenda.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

PART 686  
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section	
686.10	Personal Assistant (PA) Requirements
686.20	Services Which May Be Provided by a PA
686.25	Criminal Background Check
686.30	Annual Review of PA Performance
686.40	Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section	
686.100	Adult Day Care (ADC) Provider Requirements
686.110	Services Which Must Be Provided by ADC Providers
686.120	Compliance Review of ADC Providers
686.130	Appeal of Compliance Review for ADC Providers
686.140	Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section	
686.200	Homemaker Service Provider Requirements
686.210	Services Which Must Be Provided by Homemaker Agencies
686.220	Compliance Review of Homemaker Agencies
686.230	Appeal of Compliance Review for Homemaker Agencies
686.240	Payment for Homemaker Services
686.250	Financial Reporting of Homemaker Services
686.260	Unallowable Costs for Homemaker Service
686.270	Minimum Direct Service Worker Costs for Homemaker Services
686.280	Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section

- 686.300 Electronic Home Response Services (EHRS) Provider Requirements
- 686.310 Services Which Must Be Provided by EHRS Providers
- 686.320 Minimum Specifications for EHRS Equipment
- 686.330 Compliance Review of EHRS Providers
- 686.340 Appeal of Compliance Review for EHRS Providers
- 686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section

- 686.400 Maintenance Home Health Provider Requirements
- 686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section

- 686.500 Home Delivered Meals Provider Requirements
- 686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

- 686.600 Environmental Modification Provider Requirements
- 686.610 Cost of Environmental Modification
- 686.620 Permanency of Environmental Modification
- 686.630 Reason for Denial of Environmental Modification
- 686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section

- 686.700 Assistive Equipment Provider Requirements
- 686.710 Provision of Assistive Equipment
- 686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section

- 686.800 Respite Care Provider Requirements

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SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section

- 686.900 Program Overview
- 686.910 Case Management Provider Responsibilities
- 686.920 Provider Staffing Requirements, Qualifications, and Training
- 686.930 Monitoring and Liability of Provider
- 686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section

- 686.1000 Program Overview
- 686.1010 Case Management Provider Responsibilities
- 686.1020 Case Manager Staffing Requirements, Qualifications and Training
- 686.1025 Provisional Case Manager
- 686.1030 Monitoring and Liability
- 686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

- 686.1100 Behavioral Services Provider Requirements
- 686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

- 686.1200 Day Habilitation Services Provider Requirements
- 686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section

- 686.1300 Prevocational Services Provider Requirements
- 686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES  
FOR PERSONS WITH BRAIN INJURIES

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## Section

686.1400 Supported Employment Service Provider Requirements

686.1410 Rate of Pay for Supported Employment Services

686.APPENDIX A Acceptable Human Service Degrees

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

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

## SUBPART A: PERSONAL ASSISTANTS

**Section 686.40 Payment for PA Services**

- a) PAs shall be paid at the hourly rate set by law, but never less than the current federal minimum wage.
- b) PAs shall be paid twice each month for services rendered. The first payment shall be for any services rendered by the PA, pursuant to the customer's Service Plan, from the first day of the month through the fifteenth day of the month. The second payment shall be for any services rendered by the PA, pursuant to the customer's Service Plan, from the sixteenth day of the month through the last day of the month.
- c) No PA shall be reimbursed by DHS-DRS for services rendered to one or more HSP customers for more than 16 hours in a 24-hour period. The counselor may grant an exception should an emergency occur that results in the loss of a paid or unpaid primary caregiver who resides with the customer, and there is imminent danger to the health, safety and well being of the customer. When this occurs, the additional hours may not exceed the annual service cost maximum (SCM). The

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16-hour limitation does not apply to PAs providing respite services.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Permanent Program Performance Standards – Surface Mining Activities
- 2) Code Citation: 62 Ill. Adm. Code 1816
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1816.116	Amendment
APPENDIX A	Amendment
EXHIBIT A	Amendment
TABLE A	Repeal
TABLE B	Repeal
TABLE C	Repeal
TABLE D	Repeal
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to incorporate new language regarding the productivity alternative; update requirements pertaining to adjustment for abnormal, catastrophic, growing conditions and the alternative to the Agricultural Lands Productivity Formula; to update information in EXHIBIT A; to repeal TABLES A, B and D because information is contained elsewhere in the rule and to repeal Table C because information is no longer needed.
- 6) Will this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price, Legal Counsel

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Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Coal Mine Operators
  - B) Reporting, bookkeeping or other procedures required for compliance: Submitting maps for productivity testing
  - C) Types of professional skills necessary for compliance: Land surveying or civil engineering
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## PART 1816

PERMANENT PROGRAM PERFORMANCE STANDARDS –  
SURFACE MINING ACTIVITIES

## Section

1816.11	Signs and Markers
1816.13	Casing and Sealing of Drilled Holes: General Requirements
1816.14	Casing and Sealing of Drilled Holes: Temporary
1816.15	Casing and Sealing of Drilled Holes: Permanent
1816.21	Topsoil: General Requirements (Repealed)
1816.22	Topsoil and Subsoil
1816.23	Topsoil: Storage (Repealed)
1816.24	Topsoil: Redistribution (Repealed)
1816.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1816.41	Hydrologic Balance Protection
1816.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1816.43	Diversions
1816.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1816.45	Hydrologic Balance: Sediment Control Measures
1816.46	Hydrologic Balance: Siltation Structures
1816.47	Hydrologic Balance: Discharge of Structures
1816.48	Hydrologic Balance: Acid-Forming and Toxic-Forming Spoil (Repealed)
1816.49	Impoundments
1816.50	Hydrologic Balance: Ground Water Protection (Repealed)
1816.51	Hydrologic Balance: Protection of Ground Water Recharge Capacity (Repealed)
1816.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1816.53	Hydrologic Balance: Transfer of Wells (Repealed)
1816.54	Hydrologic Balance: Water Rights and Replacement (Repealed)
1816.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1816.56	Post-Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
1816.57	Hydrologic Balance: Stream Buffer Zones
1816.59	Coal Recovery
1816.61	Use of Explosives: General Requirements
1816.62	Use of Explosives: Pre-Blasting Survey
1816.64	Use of Explosives: Public Notice of Blasting Schedule
1816.65	Use of Explosives: Surface Blasting Requirements (Repealed)

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- 1816.66 Use of Explosives: Blasting Signs, Warnings, and Access Control
- 1816.67 Use of Explosives: Control of Adverse Effects
- 1816.68 Use of Explosives: Records of Blasting Operations
- 1816.71 Disposal of Excess Spoil: General Requirements
- 1816.72 Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills
- 1816.73 Disposal of Excess Spoil: Head-Of-Hollow Fills (Repealed)
- 1816.74 Disposal of Excess Spoil: Durable Rock Fills
- 1816.75 Disposal of Excess Spoil: Preexisting Benches
- 1816.79 Protection of Underground Mining
- 1816.81 Coal Mine Waste: General Requirements
- 1816.82 Coal Processing Waste Banks: Site Inspection (Repealed)
- 1816.83 Coal Mine Waste: Refuse Piles
- 1816.84 Coal Mine Waste: Impounding Structures
- 1816.85 Coal Processing Waste Banks: Construction Requirements (Repealed)
- 1816.86 Coal Processing Waste: Burning (Repealed)
- 1816.87 Coal Mine Waste: Burned Waste Utilization
- 1816.88 Coal Processing Waste: Return to Underground Workings (Repealed)
- 1816.89 Disposal of Noncoal Mine Wastes
- 1816.91 Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)
- 1816.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)
- 1816.93 Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)
- 1816.94 Coal Processing Waste: Time and Requirements for Completion of Covering (Repealed)
- 1816.95 Stabilization of Surface Areas
- 1816.97 Protection of Fish, Wildlife, and Related Environmental Values
- 1816.99 Slides and Other Damage
- 1816.100 Contemporaneous Reclamation
- 1816.101 Backfilling and Grading: General Requirements
- 1816.102 Backfilling and Grading: General Grading Requirements
- 1816.103 Backfilling and Grading: Covering or Treating Coal and Acid- and Toxic-Forming Materials (Repealed)
- 1816.104 Backfilling and Grading: Thin Overburden
- 1816.105 Backfilling and Grading: Thick Overburden
- 1816.106 Backfilling and Grading: Previously Mined Areas
- 1816.107 Backfilling and Grading: Steep Slopes
- 1816.111 Revegetation: General Requirements
- 1816.112 Revegetation: Use of Introduced Species (Repealed)
- 1816.113 Revegetation: Timing

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1816.114	Revegetation: Mulching and Other Soil Stabilizing Practices
1816.115	Revegetation: Grazing (Repealed)
1816.116	Revegetation: Standards for Success
1816.117	Revegetation: Tree, Shrub, and Herbaceous Wildlife Vegetation
1816.131	Cessation of Operations: Temporary
1816.132	Cessation of Operations: Permanent
1816.133	Post-Mining Land Capability
1816.150	Roads: General
1816.151	Primary Roads
1816.180	Utility Installations
1816.181	Support Facilities
1816.190	Affected Acreage Map
1816.APPENDIX A	Agricultural Lands Productivity Formula
1816.TABLE A	Subsoil Adjustments ( <a href="#">Repealed</a> )
1816.TABLE B	Soil Variance Codes ( <a href="#">Repealed</a> )
1816.TABLE C	County Numbering System ( <a href="#">Repealed</a> )
1816.TABLE D	Sample Points Per Crop Acres ( <a href="#">Repealed</a> )
1816.TABLE E	Soil Master Files (Repealed)
1816.TABLE F	County Cropped Acreage File (Repealed)
1816.EXHIBIT A	County Crop Yields by Soil Mapping Unit

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8224; amended at 9 Ill. Reg. 13310, effective October 10, 1985; amended at 10 Ill. Reg. 8985, effective July 1, 1986; amended at 11 Ill. Reg. 8131, effective July 1, 1987; amended at 14 Ill. Reg. 11830, effective January 1, 1991; amended at 15 Ill. Reg. 17166, effective January 1, 1992; amended at 17 Ill. Reg. 11001, effective July 1, 1993; amended at 20 Ill. Reg. 2027, effective January 19, 1996; amended at 22 Ill. Reg. 20228, effective November 5, 1998; amended at 24 Ill. Reg. 5967, effective March 21, 2000; amended at 26 Ill. Reg. 4232, effective March 6, 2002; amended at 27 Ill. Reg. 4690, effective February 26, 2003; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1816.116 Revegetation: Standards for Success**

- a) Success of Revegetation
  - 1) Success of revegetation shall be judged in accordance with this Section

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and Section 1816.117.

2) Requirements

- A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C).
- B) The period of extended responsibility shall continue for a period of not less than 5 full years, except that on lands eligible for reining, the period of responsibility (until September 30, 2004) shall be 2 full years. Vegetation parameters identified in subsection (a)(1) shall equal or exceed the approved success standard set forth in subsection (a)(3).
- C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as disease, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1999-2000); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 USC 1421 et seq.). On all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture,

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Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation, and Trade Act of 1990 are available at the Department's Springfield office.

- D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if a permittee has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;
  - ii) the area is small;
  - iii) the erosion is not expected to recur; and
  - iv) the area is stable.
- The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.
- E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;

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- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- F) **Augmentation**  
Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.
- G) **Other Management Practices**  
The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:
  - i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
  - ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and
  - iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

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The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1816.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:
- A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements 62 Ill. Adm. Code 1810 through 1828 and that are remined or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;
  - B) For areas to be developed for industrial, commercial or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;
  - C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with subsection (a)(4) or (a)(6). Crop production shall be considered successful if it is 90% of that crop production required in subsection (a)(4) or (a)(6) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 year responsibility period. During the extended 5 year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The 5 year responsibility period shall begin after the last

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year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crops to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period. Once chosen by the permittee, the productivity alternative in subsection (a)(6) may not be modified without approval from the Department;

- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1816.117;
- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success (tons of grasses and/or legumes per acre) shall be determined in accordance with subsection (a)(4). Productivity shall be considered successful if it is 90% of the productivity required in subsection (a)(4) or (a)(6) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any 2 years of a 10 year period prior to the release of the performance bond, except the first year of the 5 year extended responsibility period. On high capability land, the Department shall allow the permittee to substitute corn production for hay production. If determined to

## DEPARTMENT OF NATURAL RESOURCES

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be a proper management practice in accordance with subsection (a)(2)(C), the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in subsection (a)(4)(D) for one year of hay production on limited capability land. Once chosen by the permittee, the productivity alternative in subsection (a)(6) may not be modified without approval from the Department;

- F) Non-contiguous areas less than or equal to 4 acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the permittee can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.
- 4) In order to use the Agricultural Lands Productivity Formula, Appendix A of this Part, or the alternative in subsection (a)(6), to determine success of revegetation, the following shall apply:
- A) The permittee shall submit annually, by February 15, a one inch equals 500 feet or larger scale drawing or aerial photograph delineating:
- i) Field boundaries, a field numbering scheme and the total acreage for each field which will be cropped to demonstrate proof of productivity for the coming crop year. The Department shall approve such submittal if the information is correct and accurate. Once field boundaries are established in a submittal, the boundaries shall not be changed without recommencing the responsibility period, unless the submittal is amended in accordance with subsection (a)(4)(A)(ii); and
  - ii) The crop (e.g., hay, wheat, corn, soybeans, sorghum, etc.) which will be grown on each field to demonstrate proof of productivity for the coming crop year. The permittee may amend its scale drawing in accordance with 62 Ill. Adm. Code 1774.13(b)(2) until July 15 of the submittal year.

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Each such amendment shall contain a written explanation of changes from the original submittal and include a map reflecting the changes. A field is an area of land reclaimed by a single reclamation technique that comprises either high capability land or prime farmland or limited capability pasture land. The size of the field and its boundaries are determined by such factors which include, but are not limited to, contour, non-cropped boundaries and size of farming equipment.

- B) Fields identified in subsection (a)(4)(A) to be measured for success of revegetation for cropland shall be planted annually to a single approved crop. The sampling method of Appendix A shall apply. Soil and water conservation practices approved in the permit application including but not limited to grass waterways, diversion ditches, contour grass strips, and sedimentation ponds within the boundaries of a field shall be excluded from the sampling requirements of Section 1816. Appendix A and shall remain vegetated with permanent ground cover species, where appropriate, to conserve soil and water resources. Subject to rulemaking, the Department in cooperation with the Illinois Department of Agriculture may determine if a portion of a field is a representative sample of the entire field when technology has developed to make it possible through physical and chemical agronomic testing to demonstrate success of vegetation through soil surveys or when statistically valid sampling procedures are developed for determining success of revegetation based upon cropping and sampling a representative portion of the field.
- C) Adjustments for abnormal, catastrophic growing conditions shall be accepted by the Department if the adjustments are certified by a qualified professional (American Society of Agronomy certified) or National Association of State Departments of Agriculture crop enumerators used under this Section, whose ability to perform such adjustments has been previously approved by the Department ~~made if such adjustments are certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation. At the request of a permittee, the Department of Agriculture shall make arrangements for such an appraisal or adjustment review. Before any such an appraisal or adjustment shall be arranged, the~~

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~~permittee shall file with the Illinois Department of Agriculture an agreement to pay the full cost of any crop adjustment or appraisal so requested.~~

- D) The crops to be grown shall include those commonly grown on surrounding unmined cropland such as corn, soybeans, hay, sorghum ~~or~~, wheat, ~~or oats~~. The Department may approve a hay crop use where this is a common use of unmined cropland in the surrounding area. Prime farmland and other cropland areas must include a minimum of one successful year of corn and if the Department has approved its use a maximum of one successful year each of hay ~~and~~; wheat ~~and oat~~ crops, may be used for the productivity demonstration. If deep tillage has been completed to a minimum depth of 36 inches prior to bond release, the applicant may use more than one successful year of hay or wheat as a crop to be used for the productivity demonstration. The requirement for one successful year of corn remains unchanged under this subsection (a)(4)(D).
- 5) Wetland revegetation shall be deemed successful when:
- A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's Springfield office; and
- B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1816.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

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6) In order to use the alternative to the Agricultural Lands Productivity Formula, Appendix A, to determine success of revegetation, the following shall apply: use of this alternative is contingent upon the permittee demonstrating for the entire field that the soil strength of the entire soil profile will average  $\leq 200$  psi or has been deep tilled to a minimum depth of 36 inches prior to bond release and soil fertility will average Optimum Management for pH, P and K values as defined under the current Illinois Agronomy Handbook, and intensive land leveling is implemented, as needed, for the entire field. Areas to be tested are allowed under the provisions of subsection (a)(4)(B) or (C).

A) The following substitution of Column F of Appendix A (County Average Yield File) shall read:

Column F is a derived optimum management production (see the equation below) obtained by multiplying the figures in Column D times the figures in Column E. This production figure will normally exceed actual production because the optimum level management yield is used. The purpose of using the optimum management production is to derive a weighted average optimum management yield that is the total optimum management production (Column F) divided by the total grain acres in the county (Column D). The weighted optimum management yield figure will be used to derive a "factor" as described below:

Factor =  $\frac{\text{Average of Official County Crop Yield for the Five Previous Years}}{\text{Average of Weighted Optimum Management Yield for the Five Years}}$

B) When the factor derived in subsection (a)(6)(A) and hand sampling are used, the harvest loss will be calculated by averaging the harvest loss of the 5 previous years for the crop being tested.

- b) The person who conducts surface mining activities shall:
- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection

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(a); and

- 2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred 5 unsuccessful attempts to meet the production required by subsection (a)(3)(C) or (E) or 62 Ill. Adm. Code 1823.15, or shall initiate deep tillage on the areas.
- 3) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include but are not limited to crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and location and type of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1816.APPENDIX A Agricultural Lands Productivity Formula**

## SOIL MASTER FILE

The Soil Master File of the Agricultural Lands Productivity Formula contains a comprehensive list of the soil mapping units currently recorded in Illinois. The Soil Master File provides the soil mapping unit number, common mapping name, and the ~~optimum~~<sup>high</sup> level of management yields for corn, soybeans, wheat, ~~oats~~ and mixed hay. The Soil Master File is created annually by the Illinois Department of Agriculture, pursuant to 20 ILCS 205/115. [The reference document for information contained in the soil master file shall be Bulletin 811, "Optimum Crop Productivity Ratings for Illinois Soil", University of Illinois, College of Agricultural, Consumer and Environmental Sciences, Office of Research, August 2002205/40.38.](#)

~~Additional components of the Soil Master File are as follows:~~

- ~~1) County number—identifies soils unique to a county. County number also distinguishes between soils with the same name in different counties but with unique soil properties and yields. County numbers are identified in Section 1816.Table C County Numbering System.~~
- ~~2) Variance code—physical conditions which would cause similar soil types to produce radically different yields. Variance code is explained in Section 1816.Table B Soil Variance Code.~~
- ~~3) Switch code—identifies a point at which a particular soil at a given slope and/or erosion category becomes either a new soil, a complex soil or moves from a favorable to unfavorable subsoil. The alphanumeric switch code is the new slope and erosion code.~~
- ~~4) Subsoil type—either #1 favorable, or #2 unfavorable subsoil condition. Percent of adjustment that will be applied to both the high management yield in subsoil conditions provided in Section 1816.Table A—Subsoil Adjustments.~~
- ~~5) Slope and erosion—this category provides adjusted high management yields for slope and erosion groups for each soil series for each crop in the Agricultural Lands Productivity Formula.~~

## COUNTY CROPPED ACREAGE FILE

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The Agricultural Lands Productivity Formula requires that the number of cropped acres by soil mapping unit be calculated for each county. These calculations are generated by computer using the following formula:

$$\begin{array}{l} \text{Total acres per soil} \\ \text{type per county} \end{array} \times \begin{array}{l} \text{percent of total} \\ \text{acres cropped} \end{array} = \begin{array}{l} \text{acres per soil} \\ \text{type cropped} \end{array}$$

The percent of total acreage cropped per soil type will be provided by County Soil and Water Conservation Districts. Any changes to these figures must be approved by the County Soil and Water Conservation District Board with a certified copy of all changes submitted by August 15 of each year to the Illinois Department of Agriculture.

The County Cropped Acreage File reflects the total acres of each soil type per county, percent of acreage cropped, and the computed figure of total cropped acres by soil type in each county. The "total cropped acres" figures are carried forward to the County Average Yield File. The County Cropped Acreage File is created annually by the Illinois Department of Agriculture, pursuant to 20 ILCS [205/115205/40.38](#).

## COUNTY AVERAGE YIELD FILE

The next procedure of the Agricultural Lands Productivity Formula is to equate annual county crop yield data to the soils derived in the "County Cropped Acreage File". Section 1816.Exhibit A and the following paragraphs summarize the procedure for calculating the crop yield for each soil mapping unit.

Column A reflects the soil mapping units as they appear on a county by county basis.

Column B is the number of acres cropped in a county per soil type as recorded in the County Cropped Acreage File. These cropped acreage figures are then added together to give a total number of acres cropped for the county.

Column C is the percent of the acreage represented by each soil type when compared with the total in Column B (Column B = total acres in soil mapping unit times the percent of acres cropped in the county by mapping unit).

The number of acres planted in grain (Column D) is calculated by multiplying the percent of each soil mapping unit in the county (Column C) by the total acres in the county harvested for corn, soybeans, wheat, ~~oats~~, and mixed hay. (See asterisk in Section 1816.Exhibit A.) The purpose of this calculation is to estimate the number of acres harvested from each of the particular soil mapping units. It is assumed that 25% of the total corn, soybean, wheat, ~~oat~~ and

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mixed hay acreage was planted on that particular soil mapping unit. Therefore, the "grain acres" are distributed on the soil mapping units based upon the percent of acres in each soil mapping unit.

Column E is the adjusted yield information for each crop which comes from the Soil Master File.

Column F is a derived [optimumhigh](#) management production ([see the equation below figure](#)) obtained by multiplying the figures in Column D times the figures in Column E. This production figure will normally exceed actual production because the [optimumhigh](#) level management yield is used. The purpose of using the [optimumhigh](#) management production is to derive a weighted average [optimumhigh](#) management yield; which is, the total [optimumhigh](#) management production (Column F) divided by the total grain acres in the county (Column D). The weighted [optimumhigh](#) management yield figure will be used to derive a "factor" as described below:

$$\text{Factor} = \frac{\text{Official County Crop Yield}}{\text{Weighted } \text{OptimumHigh} \text{ Management Yield}}$$

Column G results from the multiplication of the above factor times the [optimumhigh](#) level management yield of each soil mapping unit (Column E). The result is a yield which represents the average yield in either bushels per acre or tons per acre in the county for that year and crop. [If official county crop yields are unavailable for a specific crop in a given year, the Department, in consultation with the permittee, and with the concurrence of the Illinois Department of Agriculture, will substitute a county crop yield from an adjacent county with similar soils, if it can be determined that similar weather conditions occurred in that year.](#)

## PERMIT SPECIFICS – YIELD STANDARD

- a) After completing calculations for the projected yield of the test year in question, a yield standard for each capability class in the disturbed area in the pit must be calculated. The yield standard, which is also applicable to high capability and limited capability land will be calculated in a manner similar to prime farmland.
- b) The number of prime farmland acres in each soil mapping unit will be divided by the total prime farmland acres in the pit to obtain a weighted proportion for each soil type. The weighted proportion of each prime farmland soil mapping unit in the pit, relative to the total prime farmland acres in the pit, will be multiplied times the projected yield for the pre-mining soil types. The weighted final yield for each prime farmland soil type in a pit will be added together and the total becomes the yield requirement for the pit.
- c) After mining operations have ceased, the Department shall recalculate the yield

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standards for the pit based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for productivity subsequent to the recalculation. Approved significant revisions after permanent cessation of mining shall cause the targets to be recalculated and applied to productivity fields tested after the recalculation.

AGRICULTURAL LANDS PRODUCTIVITY FORMULA  
SAMPLING METHOD

The sampling methodology that the Illinois Department of Agriculture or the Illinois Department of Natural Resources will use to gather the data needed to determine if productivity has been returned to reclaimed mine land is summarized below for corn, soybeans, wheat, ~~oats~~, sorghum, and mixed hay.

This sampling methodology requires an operator to submit by February 15 of each year, a scale drawing or aerial photo delineating specific field boundaries and type of crop which is to be sampled for proof of productivity for the current crop year. Each scale drawing and photo submitted shall include a field numbering scheme and the total acreage for each field on which sampling is being requested. In addition, the scaled drawing shall be no less than 1 inch equals 500 feet or greater than 1 inch equals 100 feet. The February 15 annual submittal may be amended by the operator until July 15. Each such amendment shall contain a written explanation of changes from the original submittal and an aerial photograph or scaled drawing reflecting the corrected sampling submittal.

The determination of sample points within a specific field will be made on the basis of a grid overlay scheme with the location of sample points on the grid randomly generated by computer. An intentional bias of ~~fifty feet (50feet)~~ will be introduced to all field boundaries to remove the potential that sampling points may fall in turn around areas, or areas where contiguous soil reconstruction may cause field boundaries to not be indicative of whole field productivity.

The minimum acceptable number of samples to be taken relative to field size is shown in Section 1816. Table D sample points per crop acres, with fields of ~~4 four~~ acres or less to be sampled in their entirety with yields determined by harvest weight. Sample selections will take place using the following guidelines.

The Illinois Department of Agriculture may elect to increase the minimum number of acceptable sample points per field acres. Some factors which will be considered in determining whether to increase the number of sample points are as follows, but not limited to:

1. Operator requests additional sample points for specific fields.

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2. The use of different hybrids in one field.
3. Contour changes within one field which would alter a yield.
4. A coefficient of variation greater than 15%.

| The Department and the Illinois Department of Agriculture shall jointly request the operator to verify yields by harvest weight (e.g., scale tickets) for reasons, including but not limited to:

1. Verification of random sampling results.
2. Availability of sample enumerators.

| In each such case, the certified harvest yield adjusted, to optimum moisture content, will become the comparison yield for the Agricultural Lands Productivity Formula target yield.

## CORN SAMPLING TECHNIQUE

Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.

Step 3 – After taking the last of the required paces to the first sampling point, place a stake immediately adjacent to the closest corn stalk to the toe of your shoe. Measure 15 feet of the corn row starting at the first stake and placing a second stake at the 15 foot mark.

| Step 4 – Determine the 3<sup>rd</sup> and 4<sup>th</sup> ears of the first row starting with the first stalk of corn. Tag these ears with a rubber band. If there are ~~fewer less~~ than ~~4four~~ ears in the first row, the last ear and the next to last ear should be tagged. In the case where a stalk has more than one ear, count the top ear first. (Note: An ear of corn is defined as a cob having at least one kernel. The tagged ears will be used to determine the moisture content, and at least 250 grams of grain are ~~neededneed~~. If it does not appear that the 3<sup>rd</sup> and 4<sup>th</sup> ears will supply 250 grams of grain for a moisture test, then the 5<sup>th</sup>, 6<sup>th</sup> and/or 7<sup>th</sup> ear should be included until at least 250 grams of corn is collected.)

| Step 5 – Husk all ears in Row 1 within the ~~15fifteen~~ foot segment of the sample. Husk the ears and snap the shank off as cleanly as possible. Be sure to include any ears tagged for moisture testing.

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- Step 6 – Weigh the husked ears using a balance scale – obtain field weight in pounds.
- Step 7 – After weighing, put ears tagged for moisture testing into polyethylene bags and seal. Mark the bag with the appropriate field number (as supplied by the mine operator), and sample identification number.
- Step 8 – Measure on a perpendicular line from the stalks in row one ~~(1)~~ to the stalks in row ~~five (5)~~. Divide this measured distance by ~~four (4)~~ to determine the average row width.
- Step 9 – Repeat Steps 3 through 8 for each additional random sampling point coordinate.
- Step 10 – Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of corn samples. Gross yield is determined by deducting the adjustment for moisture content of shelled corn from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\begin{array}{l} \text{Gross Yield} \\ \text{Per Acre} \\ \text{(bu/ac)} \end{array} = \frac{A \times B \times C / D}{E \times F}$$

Where:

- A = Field weight of husked ears of corn from 15 feet of row x 2 (2 Rows x 15 feet)
- B = Weight of shelled grain at time of moisture test
- C = Percent moisture in grain corrected to 15.5%
- = 1.0 - (% moisture in grain/100%)

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.845

D = Weight of ears of Corn used for moisture determination

E = Row Factor

<u>Average row width in feet x 15 feet of row ÷ 43560 square feet/acre</u>	
<del>Area or percent of Acre</del>	30" = 0.001722
<del>Sampled with 30 feet</del>	36" = 0.002066
<del>Row (2 rows x 15 feet)</del>	38" = 0.002181
	40" = 0.002295

and .845 = The standard moisture content conversion factor of corn per bushel (1.0 – (15.5%/100))

F = Weight of standard bushel of corn = 56 lbs.

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

SOYBEAN SAMPLING TECHNIQUE  
DRILLED OR PLANTED BEANS (>8" rows)

- Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual locations.
- Step 3 – After taking the last of the required paces to the first sampling point, mark the closest plant to the toe of your foot. Place a flag at the point that you have just marked. From the point of this flag, and in the direction of travel from where the last pace was counted, measure a distance of ~~6 six~~-feet of plant row and place a flag at the ~~6six~~ foot mark. Starting from the row just identified, measure the distance across ~~5five~~ rows. This distance, from row one to row ~~5five~~, divided by ~~4four~~ row spaces gives the average row width.
- Step 4 – Strip all the soybean pods from all the plants in the 6 foot sample row. Pick up any loose pods or beans found on the ground at the base of these plants. Deposit all the pods, beans and blank pods, into a paper sack. Mark the sack with the

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appropriate field number (as provided by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is less than the 250 grams needed for the moisture test, sufficient grain of known moisture content will be added to the sample so that moisture tests can be made.)

- Step 5 – Repeat steps 3 and 4 for each additional random sampling point coordinate.
- Step 6 – Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of soybean samples. Gross yield is determined by deducting the adjustment of moisture content of the soybean sample from the harvest weight. Moisture content determinations will be made by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/ac)} = \frac{A \times B}{C \times D \times E}$$

Where:

A = Weight of shelled grain from 6 feet of row

B = Percent moisture in grain corrected to 12.5%

$$= \frac{(1.0 - (\% \text{ moisture in shelled beans}/100\%))}{0.875}$$

C = Number of grams per pound = 453.6

D = Correction factor for row spacing on drilled or planted beans

$$= \frac{\text{Average row width in ft} \times 6 \text{ ft of row}}{43560 \text{ sq ft/acre}}$$

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E = Standard weight of 1 bushel of soybeans = 60 lbs

After calculation of the gross yield, the statewide Harvest Loss as calculated by the Illinois Agricultural Statistics Service will be subtracted from the gross yield to obtain a net yield per sample. Harvest loss is the difference between actual grain yield and what is hauled from a field. The net yield determination for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

SOYBEAN SAMPLING TECHNIQUE  
DRILLED OR PLANTED (<8" rows)

- Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 – After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the ~~two~~ ends of the sampling frame with stakes just inside the 3.0 foot sampling tines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked), and at a right angle to the original frame position. (Note: If at any time the point of a ~~tine~~ tine is restricted by a soybean plant, slide the soybean frame toward the starting point far enough for the point of the ~~tine~~ tine to clear the plant.) Repeat this procedure to lay out the other ~~two~~ sides of the sampling square, using the opposite corner of the original frame position to find the other ~~two~~ sides.
- Step 4 – Strip all the soybean pods from all the plants in the 9 square feet sampling area. Pick up any loose pods or beans found on the ground. Deposit all the pods, beans and blank pods into a paper sack. Mark the sack with the appropriate field number (as provided by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)
- Step 5 – Repeat steps 3 and 4 for each additional random sampling point coordinate.

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- Step 6 – Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of soybean samples. Gross yield is determined by deducting the adjustment for moisture content of the soybean sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/acre)} = \frac{A \times B \times C}{D}$$

Where:

A = Total weight of all beans in 9 sq. ft. grid (in grams)

B = Conversion factor =  $\frac{43560 \text{ sq. ft./ac.}}{453.6 \text{ gms/lb} \times 60 \text{ lbs/bu} \times 9 \text{ sq. ft.}}$

C = 1.0 - (% moisture in shelled beans/100%)

D = .875 = The standard moisture content conversion factor of soybeans per bushel (1.0 - (12.5%/100%)).

After calculation of the gross yield, the Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from the field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

WHEAT SAMPLING TECHNIQUES  
(ROWS <8 INCHES)

- Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

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- Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.
- Step 3 – After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the ~~two~~ ends of the sampling frame with stakes just inside the 1.8 feet sample lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other ~~two~~ sides of the sampling square using the opposite corner of the original frame position to find the other ~~two~~ sides.
- Step 4 – Clip all wheat heads from within the square outlined by the sampling frame. The wheat heads should be clipped approximately ½ inch below the bottom of the head. Deposit all the collected wheat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)
- Step 5 – Repeat steps 3 and 4 for each additional random sampling point coordinate.
- Step 6 – Send or deliver to the Illinois Department of Agriculture grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C).

The following method will be used for determination of gross yield of wheat samples. Gross yield is determined by deducting the adjustment for moisture content of the wheat sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content. Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/ac)} = \frac{A \times B \times C}{D}$$

Where:

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- A = Sample wt. of wheat in grams
- B = 1.0 - (% moisture in grain/100%)
- C = Conversion factor
- $$= \frac{43560 \text{ sq. ft./ac}}{(60 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times 3.24 \text{ sq. ft.})}$$
- = 4940 bu/gm acre
- D = .880 = The standard moisture content conversion factor of wheat per bushel (1.0 - (12%/100%))

After calculation of the gross yield, the Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

WHEAT SAMPLING TECHNIQUES  
(Discernible Rows)

- Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.
- Step 3 – After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the ~~two~~ ends of the sampling frame with stakes just inside the 1.8 feet sample tines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked), and at a right angle to the original frame position. Repeat this procedure to lay out the other ~~two~~ rows to be sampled. (Total 3 rows) Note: The row spacing will be determined by measuring across 5 row spaces to obtain an average (i.e. the distance in row 1 to 5 / 4).
- Step 4 – Clip all wheat heads from within the square outlined by the sampling frame. The

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wheat heads should be clipped approximately ½ inch below the bottom of the head. Deposit all the collected wheat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

- Step 5 – Repeat steps 3 and 4 for each additional random sampling point coordinate.
- Step 6 – Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of wheat samples. Gross yield is determined by deducting the adjustment for moisture content of the wheat sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre} \quad = \quad \frac{(A \times B \times C)}{D}$$

(bu/ac)

Where:

A = Sample wt. of wheat in grams

B = 1.0 - (% moisture in grain/100%)

C = Conversion factor

$$= \frac{43560 \text{ sq. ft/ac}}{(60 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times \text{no. of rows harvested} \times 1.8 \text{ ft} \times \text{average row spacing (ft)})}$$

D = .880 = The standard moisture content conversion factor of wheat per bushel (1.0 - (12%/100%)).

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After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from the field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

~~OATS SAMPLING TECHNIQUE  
(ROWS < 8")~~

- ~~Step 1 — Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.~~
- ~~Step 2 — Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.~~
- ~~Step 3 — After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 feet sampling tines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to find the other two sides.~~
- ~~Step 4 — Clip all oat heads from within the square outlined by the sampling frame. The oat heads should be clipped approximately 1/2 inch below the bottom of the head.~~
- ~~Deposit all the collected oat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)~~
- ~~Step 5 — Repeat steps 3 and 4 for each additional random sampling point coordinate.~~
- ~~Step 6 — Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)~~

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~~The following method will be used for determination of gross yield of oat samples. Gross yield is determined by deducting the adjustment for moisture content of the oat sample from the harvest weight. Moisture content of the grain samples will be determined by lab analysis.~~

~~Gross Yield = Harvest Weight adjusted for moisture content.~~

~~Included below for reference is the Gross Yield formula and an explanation of its components.~~

$$\text{Gross Yield Per Acre} \quad = \quad \frac{A \times B \times C}{D}$$

(bu/ac)

~~Where:~~

~~A = Sample weight of oats in grams~~

~~B = 1.0 (15% moisture in grain/100%)~~

~~C = Conversion factor~~

$$= \frac{43560 \text{ sq. ft./ac}}{(32 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times 3.24 \text{ sq. ft.})}$$

$$= .9262 \text{ bu/gm-acre}$$

~~D = .850 = The standard moisture content conversion factor of oats per bushel (1.0 (15%/100%))~~

~~After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.~~

#### ~~OATS SAMPLING TECHNIQUE~~

~~(Discernible Rows)~~

~~Step 1 — Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.~~

~~Step 2 — Pace off predetermined sample point coordinates in a sequential fashion to~~

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~~determine individual sample location.~~

~~Step 3 — After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 foot sampling tines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two rows to be sampled. Note: The row spacing will be determined by measuring across 5 row spaces to obtain an average (i.e. the distance in row 1 to 5 /4).~~

~~Step 4 — Clip all oat heads from within the square outlined by the sampling frame. The oat heads should be clipped approximately ½ inch below the bottom of the head. Deposit all the collected oat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)~~

~~Step 5 — Repeat steps 3 and 4 for each additional random sampling point coordinate.~~

~~Step 6 — Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)~~

~~The following method will be used for determination of gross yield of oat samples. Gross yield is determined by deducting the adjustment for moisture content of the oat sample from the harvest weight. Moisture content of the grain samples will be determined by lab analysis.~~

~~Gross Yield = Harvest Weight adjusted for moisture content~~

~~Included below for reference is the Gross Yield formula and an explanation of its components.~~

$$\text{Gross Yield Per Acre (bu/ac)} = \frac{A \times B \times C}{D}$$

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Where:

A = Sample weight of oats in grams

B =  $1.0 - (\% \text{ moisture in grain} / 100\%)$

C = Conversion factor

$$= \frac{43560 \text{ sq. ft/ae}}{(32 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times \text{number of rows harvested} \times 1.8 \text{ ft.} \times \text{average row spacing (ft.)})}$$

D = .85 = The standard moisture content conversion factor of oats per bushel ( $1.0 - (15\% / 100\%)$ )

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

## SORGHUM SAMPLING TECHNIQUE

- Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 – After taking the last of the required paces to the first sampling point, place a stake immediately adjacent to the closest sorghum plant to the toe of your shoe. Measure ~~ten (10)~~ feet of the plant row starting at the first stake and placing a second stake at the ~~ten (10)~~ foot mark. Mark the first ~~five (5)~~ heads and the last ~~five (5)~~ heads with rubber bands. These heads will be used for moisture determination. One sample unit will equal ~~one (1) ten (10)~~ foot sorghum row section.
- Step 4 – Clip all grain heads in Row 1 within the ~~ten (10)~~ foot segment of the sample unit.
- Step 5 – Weigh the clipped grain heads using a balance scale; obtain field weight to the nearest tenth of a pound. Place any grain heads collected for moisture

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determination into sealed polyethylene bags. Mark the bags with the appropriate field number (as supplied by the mine operator), and sample identification number.

- Step 6 – Measure on a perpendicular line from the plants in row ~~one~~(1) to the plants in row ~~five~~(5). Divide this measured distance by ~~four~~(4) to determine the average row width.
- Step 7 – Repeat ~~steps~~Steps 3 through 6 for each additional random sampling point coordinate.
- Step 8 – Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of sorghum samples. Gross yield is determined by deducting the adjustment for moisture content of the threshed grain from the harvest weight. Moisture content of the grain samples will be made by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield (bu/ac)} = \frac{(A \times B \times C) / D}{(E \times F)}$$

Where:

A = Field weight of grain heads of sorghum from ~~ten~~(10) feet of row x 2 (2 rows x 10 feet)

B = Weight of threshold grain at time of moisture test

C = Percent moisture in grain corrected to 13.0%

$$= 1.0 - \frac{(\% \text{ moisture in grain} / 100\%)}{.870}$$

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D = Weight of grain head and seeds used for moisture determination

E =	Row Factor	28" = .001070
	Area or percent of <del>acre sampled</del> <u>Aere</u>	30" = .001148
	<u>Sampled</u> with 20 feet	36" = .001377
	<u>row</u> <del>Row</del> (2 rows x 10 feet)	38" = .001455
		40" = .001529

F = 56 lbs (weight of standard bushel of sorghum) ~~and~~

.870 = The standard moisture content conversion factor of sorghum per bushel (1.0 - .130)

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

## MIXED HAY SAMPLING TECHNIQUE

- Step 1 – Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 – Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 – After taking the last of the required paces to the first sampling point, lay down a sampling frame perpendicular to the toe of your shoe, where applicable, crossing crop rows at a right angle. Mark the ~~2two~~ ends of the sampling frame with the stakes just inside the 3 feet sampling tines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other ~~2two~~ sides of the sampling square using the opposite corner of the original frame position to locate the other ~~2two~~ sides. In all cases, the layout of the sample area shall be consistent for each randomly identified sample point.
- Step 4 – Clip all hay stalks from within the square outlined by the sampling frame. The hay stalks should be uniformly clipped to an approximate height of ~~two~~(2) inches

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above ground level.

Step 5 – Quarter the collected sample and seal in a suitable poly bag sample container. Mark the sample container with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample container to prevent any sample loss. (Note: It is important when sampling hay that collected samples be chilled and transported in a container capable of sustaining the chilled condition. Hay deteriorates when allowed to heat up.)

Step 6 – Repeat [steps](#) Steps 3 and 4 for each additional random sampling point coordinate.

Step 7 – Send or deliver to the Illinois Department of Agriculture any hay sample collected for moisture analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

\* If a field moisture meter is used, steps 5 and 7 shall be eliminated and the following explanations for items A and D will be substituted.

A. Dry matter weight = harvest weight - percent moisture content determined by field moisture tests.

D. Percent moisture in hay at time of harvest determined by field moisture test.

The following method will be used for determination of gross yield of mixed hay samples. Gross yield is determined by deducting the adjustment for moisture content of the mixed hay sample from the harvest weight. Moisture content of mixed hay samples will be determined by lab analysis.

Gross Yield = Harvest weight adjusted for moisture content

$$\text{Gross Yield Per Acre (Tons/Acre)} = \frac{(A \times D)}{(C \times B \times E)}$$

Where:

A = Field weight or harvested weight of mixed hay in pounds

B = Plot size (sq. ft./43560 sq. ft./ac.) or number of acres

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- C = Conversion factor from lbs. to tons (i.e., 1 ton = 2000 pounds)
- D = Dry matter content of harvested hay (100% - % moisture in hay)
- E = Dry matter content of hay standard = 100% - 15%

The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity. The annual harvest will be determined by the cumulative yields of each cutting.

HAY SAMPLING  
BALED OR GREEN CHOPPED HAY

To be assured that sampling results are reliable, it is necessary to obtain accurate bale counts, accurate weights, and accurate moisture readings. Reading and following the instructions for the equipment that has been provided will for the most part insure correct interpretation of weights and moisture meter results. Acreage figures will be developed and verified by the Illinois Department of Agriculture. Verification of bale count is an area to be further elaborated on.

Depending on the use of the hay, an enumerator may be dealing with large round bales, small square bales or wagons of green chopped hay. In the case of large round bales, the enumerator need not be present during the baling of all of the product. If the operator provides a bale count for each field, the enumerator must provide a verification of the count. This can be done by physically visiting the field during baling and taking a bale count to compare with the count that will be provided by the operator. The verification of count can also be done by visiting the field and recording the counter number prior to baling, and then again reading the meter when each field is finished. It is not necessary to observe all of the baling. If an operator has multiple fields to pull weight samples from he may wish to do this on a single day to make his operation run in a more efficient manner. This is perfectly acceptable. The enumerator may identify sample bales just prior to weighing, and perform moisture and temperature tests at that time. Random verification of bale counts will discourage any impropriety on the part of the operator, and eliminate the need for constant observation.

This procedure will also work well for weighing and counting wagons of green chopped hay. The enumerator should perform random verification of truck weights and collect weight tickets for each field.

The operator should be reminded to provide the exact number of trucks coming from each field and the weight of each truck. Random verification of truck counts for individual fields is also encouraged. This will make a good comparison for the information received from the operator.

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## CORN

Size of Bond Release Field	Minimum Number of Samples
4 - 39 acres	8
40 - 279 acres	12
280 - 639 acres	16
640 acres or more	28

## SOYBEANS

Size of Bond Release Field	Minimum Number of Samples
4 - 39 acres	10
40 - 279 acres	12
280 - 639 acres	16
640 acres or more	26

## WHEAT — OATS

Size of Bond Release Field	Minimum Number of Samples
4 - 39 acres	6
40 - 279 acres	8
280 - 639 acres	10
640 acres or more	14

## SORGHUM

Size of Bond Release Field	Minimum Number of Samples
4 - 39 acres	10
40 - 279 acres	16
280 - 639 acres	28
640 acres or more	40

## MIXED HAY

Size of Bond Release Field	Minimum Number of Samples
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4 - 39 acres	5
40 - 279 acres	10
280 - 639 acres	20
640 acres or more requires one (+) sample for each additional 35 acres	

## SPECIAL PROBLEMS IN SAMPLE LAYOUT

1. It is possible for a sample grid coordinate to fall on areas within the field boundary which were not planted to crops (i.e., grass waterway, roadway, etc.) When this situation occurs, stop the pace count at the start of such an area and resume the count on the other side of the area.
2. If a blank area is crossed which was planted to crops, the pace count should be continued through this area. Usually such areas are due to poor germination, insects, standing water, etc. (if the sample area falls in this planted area which is blank, then a zero yield is established).
3. If a sample coordinate falls partly in a blank area which was not planted for harvest, move the sample area ahead until it is wholly on acreage planted to the crop being sampled. The sample point should begin one pace from the edge of the blank area.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1816. TABLE A Subsoil Adjustments (Repealed)**Percentage Adjustments in Yields Under High Management  
for Common Slope Groups and Various Erosion ConditionsFavorable Subsoil

Slope Group*	(1)	(2)	(3)
	Uneroded	Moderate Erosion %	Severe Erosion
A (0—2%)	100	97	90
B (2—5%)	99	96	89
C (5—10%)	98	95	88
D (10—15%)	95	92	85
E (15—20%)	90	87	80
F (20—25%)	80	77	70
G (25%+)	71	68	61

Unfavorable Subsoil

Slope Group*	(1)	(2)	(3)
	Uneroded	Moderate Erosion %	Severe Erosion
A (0—2%)	100	95	80
B (2—5%)	99	94	79
C (5—10%)	97	92	77
D (10—15%)	93	89	73
E (15—20%)	88	83	68
F (20—25%)	78	79	58
G (25%+)	69	64	49

\*The slope range represents a lower upper limit. For example, a slope of B (2—5%) represents an overlap of A at 2%. This overlap is interpreted to mean A slope is 0 to 2% and B slope is any fraction greater than 2% to 5%.

(Source: Repealed at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1816.TABLE B Soil Variance Codes (Repealed)**Soil Variance Codes

<u>Variance Code</u>	<u>Meaning</u>
<del>1</del>	<del>Soil Wet (Reduce yield by 30%)</del>
<del>2</del>	<del>Urbanized Soil (Reduce yield to zero)</del>
<del>3</del>	<del>Flooded Soil (Reduce yield by 50%)</del>
<del>4</del>	<del>Ponded Soil (Yield Reduction Varies by County)</del>
<del>5</del>	<del>Sink Hole (Yield Reduction Varies by County)</del>
<del>6</del>	<del>Soil Variant (Yield Reduction Varies by County)</del>
<del>7</del>	<del>Mine Dump (Reduce yield to zero)</del>
<del>8</del>	<del>Quarry (Reduce yield to zero)</del>
<del>9</del>	<del>Sewage Lagoon (Reduce yield to zero)</del>
<del>10</del>	<del>Water (Reduce yield to zero)</del>
<del>11</del>	<del>Borrow Pit (Reduce yield to zero)</del>
<del>12</del>	<del>Strip Mine (Reduce yield to zero)</del>
<del>13</del>	<del>Sand Quarry/Pits (Reduce yield to zero)</del>
<del>14</del>	<del>Gravel Pit (Reduce yield to zero)</del>
<del>15</del>	<del>Made Land (Reduce yield to zero)</del>
<del>16</del>	<del>Miscellaneous non-cropped (Reduce yield to zero)</del>

(Source: Repealed at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1816.TABLE C County Numbering System (Repealed)**Assigned Count Numbers for the Agricultural Land Productivity Formula

County Number	County	County Number	County	County Number	County
1	Adams	69	Hardin	137	Morgan
3	Alexander	71	Henderson	139	Moultrie
5	Bond	73	Henry	141	Ogle
7	Boone	75	Iroquois	143	Peoria
9	Brown	77	Jackson	145	Perry
11	Bureau	79	Jasper	147	Piatt
13	Calhoun	81	Jefferson	149	Pike
15	Carroll	83	Jersey	151	Pope
17	Cass	85	Jo-Daviess	153	Pulaski
19	Champaign	87	Johnson	155	Putnam
21	Christian	89	Kane	157	Randolph
23	Clark	91	Kankakee	159	Richland
25	Clay	93	Kendall	161	Rock-Island
27	Clinton	95	Knox	163	St. Clair
29	Coles	97	Lake	165	Saline
31	Cook	99	LaSalle	167	Sangamon
33	Crawford	101	Lawrence	169	Schuyler
35	Cumberland	103	Lee	171	Scott
37	DeKalb	105	Livingston	173	Shelby
39	DeWitt	107	Logan	175	Stark
41	Douglas	109	McDonough	177	Stephenson
43	DuPage	111	McHenry	179	Tazewell
45	Edgar	113	McLean	181	Union
47	Edwards	115	Macon	183	Vermilion
49	Effingham	117	Macoupin	185	Wabash
51	Fayette	119	Madison	187	Warren
53	Ford	121	Marion	189	Washington
55	Franklin	123	Marshall	191	Wayne
57	Fulton	125	Mason	193	White
59	Gallatin	127	Massac	195	Whiteside
61	Greene	129	Menard	197	Will
63	Grundy	131	Mercer	199	Williamson
65	Hamilton	133	Monroe	201	Winnebago
67	Hancock	135	Montgomery	203	Woodford

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(Source: Repealed at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1816.TABLE D Sample Points Per Crop Acres (Repealed)****CORN**

Size of Bond Release Field	Minimum Number Of Samples
4—39 acres	8
40—279 acres	12
280—639 acres	16
640 acres or more	28

**SOYBEANS**

Size of Bond Release Field	Minimum Number Of Samples
4—39 acres	10
40—279 acres	12
280—639 acres	16
640 acres or more	26

**WHEAT—OATS**

Size of Bond Release Field	Minimum Number Of Samples
4—39 acres	6
40—279 acres	8
280—639 acres	10
640 acres or more	14

**SORGHUM**

Size of Bond Release Field	Minimum Number Of Samples
4—39 acres	10
40—279 acres	16
280—639 acres	28
640 acres or more	40

**MIXED HAY**

Size of Bond Release Field	Minimum Number Of Samples
4—39 acres	5
40—279 acres	10
280—639 acres	20
640 acres or more requires one (1) sample for each additional 35 acres	

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(Source: Repealed at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1816.EXHIBIT A County Crop Yields by Soil Mapping Unit**

Column A Soil Mapping Unit	Column B County Cropped Acreage	Column C % of total acres cropped	Column D* Grain Acres by Soil Mapping Unit	Column E Adjusted <u>Optimum</u> <u>Mgt. High</u> <del>Mgt.</del> Yield	Column F <u>Optimum</u> <u>High</u> Mgt. Production	Column G Yield by (Bu/A) (T/A)
-------------------------------------	--	--	--	---	--	--------------------------------------

Total	Total	Total	Total
County Acres in Corn	_____	_____	_____
Soybeans	_____	_____	_____
Wheat	_____	_____	_____
<u>Oats</u>	_____	_____	_____
Mixed Hay	_____	_____	_____
* Total Acres	_____	_____	_____

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Permanent Program Performance Standards—Underground Mining Operations
- 2) Code Citation: 62 Ill. Adm. Code 1817
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1817.42	Amendment
1817.43	Amendments
1817.116	Amendments
1817.121	Amendments
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to update statutory citations, amend an incorrect reference and to add language to clarify regulations.
- 6) Will this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:  

Jack Price, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Coal Mine Operators
- B) Reporting, bookkeeping or other procedures required for compliance: Reporting; record keeping; environmental monitoring and reporting; earth moving; seeding
- C) Types of professional skills necessary for compliance: Land surveying; civil engineering; environmental specialists; heavy equipment operators; submitting maps for productivity testing.

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

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

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## PART 1817

PERMANENT PROGRAM PERFORMANCE STANDARDS –  
UNDERGROUND MINING OPERATIONS

## Section

1817.11	Signs and Markers
1817.13	Casing and Sealing of Exposed Underground Openings: General Requirements
1817.14	Casing and Sealing of Underground Openings: Temporary
1817.15	Casing and Sealing of Underground Openings: Permanent
1817.21	Topsoil: General Requirements (Repealed)
1817.22	Topsoil and Subsoil
1817.23	Topsoil: Storage (Repealed)
1817.24	Topsoil: Redistribution (Repealed)
1817.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1817.41	Hydrologic Balance Protection
1817.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1817.43	Diversions
1817.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1817.45	Hydrologic Balance: Sediment Control Measures
1817.46	Hydrologic Balance: Siltation Structures
1817.47	Hydrologic Balance: Discharge Structures
1817.48	Hydrologic Balance: Acid – Forming and Toxic – Forming Materials (Repealed)
1817.49	Impoundments
1817.50	Hydrologic Balance: Underground Mine Entry and Access Discharges (Repealed)
1817.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1817.53	Hydrologic Balance: Transfer of Wells (Repealed)
1817.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1817.56	Post-Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments and Treatment Facilities
1817.57	Hydrologic Balance: Stream Buffer Zones
1817.59	Coal Recovery
1817.61	Use of Explosives: General Requirements
1817.62	Use of Explosives: Pre-Blasting Survey
1817.64	Use of Explosives: General Performance Standards
1817.65	Use of Explosives: Surface Blasting Requirements (Repealed)
1817.66	Use of Explosives: Blasting Signs, Warnings, and Access Control

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- 1817.67 Use of Explosives: Control of Adverse Effects
- 1817.68 Use of Explosives: Records of Blasting Operations
- 1817.71 Disposal of Excess Spoil: General Requirements
- 1817.72 Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills
- 1817.73 Disposal of Underground Development Waste and Excess Spoil:  
Head-of-Hollow Fills (Repealed)
- 1817.74 Disposal of Excess Spoil: Durable Rock Fills
- 1817.75 Disposal of Excess Spoil: Preexisting Benches
- 1817.81 Coal Mine Waste: General Requirements
- 1817.82 Coal Processing Waste Banks: Site Inspection (Repealed)
- 1817.83 Coal Mine Waste: Refuse Piles
- 1817.84 Coal Mine Waste: Impounding Structures
- 1817.85 Coal Processing Waste Banks: Construction Requirements (Repealed)
- 1817.86 Coal Processing Waste: Burning (Repealed)
- 1817.87 Coal Mine Waste: Burning and Burned Waste Utilization
- 1817.88 Coal Processing Waste: Return to Underground Workings (Repealed)
- 1817.89 Disposal of Noncoal Mine Wastes
- 1817.91 Coal Processing Waste: Dams and Embankments: General Requirements  
(Repealed)
- 1817.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)
- 1817.93 Coal Processing Waste: Dams and Embankments: Design and Construction  
(Repealed)
- 1817.94 Coal Processing Waste: Time Requirement for Completion of Covering  
(Repealed)
- 1817.95 Stabilization of Surface Areas
- 1817.97 Protection of Fish, Wildlife and Related Environmental Values
- 1817.99 Slides and Other Damage
- 1817.100 Contemporaneous Reclamation and Subsidence Control
- 1817.101 Backfilling and Grading: General Requirements
- 1817.102 Backfilling and Grading: General Grading Requirements
- 1817.103 Backfilling and Grading: Covering Coal and Acid- and Toxic-forming Materials  
(Repealed)
- 1817.106 Backfilling and Grading: Previously Mined Areas
- 1817.107 Backfilling and Grading: Steep Slopes
- 1817.111 Revegetation: General Requirements
- 1817.112 Revegetation: Use of Introduced Species (Repealed)
- 1817.113 Revegetation: Timing
- 1817.114 Revegetation: Mulching and Other Soil Stabilization Practices
- 1817.115 Revegetation: Grazing (Repealed)
- 1817.116 Revegetation: Standards for Success

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1817.117	Revegetation: Tree, Shrub, and Herbaceous Vegetation
1817.121	Subsidence Control
1817.122	Subsidence Control: Public Notice
1817.124	Subsidence Control: Surface Owner Protections (Repealed)
1817.126	Subsidence Control: Buffer Zones (Repealed)
1817.131	Cessation of Operations: Temporary
1817.132	Cessation of Operations: Permanent
1817.133	Post-Mining Land Capability
1817.150	Roads: General
1817.151	Primary Roads
1817.180	Utility Installations
1817.181	Support Facilities
1817.182	Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area
1817.190	Affected Acreage Map

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8230; amended at 9 Ill. Reg. 13315, effective October 10, 1985; amended at 10 Ill. Reg. 9606, effective July 1, 1986; amended at 11 Ill. Reg. 8250, effective July 1, 1987; amended at 14 Ill. Reg. 11855, effective January 1, 1991; amended at 15 Ill. Reg. 17239, effective January 1, 1992; amended at 17 Ill. Reg. 11031, effective July 1, 1993; amended at 20 Ill. Reg. 1993, effective January 19, 1996; amended at 22 Ill. Reg. 20197, effective November 5, 1998; amended at 24 Ill. Reg. 5938, effective March 21, 2000; amended at 26 Ill. Reg. 4252, effective March 6, 2002; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

### Section 1817.42 Hydrologic Balance: Water Quality Standards and Effluent Limitations

Discharges of water from areas disturbed by underground mining activities shall be made in compliance with the Federal Water Pollution Control Act of 1972, as amended (30 ~~USC~~~~U.S.C.~~ 1251 et seq.), the Environmental Protection Act (~~Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1001 et seq.~~) [415 ILCS 5] and with effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR 434 (1992). 40 CFR 434 (1992) does not include any later amendments or editions.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1817.43 Diversions**

- a) General Requirements.
  - 1) With the approval of the Department, any flow from mined areas abandoned before May 3, 1978, and any flow from undisturbed areas or reclaimed areas, after meeting the criteria of Section 1817.46 for siltation structure removal, may be diverted from disturbed areas by means of temporary or permanent diversions. All diversions shall be designed to minimize adverse impacts to the hydrologic balance within the permit and adjacent areas, to prevent material damage outside the permit area and to assure the safety of the public. Diversions shall not be used to divert water into underground mines without approval of the Department under Section 1817.41(h).
  - 2) The diversion and its appurtenant structures shall be designed, located, constructed, maintained, and used to:
    - A) Be stable;
    - B) Provide protection against flooding and resultant damage to life and property;
    - C) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to stream flow outside the permit area. Appropriate sediment control measures for diversions may include, but not be limited to, maintenance of appropriate gradients, channel lining, revegetation, roughness structures, and detention basins; and
    - D) Comply with the Rivers, Lakes, and Streams Act (~~Ill. Rev. Stat. 1991, ch. 19, pars. 52-79~~) [615 ILCS 5], Section 404 of the Federal Water Pollution Control Act of 1972, as amended (30 ~~USCU.S.C.~~ 1344), and all local ordinances.
  - 3) Temporary diversions shall be removed promptly when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with this Part. Before diversions are removed, downstream water - treatment facilities previously protected by the diversion shall be modified or removed, as

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necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the permittee from maintaining water treatment facilities as otherwise required. When permanent diversions are constructed or stream channels restored prior to the removal of temporary diversions the permittee shall:

- A) Establish, restore, enhance where practicable, or maintain natural riparian vegetation on the banks of the stream, including any area that is subject to annual inundation;
  - B) Establish or restore the stream to its natural meandering shape and to an environmentally acceptable gradient, as determined by the Department; and
  - C) Establish or restore the stream to a longitudinal profile and cross-section, including aquatic habitats (usually a pattern of riffles, pools, and drops rather than uniform depth) that approximate premining stream channel characteristics.
- 4) Diversion design shall incorporate the following:
- A) Channel lining shall be designed using standard engineering practices to pass safely the design velocities. Riprap shall consist of non-degradable, non-acid or toxic-forming rock such as sandstone, limestone, or other durable rock that will not slake in water and will be free of coal, clay or shale;
  - B) Freeboard shall be no less than 0.3 feet, except as provided for in subsection (a)(5). Protection shall be provided for transition of flows and for critical areas such as swales and curves. Where the area protected is a critical area, as determined by the Department, the design freeboard may be increased;
  - C) Energy dissipators shall be installed, when necessary, at discharge points where diversions intersect with natural streams and exit velocity of the diversion ditch flow is greater than that of the receiving stream;
  - D) Excess excavated material not necessary for diversion channel geometry or regrading of the channel shall be disposed of in

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accordance with Sections 1817.71 through 1817.74; and

- E) Topsoil shall be handled in compliance with Section 1817.22.
- 5) If the terrain is such that out-of-bank flows can accommodate the design precipitation event without endangering health or the environment as a result of flooding, such as physical harm or slope failure, the need for diversion ditches may be modified by taking into account channels, banks, and flood plains.
- b) Diversions of perennial and intermittent streams.
- 1) Diversions of perennial and intermittent streams within the permit area are subject to Department approval pursuant to Section 1817.57(a).
- 2) The design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion.
- 3) The requirements of subsection (a)(2)(B) shall be met when the temporary and permanent diversions for perennial and intermittent streams are designed so that the combination of channel, bank, and floodplain configuration is adequate to pass safely the peak runoff of a ~~ten-(10)~~ year, ~~six-(6)~~ hour precipitation event for a temporary diversion and a ~~one hundred-(100)~~ year, ~~six-(6)~~ hour precipitation event for a permanent diversion.
- 4) The longitudinal profile of the stream, the channel, and the floodplain shall be designed and constructed to remain stable. Erosion control structures such as channel lining structures, retention basins, and artificial channel roughness structures shall be used in diversions only when approved by the Department as being necessary to control erosion.
- 5) The design and construction of all stream channel diversions of perennial and intermittent streams shall be sealed by a qualified registered professional engineer as meeting the performance standards of this Part.
- c) Diversion of miscellaneous flows.
- 1) Miscellaneous flows, which consist of all flows except for perennial and

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intermittent streams, may be diverted away from disturbed areas if required or approved by the Department to lessen environmental impact. Miscellaneous flows shall include ground water discharges and ephemeral streams.

- 2) The design, location, construction, maintenance, and removal of diversions of miscellaneous flows shall meet all of the performance standards set forth in subsection (a).
- 3) The requirements of subsection (a)(2)(B) shall be met when the temporary and permanent diversions for miscellaneous flows are designed so that the combination of channel, bank, and floodplain configuration is adequate to pass safely the peak runoff of a ~~two~~(2) year, ~~six~~(6) hour precipitation event for a temporary diversion and a ~~ten~~(10) year, ~~six~~(6) hour precipitation event for a permanent diversion.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1817.116 Revegetation: Standards for Success**

- a) Success of Revegetation
  - 1) Success of revegetation shall be judged in accordance with this Section and Section 1817.117.
  - 2) Requirements
    - A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C).
    - B) The period of extended responsibility shall continue for a period of not less than 5 full years, except that on lands eligible for remining, the period of responsibility (until September 30, 2004) shall be 2 full years. Vegetation parameters identified in subsection (a)(1) shall equal or exceed the approved standard set forth in subsection (a)(3).

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- C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as diseases, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1999-2000); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 USC 1421 et seq.). On all lands with a post-mining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois-Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation and Trade Act of 1990 are available at the Department's Springfield office.
- D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code

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1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- F) Augmentation  
Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area,

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except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

## G) Other Management Practices

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:

- i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
- ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and
- iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1817.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

- A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements of 62 Ill. Adm. Code 1800 through 1828, and that are remined or

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otherwise redistributed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redistribution, and shall be adequate to control erosion during the last year of the responsibility period;

- B) For areas to be developed for industrial, commercial or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;
- C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4) or (a)(6). Crop production shall be considered successful if it is 90% of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4) or (a)(6). Crop production shall be considered successful if it is 90% of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 year responsibility period. During the extended 5 year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The 5 year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crops to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period. Once chosen by the permittee, the productivity alternative in subsection (a)(6) may not be modified without approval from the Department;
- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and

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ground cover shall meet the standards described in Section 1817.117;

- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structure, etc.) productivity success (tons of grasses and/or legumes per acre) shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4) or (a)(6). Productivity shall be considered successful if it is 90% of the productivity required in 62 Ill. Adm. Code 1816.116(a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C), until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any 2 years of a 10 year period prior to the release of the performance bond, except the first year of the 5 year extended responsibility period. On cropland-capable land, the Department shall allow the permittee to substitute corn production for hay production. If determined to be a proper management practice in accordance with subsection (a)(2)(C), the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in 62 Ill. Adm. Code 1816.116(a)(4)(D) for one year of hay production on limited capability land. Once chosen by the permittee, the productivity alternative in subsection (a)(6) may not be modified without approval from the Department; and
- F) Non-contiguous areas less than or equal to 4 acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-

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mining land use at the end of the responsibility period.

- 4) In order to use the Agricultural Lands Productivity Formula, 62 Ill. Adm. Code 1816.116. Appendix A or the alternative under 62 Ill. Adm. Code 1816.116(a)(6), to determine success of revegetation, the requirements of 62 Ill. Adm. Code 1816.116(a)(4) shall apply.
- 5) Wetland revegetation shall be deemed successful when:
  - A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's Springfield office; and
  - B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1817.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.
- b) The person who conducts underground mining activities shall:
  - 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a).
  - 2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred five unsuccessful attempts to meet the production required by subsection (a)(3)(C) or (E) or 62 Ill. Adm. Code ~~1823.151785.15~~, or shall initiate deep tillage on the areas.
  - 3) Permittees shall submit by February 15 of each year a report of

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reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include, but are not limited to, crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and type and location of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1817.121 Subsidence Control**

- a) Measures to prevent or minimize damage.
  - 1) The permittee shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology that provides for planned subsidence in a predictable and controlled manner.
  - 2) Based on the requirements of 62 Ill. Adm. Code 1784.20(b)(7) and (b)(8), the permittee shall perform a survey of the condition of all structures and facilities that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, as well as a survey of the quantity and quality of all drinking, domestic, and residential water supplies within the permit area, subsidence shadow area, and adjacent area that could be contaminated, diminished, or interrupted by subsidence. The applicant must pay for any technical assessment or engineering evaluation used to determine the pre-mining condition or value of such structures and facilities and the quantity and quality of drinking, domestic, or residential water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner.
    - A) The condition survey of structures and facilities shall be performed

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or scheduled to be performed a minimum of 120 days prior to undermining. A lesser time may be approved by the Department if justified by the permittee in writing. The permittee shall provide a copy of the condition survey to the property owner and maintain a copy to be provided to the Department upon request. The permittee shall provide the Department with verification that the survey has been completed and forwarded to the property owner.

- B) The survey of drinking, domestic and residential water supplies shall be completed and submitted 120 days prior to the water delivery system being undermined. A lesser time may be approved by the Department if justified by the permittee in writing. The permittee must provide a copy of the water survey to the property owner and to the Department.
- 3) If a permittee employs mining technology that provides for planned subsidence in a predictable and controlled manner, the permittee must take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to structures and facilities, except that measures required to minimize material damage to such structures are not required if:
- A) The permittee has the written consent of their owners; or
  - B) Unless the anticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair.
- 4) Nothing in this Part prohibits the standard method of room-and-pillar mining.
- b) The permittee shall comply with all provisions of the subsidence control plan prepared pursuant to the requirements of 62 Ill. Adm. Code 1784.20, and as approved by the Department.
  - c) Repair of damage. The requirements of this subsection apply only to subsidence-related damage caused by underground coal extraction conducted after February 1, 1983, except as noted in Section 1817.41(j).

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- 1) Repair of damage to surface land. The permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses which it was capable of supporting before subsidence damage.
- 2) Repair or compensation for damage to structures and facilities. The permittee must promptly repair or compensate the owner for material damage resulting from subsidence caused to any structure or facility that existed at the time of the coal extraction under or adjacent to the materially damaged structure. If repair option is selected, the permittee must fully rehabilitate, restore or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence related damage. The permittee may provide compensation by the purchase, before mining, of a non-cancelable premium-prepaid insurance policy. ~~The requirements of this subsection (c) apply only to subsidence-related damage caused by underground coal extraction conducted after February 1, 1983.~~
- 3) Adjustment of bond amount for subsidence damage. When subsidence-related material damage to land, structures or facilities protected under subsections (c)(1) and (c)(2) occurs, or when contamination, diminution, or interruption to a water supply protected under Section 1817.41(j) of this Part occurs, the Department must require the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation, or replacement is completed within 90 days after the occurrence of damage, no additional bond is required. The Department may extend the 90-day time frame, but not to exceed one year, if the permittee demonstrates and the Department finds in writing that subsidence is not complete, that not all probable subsidence-related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that therefore it would be unreasonable to complete within 90 days the repair of the subsidence-related material damage to lands or protected structures, or the

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replacement of protected water supply. The permittee may also utilize appropriate terms and conditions for liability insurance required under 62 Ill. Adm. Code 1800.60 to assure the financial responsibility to comply with subsection (c) is in place.

- d) Underground mining activities shall not be conducted beneath or adjacent to public buildings and facilities; churches, schools, and hospitals; impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of such features or facilities. If the Department determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.
- e) If subsidence causes material damage to any of the features or facilities covered by subsection (d), the Department may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features of facilities.
- f) The Department shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.
- g) All underground permittees shall on or before April 1 of each year submit three mine maps of underground workings to the Department. The mine maps shall indicate the actual extent of mining for the calendar year prior to the submittal date. Mine maps and descriptions shall include the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage and areas of full extraction. The mine maps shall also project the anticipated extent of mining for at least the calendar year at the time of the submittal. Mine maps shall also include, at a minimum, all features identified in subsection (d), public roads and all Township and Range designations and section corners. The map shall be sealed by an engineer registered in the State of Illinois. The maps shall be planned as a continuous map so that areas mined each year may be added and indicated by the dates mining occurred. Maps shall include the name of the mine and the permittee; address of the permittee; scale, including both written and bar scales;

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and by whom the map was drawn. Maps submitted shall be at a scale approved by the Department as necessary to provide sufficient detail for the information required by this subsection.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Special Program Performance Standards – Operations on Prime Farmland
- 2) Code Citation: 62 Ill. Adm. Code 1823
- 3) Section Number: 1823.15                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add references to the productivity alternative in Section 1823.116(a)(6).
- 6) Will this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:  

Jack Price, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Coal Mine Operators

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- B) Reporting, bookkeeping or other procedures required for compliance: Submitting maps for productivity testing
  - C) Types of professional skills necessary for compliance: Land Surveying or Civil Engineering
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## PART 1823

SPECIAL PROGRAM PERFORMANCE STANDARDS –  
OPERATIONS ON PRIME FARMLAND

## Section

1823.1	Scope
1823.2	Objective
1823.11	Prime Farmland: Applicability
1823.12	Prime Farmland: Soil Removal
1823.13	Prime Farmland: Soil Stockpiling
1823.14	Prime Farmland: Soil Replacement
1823.15	Prime Farmland: Revegetation

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; emergency amendment at 6 Ill. Reg. 8502, effective July 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 9987, effective September 3, 1982; codified at 8 Ill. Reg. 9361; amended at 10 Ill. Reg. 9631, effective July 1, 1986; amended at 15 Ill. Reg. 17289, effective January 1, 1992; amended at 22 Ill. Reg. 20131, effective November 5, 1998; amended at 24 Ill. Reg. 5989, effective March 21, 2000; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1823.15 Prime Farmland: Revegetation**

Each person who conducts surface coal mining and reclamation operations on prime farmland regardless of whether such land has been drilled, blasted, or mined, shall meet the following revegetation requirements during reclamation:

- a) Following soil replacement, that person shall establish a vegetative cover capable of stabilizing the soil surface with respect to erosion. All vegetation shall be in compliance with the plan approved by the Department under 62 Ill. Adm. Code 1785.17 and carried out in a manner that encourages prompt vegetative cover and recovery of productive capacity. The timing and mulching provisions of 62 Ill. Adm. Code 1816.113 and 1816.114 or 62 Ill. Adm. Code 1817.113 and 1817.114 shall be met.

## DEPARTMENT OF NATURAL RESOURCES

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- b) Measurement of success of prime farmland revegetation shall be conducted in accordance with the following provisions:
- 1) Measurement of success of revegetation shall be initiated within ~~ten (10)~~ years after completion of backfilling and final grading of areas of prime farmland in accordance with the approved reclamation plan.
  - 2) Success of revegetation shall be measured in accordance with 62 Ill. Adm. Code 1816.116(a)(4) or (a)(6).
  - 3) Revegetation shall be considered a success when crop production is equivalent to or exceeds the production required in 62 Ill. Adm. Code 1816.116(a)(4) or (a)(6), with ~~ninety (90)~~ percent statistical confidence (i.e., one-sided t test with 0.10 alpha error) for a minimum of ~~three (3)~~ crop years of a ~~ten (10)~~ year period, except the first year after augmented seeding, fertilizing, or other management practices, prior to release of the operator's performance bond. The level of management applied during the measurement period shall be the same as the level of management used on nonmined prime farmland in the surrounding area. The ~~five (5)~~ year period of extended responsibility shall begin after the last year of augmented seeding, fertilizing or soil treatment and at the time of the planting of the cropserop(s) to be grown for the productivity showing. Once chosen by the permittee, the productivity alternative in subsection (a)(6) may not be modified without approval from the Department.
  - 4) Compliance with this subsection shall not preclude a permittee from demonstrating the required soil productivity under the law by use of soil surveys or other techniques approved consistent with future regulations.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
146.400	New Section
146.410	New Section
146.420	New Section
146.430	New Section
146.440	New Section
146.450	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and the Hemophilia Care Act [410 ILCS 420]
- 5) Complete Description of the Subjects and Issues Involved: Proposed Subpart C, State Hemophilia Program, adds six new Sections to Part 146, Specialized Health Care Delivery Systems. This Program provides care for persons suffering from hemophilia who have financially qualified for the Program. This Program is a payer of last resort: after Medicare and/or private insurance, after other government agencies, and after a patient's determined participation fee, if applicable, and if the patient is not eligible for public assistance at the time services are provided.

Administrative rules concerning the State Hemophilia Program were recodified to the Department of Human Services in 1997 during the period of State agency reorganization. However, the Department is responsible for the administration of this Program.

- 6) Will these proposed amendments replace any emergency amendments currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
146.200	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.205	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.210	Amendment	October 29, 2004 (28 Ill. Reg. 14087)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

146.215	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.220	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.225	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.230	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.235	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.240	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.245	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.250	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.255	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.260	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.265	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.270	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.275	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.280	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.295	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.300	Amendment	October 29, 2004 (28 Ill. Reg. 14087)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medical providers of hemophilia services will be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: July 2004

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page \_\_\_\_:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
148.85	Amendment
148.90	Amendment
148.95	Amendment
148.100	Amendment
148.103	Amendment
148.110	Amendment
148.112	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-1066
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments relate to seven new quarterly rate adjustment programs for hospitals that were established on June 1, 2004, pursuant to Public Act 93-0659. Payments under these adjustment programs are contingent upon federal approval of the corresponding State Plan Amendment (SPA) by the Centers for Medicare and Medicaid Services (CMS). On December 21, 2004, the Department was notified of CMS's approval of the SPA for FY'04 for only 53 days of the annual payments for the seven quarterly rate adjustments.  
  
Because of the foregoing, and pursuant to Public Act 93-1066, amendments are now being proposed to accommodate the necessary proration of the adjustment payments for FY'04. These changes are budget neutral to the Department and will bring \$19 million in federal matching funds to the State for FY'04.
- 6) Will this rulemaking replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.40	Amendment	December 10, 2004 (28 Ill. Reg. 15719)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals will be affected
  - 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: This

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page :

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Number: 300.120                      Proposed Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45/3-103]
- 5) A complete description of the subjects and issues: Section 300.120 (Application for License) is being amended to change the license application fee from a fee based on the licensed capacity of the facility to a flat fee of \$995. The rulemaking reflects P.A. 93-0841, which amended the Nursing Home Care Act to establish the \$995 fee.

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

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

- 6) Will this rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
300.340	Amendment	28 Ill. Reg. 10895
300.620	Amendment	28 Ill. Reg. 10895
300.661	Amendment	28 Ill. Reg. 10895
300.696	New Section	28 Ill. Reg. 10895
300.1020	Amendment	28 Ill. Reg. 10895
300.1060	New Section	28 Ill. Reg. 10895
300.1450	New Section	28 Ill. Reg. 10895

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

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

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

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

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect not-for-profit and small licensed nursing homes.

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 in either of the s two most recent regulatory agendas because: the Department was not aware of the need for the rulemaking at the time that the regulatory agendas were published.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 300  
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.163	Alzheimer's Special Care Disclosure
300.165	Criteria for Adverse Licensure Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

300.290	Quarterly List of Violators (Repealed)
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.315	Supported Congregate Living Arrangement Demonstration
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

## SUBPART B: ADMINISTRATION

Section	
300.510	Administrator

## SUBPART C: POLICIES

Section	
300.610	Resident Care Policies
300.615	Determination of Need Screening
300.620	Admission and Discharge Policies
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
300.661	Health Care Worker Background Check
300.662	Resident Attendants
300.663	Registry of Certified Nursing Assistants
300.665	Student Interns
300.670	Disaster Preparedness
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints
300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690	Serious Incidents and Accidents
300.695	Contacting Local Law Enforcement

## SUBPART D: PERSONNEL

Section	
300.810	General

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 300.820 Categories of Personnel
- 300.830 Consultation Services
- 300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section

- 300.1010 Medical Care Policies
- 300.1020 Communicable Disease Policies
- 300.1025 Tuberculin Skin Test Procedures
- 300.1030 Medical Emergencies
- 300.1035 Life-Sustaining Treatments
- 300.1040 Behavior Emergencies (Repealed)
- 300.1050 Dental Standards

SUBPART F: NURSING AND PERSONAL CARE

Section

- 300.1210 General Requirements for Nursing and Personal Care
- 300.1220 Supervision of Nursing Services
- 300.1230 Staffing
- 300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section

- 300.1410 Activity Program
- 300.1420 Specialized Rehabilitation Services
- 300.1430 Work Programs
- 300.1440 Volunteer Program

SUBPART H: MEDICATIONS

Section

- 300.1610 Medication Policies and Procedures
- 300.1620 Compliance with Licensed Prescriber's Orders
- 300.1630 Administration of Medication
- 300.1640 Labeling and Storage of Medications
- 300.1650 Control of Medications

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## SUBPART I: RESIDENT AND FACILITY RECORDS

## Section

- 300.1810 Resident Record Requirements
- 300.1820 Content of Medical Records
- 300.1830 Records Pertaining to Residents' Property
- 300.1840 Retention and Transfer of Resident Records
- 300.1850 Other Resident Record Requirements
- 300.1860 Staff Responsibility for Medical Records
- 300.1870 Retention of Facility Records
- 300.1880 Other Facility Record Requirements

## SUBPART J: FOOD SERVICE

## Section

- 300.2010 Director of Food Services
- 300.2020 Dietary Staff in Addition to Director of Food Services
- 300.2030 Hygiene of Dietary Staff
- 300.2040 Diet Orders
- 300.2050 Meal Planning
- 300.2060 Therapeutic Diets (Repealed)
- 300.2070 Scheduling Meals
- 300.2080 Menus and Food Records
- 300.2090 Food Preparation and Service
- 300.2100 Food Handling Sanitation
- 300.2110 Kitchen Equipment, Utensils, and Supplies

## SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

## Section

- 300.2210 Maintenance
- 300.2220 Housekeeping
- 300.2230 Laundry Services

## SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section

- 300.2410 Furnishings
- 300.2420 Equipment and Supplies
- 300.2430 Sterilization of Equipment and Supplies

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section	
300.2610	Codes
300.2620	Water Supply
300.2630	Sewage Disposal
300.2640	Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS  
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section	
300.2810	Applicability of these Standards
300.2820	Codes and Standards
300.2830	Preparation of Drawings and Specifications
300.2840	Site
300.2850	Administration and Public Areas
300.2860	Nursing Unit
300.2870	Dining, Living, Activities Rooms
300.2880	Therapy and Personal Care
300.2890	Service Departments
300.2900	General Building Requirements
300.2910	Structural
300.2920	Mechanical Systems
300.2930	Plumbing Systems
300.2940	Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS  
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section	
300.3010	Applicability
300.3020	Codes and Standards
300.3030	Preparation of Drawings and Specifications
300.3040	Site
300.3050	Administration and Public Areas
300.3060	Nursing Unit
300.3070	Living, Dining, Activities Rooms
300.3080	Treatment and Personal Care

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

300.3090	Service Departments
300.3100	General Building Requirements
300.3110	Structural
300.3120	Mechanical Systems
300.3130	Plumbing Systems
300.3140	Electrical Requirements

## SUBPART P: RESIDENT'S RIGHTS

Section	
300.3210	General
300.3220	Medical and Personal Care Program
300.3230	Restraints (Repealed)
300.3240	Abuse and Neglect
300.3250	Communication and Visitation
300.3260	Resident's Funds
300.3270	Residents' Advisory Council
300.3280	Contract With Facility
300.3290	Private Right of Action
300.3300	Transfer or Discharge
300.3310	Complaint Procedures
300.3320	Confidentiality
300.3330	Facility Implementation

## SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section	
300.3410	Application of Other Sections of These Minimum Standards (Repealed)
300.3420	Administrator (Repealed)
300.3430	Policies (Repealed)
300.3440	Personnel (Repealed)
300.3450	Resident Living Services Medical and Dental Care (Repealed)
300.3460	Resident Services Program (Repealed)
300.3470	Psychological Services (Repealed)
300.3480	Social Services (Repealed)
300.3490	Recreational and Activities Services (Repealed)
300.3500	Individual Treatment Plan (Repealed)
300.3510	Health Services (Repealed)
300.3520	Medical Services (Repealed)
300.3530	Dental Services (Repealed)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

300.3540	Optometric Services (Repealed)
300.3550	Audiometric Services (Repealed)
300.3560	Podiatric Services (Repealed)
300.3570	Occupational Therapy Services (Repealed)
300.3580	Nursing and Personal Care (Repealed)
300.3590	Resident Care Services (Repealed)
300.3600	Record Keeping (Repealed)
300.3610	Food Service (Repealed)
300.3620	Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630	Design and Construction Standards (New and Existing Facilities) (Repealed)

## SUBPART R: DAYCARE PROGRAMS

Section	
300.3710	Day Care in Long-Term Care Facilities

## SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section	
300.4000	Applicability of Subpart S
300.4010	Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4020	Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4030	Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4040	General Requirements for Facilities Subject to Subpart S
300.4050	Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
300.4060	Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4070	Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4080	Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4090	Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF  
PUBLIC AID'S DEMONSTRATION PROGRAM FOR PROVIDING  
SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## Section

300.6000	Applicability of Subpart T
300.6005	Quality Assessment and Improvement for Facilities Subject to Subpart T
300.6010	Comprehensive Assessments for Residents of Facilities Subject to Subpart T
300.6020	Reassessments for Residents of Facilities Subject to Subpart T
300.6030	Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
300.6040	General Requirements for Facilities Subject to Subpart T
300.6045	Serious Incidents and Accidents in Facilities Subject to Subpart T
300.6047	Medical Care Policies for Facilities Subject to Subpart T
300.6049	Emergency Use of Restraints for Facilities Subject to Subpart T
300.6050	Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
300.6060	Discharge Plans for Residents of Facilities Subject to Subpart T
300.6070	Work Programs for Residents of Facilities Subject to Subpart T
300.6080	Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
300.6090	Personnel for Providing Services to Residents of Facilities Subject to Subpart T
300.6095	Training and Continuing Education for Facilities Subject to Subpart T

## SUBPART U: ALZHEIMER'S SPECIAL CARE UNIT OR CENTER PROVIDING CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA

## Section

300.7000	Applicability
300.7010	Admission Criteria
300.7020	Assessment and Care Planning
300.7030	Ability-Centered Care
300.7040	Activities
300.7050	Staffing
300.7060	Environment
300.7070	Quality Assessment and Improvement
300.7080	Variances to Enhance Residents' Quality of Life
300.APPENDIX A	Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)
300.APPENDIX B	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
300.APPENDIX C	Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
300.APPENDIX D	Forms for Day Care in Long-Term Care Facilities
300.APPENDIX E	Criteria for Activity Directors Who Need Only Minimal Consultation

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

	(Repealed)
300.APPENDIX F	Guidelines for the Use of Various Drugs
300.APPENDIX G	Facility Report
300.TABLE A	Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
300.TABLE B	Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
300.TABLE C	Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
300.TABLE D	Heat Index Table/Apparent Temperature

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

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days;

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emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 300.120 Application for License**

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. Application forms and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.

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- b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act [20 ILCS 3960].
- c) *Application for a license to establish or operate an intermediate care facility or skilled nursing facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department. (Section 3-103(1) of the Act)*
- d) *All license applications shall be accompanied with an application fee of \$995. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of \$500; 50-99 licensed beds, a flat fee of \$750; and for any facility with 100 or more licensed beds, a fee of \$1,000 plus \$10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)*
- e) *The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:*
- 1) *The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;*
  - 2) *The name and location of the facility for which a license is sought;*
  - 3) *The name of the person or persons under whose management or supervision the facility will be conducted;*
  - 4) *The number and type of residents for which maintenance, personal care, or nursing is to be provided; and*
  - 5) *Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)*
- f) Ownership Change or Discontinuation

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- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold or leased; when operation is discontinued; when operation is moved to a new location; when the licensee (if an individual) dies; when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.
  - 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.
- g) *Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)*
- h) *The Department may issue licenses or renewals for periods of not less than six months nor more than 18 months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act)*

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Number: 330.120                      Proposed Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45/3-103]
- 5) A complete description of the subjects and issues: Section 330.120 (Application for License) is being amended to change the license application fee from a fee based on the licensed capacity of the facility to a flat fee of \$995. Further, the requirement for initial applications for a sheltered care license to be accompanied by a permit from the Health Facilities Planning Board is being deleted.

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

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

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
330.340	Amendment	28 Ill. Reg. 10934
330.720	Amendment	28 Ill. Reg. 10934
330.790	New Section	28 Ill. Reg. 10934
330.795	New Section	28 Ill. Reg. 10934
330.911	Amendment	28 Ill. Reg. 10934
330.1130	Amendment	28 Ill. Reg. 10934
330.1160	New Section	28 Ill. Reg. 10934

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

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

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

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

12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect not-for-profit and small licensed nursing homes.
- 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 in either of the two most recent regulatory agendas because: the Department was not aware of the need for the rulemaking at the time that the Regulatory Agendas were prepared.

The full text of the Proposed 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 FACILITIESPART 330  
SHELTERED CARE FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	Licensee
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.163	Alzheimer's Special Care Disclosure
330.165	Criteria for Adverse Licensure Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public By the Department
330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties
330.288	Reduction or Waiver of Penalties

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330.290	Quarterly List of Violators (Repealed)
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.315	Supported Congregate Living Arrangement Demonstration
330.320	Waivers
330.330	Definitions
330.340	Incorporated and Referenced Materials

## SUBPART B: ADMINISTRATION

Section	
330.510	Administrator

## SUBPART C: POLICIES

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

## SUBPART D: PERSONNEL

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

## SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section	
330.1110	Medical Care Policies

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330.1120	Personal Care
330.1125	Life Sustaining Treatments
330.1130	Communicable Disease Policies
330.1135	Tuberculin Skin Test Procedures
330.1140	Behavior Emergencies (Repealed)
330.1145	Restraints
330.1150	Emergency Use of Physical Restraints
330.1155	Unnecessary, Psychotropic, and Antipsychotic Drugs

## SUBPART F: RESTORATIVE SERVICES

Section	
330.1310	Activity Program
330.1320	Work Programs
330.1330	Written Policies for Restorative Services
330.1340	Volunteer Program

## SUBPART G: MEDICATIONS

Section	
330.1510	Medication Policies
330.1520	Administration of Medication
330.1530	Labeling and Storage of Medications

## SUBPART H: RESIDENT AND FACILITY RECORDS

Section	
330.1710	Resident Record Requirements
330.1720	Content of Medical Records
330.1730	Records Pertaining to Residents' Property
330.1740	Retention and Transfer of Resident Records
330.1750	Other Resident Record Requirements
330.1760	Retention of Facility Records
330.1770	Other Facility Record Requirements

## SUBPART I: FOOD SERVICE

Section	
330.1910	Director of Food Services
330.1920	Dietary Staff in Addition to Director of Food Services
330.1930	Hygiene of Dietary Staff

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330.1940	Diet Orders
330.1950	Meal Planning
330.1960	Therapeutic Diets (Repealed)
330.1970	Scheduling of Meals
330.1980	Menus and Food Records
330.1990	Food Preparation and Service
330.2000	Food Handling Sanitation
330.2010	Kitchen Equipment, Utensils, and Supplies

## SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section	
330.2210	Maintenance
330.2220	Housekeeping
330.2230	Laundry Services

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section	
330.2410	Furnishings
330.2420	Equipment and Supplies

## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section	
330.2610	Codes
330.2620	Water Supply
330.2630	Sewage Disposal
330.2640	Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW  
SHELTERED CARE FACILITIES

Section	
330.2810	Applicable Requirements (Repealed)
330.2820	Applicability of These Standards
330.2830	Submission of a Program Narrative
330.2840	New Constructions, Additions, Conversions, and Alterations
330.2850	Preparation and Submission of Drawings and Specifications
330.2860	First Stage Drawings
330.2870	Second Stage Drawings

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330.2880	Architectural Drawings
330.2890	Structural Drawings
330.3000	Mechanical Drawings
330.3010	Electrical Drawings
330.3020	Additions to Existing Structures
330.3030	Specifications
330.3040	Building Codes
330.3050	Site
330.3060	General Building Requirements
330.3070	Administration
330.3080	Corridors
330.3090	Bath and Toilet Rooms
330.3100	Living, Dining, Activity Rooms
330.3110	Bedrooms
330.3120	Special Care Room
330.3130	Kitchen
330.3140	Laundry
330.3150	Housekeeping, Service, and Storage
330.3160	Plumbing
330.3170	Heating
330.3180	Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW  
SHELTERED CARE FACILITIES

## Section

330.3310	Applicable Requirements (Repealed)
330.3320	Applicability of These Standards
330.3330	Fire Protection
330.3340	Fire Department Service and Water Supply
330.3350	General Building Requirements
330.3360	Exit Facilities and Subdivision of Floor Areas
330.3370	Stairways, Vertical Openings, and Doorways
330.3380	Corridors
330.3390	Exit Lights and Directional Signs
330.3400	Hazardous Areas and Combustible Storage
330.3410	Fire Alarm and Detection System
330.3420	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

## SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR

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## EXISTING SHELTERED CARE FACILITIES

## Section

330.3610	Site
330.3620	General Building Requirements
330.3630	Administration
330.3640	Corridors
330.3650	Bath and Toilet Rooms
330.3660	Living, Dining, and Activity Rooms
330.3670	Bedrooms
330.3680	Special Care Room
330.3690	Kitchen
330.3700	Laundry Room
330.3710	Housekeeping and Service Rooms and Storage Space
330.3720	Plumbing and Heating
330.3730	Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING  
SHELTERED CARE FACILITIES

## Section

330.3910	Fire Protection
330.3920	Fire Department Service and Water Supply
330.3930	Occupancy and Fire Areas
330.3940	Exit Facilities and Subdivision of Floor Areas
330.3950	Stairways, Vertical Openings, and Doorways
330.3960	Exit and Fire Escape Lights and Directional Signs
330.3970	Hazardous Areas and Combustible Storage
330.3980	Fire Alarm and Detection System
330.3990	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

## SUBPART Q: RESIDENT'S RIGHTS

## Section

330.4210	General
330.4220	Medical and Personal Care Program
330.4230	Restraints (Repealed)
330.4240	Abuse and Neglect
330.4250	Communication and Visitation
330.4260	Resident's Funds

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330.4270	Residents' Advisory Council
330.4280	Contract With Facility
330.4290	Private Right of Action
330.4300	Transfer or Discharge
330.4310	Complaint Procedures
330.4320	Confidentiality
330.4330	Facility Implementation

## SUBPART R: DAY CARE PROGRAMS

## Section

330.4510	Day Care In Long-Term Care Facilities
330.APPENDIX A	Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
330.APPENDIX B	Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
330.APPENDIX C	Forms for Day Care in Long-Term Care Facilities
330.APPENDIX D	Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
330.APPENDIX E	Guidelines for the Use of Various Drugs
330.TABLE A	Heat Index Table/Apparent Temperature

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

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16

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Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg. 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 330.120 Application for License**

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate a sheltered care facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.
- b) ~~An application for a new facility shall be accompanied by a permit as required by~~

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~~the Illinois Health Facilities Planning Act [20 ILCS 3960].~~

- ~~b)e)~~ Application for a license to establish or *operate* a sheltered care facility shall be made in writing and submitted, with other such information as the Department may require, *on forms* provided by the Department. (Section 3-103(1) of the Act)
- ~~c)d)~~ All license applications shall be accompanied with an application fee of \$995. ~~The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of \$500; 50-99 licensed beds, a flat fee of \$750; and for any facility with 100 or more licensed beds, a fee of \$1,000 plus \$10 per licensed bed.~~ The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)
- ~~d)e)~~ The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:
- 1) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;
  - 2) The name and location of the facility for which a license is sought;
  - 3) The name of the person or persons under whose management or supervision the facility will be conducted;
  - 4) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and
  - 5) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)
- ~~e)f)~~ Ownership Change or Discontinuation
- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate

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immediately become void and shall be returned to the Department when the facility is sold or leased; when operation is discontinued; when operation is moved to a new location; when the licensee (if an individual) dies; when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

- 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

*f)g) Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)*

*g)h) The Department may issue licenses or renewals for periods of not less than six months nor more than 18 months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act)*

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Numbers: 340.1120                      Proposed Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45/3-103]
- 5) A complete description of the subjects and issues: Section 340.1120 (Application for License) is being amended to change the license application fee from a fee based on the licensed capacity of the facility to a flat fee of \$995. The rulemaking reflects P.A. 93-0841, which amended the Nursing Home Care Act to establish the \$995 fee.

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

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

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
340.1010	Amendment	28 Ill. Reg. 10969
340.1377	Amendment	28 Ill. Reg. 10969
340.1335	Amendment	28 Ill. Reg. 10969
340.1510	Amendment	28 Ill. Reg. 10969
340.1640	New Section	28 Ill. Reg. 10969
340.1650	New Section	28 Ill. Reg. 10969

- 10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State Mandate.
- 11) Time, place, and manner in which interested persons may comment on this rulemaking:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

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

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

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect not-for-profit and small licensed nursing homes.
  - 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 in either of the two most recent regulatory agendas because: the Department was not aware of the need for the rulemaking at the time that the Regulatory Agendas were prepared.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

PART 340  
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section

- 340.1000 Definitions
- 340.1010 Incorporated and Referenced Materials
- 340.1110 General Requirements
- 340.1115 Federal Veterans' Regulations
- 340.1120 Application for License
- 340.1125 Alzheimer's Special Care Disclosure
- 340.1130 Criteria for Adverse Licensure Actions
- 340.1140 Denial of Initial License
- 340.1150 Revocation or Denial of Renewal of License
- 340.1160 Inspections, Surveys, Evaluations, and Consultations
- 340.1170 Presentation of Findings by the Department
- 340.1190 Ownership Disclosure
- 340.1200 Monitor and Receivership
- 340.1210 Determination of a Violation
- 340.1220 Determination of the Level of a Violation
- 340.1230 Plans of Correction and Reports of Correction
- 340.1240 Calculation of Penalties
- 340.1245 Conditions for Assessment of Penalties
- 340.1250 Reduction or Waiver of Penalties
- 340.1255 Supported Congregate Living Arrangement Demonstration
- 340.1260 Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section

- 340.1300 Facility Policies
- 340.1310 Admission and Discharge Policies
- 340.1320 Disaster Preparedness
- 340.1330 Serious Incidents and Accidents
- 340.1335 Infection Control
- 340.1340 Facility Record Requirements

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements
340.1376	Registry of Certified Nursing Assistants
340.1377	Health Care Worker Background Check
340.1378	Resident Attendants
340.1380	Contacting Local Law Enforcement

## SUBPART C: RESIDENT RIGHTS

Section	
340.1400	Implementation of Resident Rights and Facility Responsibilities
340.1410	General
340.1420	Contract Between Resident and Facility
340.1430	Residents' Advisory Council
340.1440	Abuse and Neglect
340.1450	Communication and Visitation
340.1460	Resident's Funds
340.1470	Transfer or Discharge
340.1480	Complaint Procedures
340.1490	Private Right of Action

## SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Dental Programs
340.1540	Life-Sustaining Treatments
340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Nonemergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints
340.1610	Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620	Medication Administration (Repealed)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

340.1630 Self-Administration of Medication (Renumbered)

## SUBPART E: MEDICATIONS

## Section

340.1650 Medication Policies and Procedures  
340.1655 Compliance with Licensed Prescriber's Orders  
340.1660 Administration of Medication  
340.1665 Control of Medication  
340.1670 Labeling and Storage of Medication  
340.1675 Self-Administration of Medication

## SUBPART F: RESIDENT LIVING SERVICES

## Section

340.1700 Recreational and Activity Programs  
340.1710 Social Services  
340.1720 Work Programs  
340.1730 Volunteer Program

## SUBPART G: RESIDENT RECORDS

## Section

340.1800 Resident Record Requirements  
340.1810 Content of Medical Records  
340.1820 Records Pertaining to Resident's Property  
340.1830 Retention, Transfer, and Inspection of Records  
340.1840 Confidentiality of Resident's Records

## SUBPART H: FOOD SERVICE

## Section

340.1900 Food Service Staff  
340.1910 Diet Orders  
340.1920 Meal Planning  
340.1930 Therapeutic Diets (Repealed)  
340.1940 Menus and Food Records  
340.1950 Food Preparation and Service  
340.1960 Kitchen Equipment, Utensils and Supplies

## SUBPART I: PHYSICAL PLANT SERVICES,

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## FURNISHINGS, EQUIPMENT AND SUPPLIES

## Section

340.2000	Maintenance
340.2010	Water Supply, Sewage Disposal and Plumbing
340.2020	Housekeeping
340.2030	Laundry Services
340.2040	Furnishings
340.2050	Equipment and Supplies
340.TABLE A	Heat Index Table/Apparent Temperature
340.TABLE B	Guidelines for the Use of Various Drugs

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

**SOURCE:** Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870, effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15904, effective September 25, 2003; amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg. 11209, effective July 22, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 340.1120 Application for License**

- a) Application for a license to establish or operate a facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department.
- b) The license is not transferable. It is issued to a specific licensee and for a specific

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when a new license is issued to operate the facility; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

- c) *All license applications shall be accompanied with an application fee of \$995. ~~The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of \$500; 50-99 licensed beds, a flat fee of \$750; and for any facility with 100 or more licensed beds, a fee of \$1,000 plus \$10 per licensed bed.~~ The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)*
- d) *The Department may issue licenses or renewals for periods of not less than six months nor more than 18 months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. Fees for such licenses shall be prorated on the basis of the portion of a year for which they are issued. (Section 3-110 of the Act)*
- e) *The licensee shall qualify for issuance of a two-year license if the licensee has met the criteria contained in Section 3-110(b) of the Act for the last 24 consecutive months.*
- f) *A renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act [220 ILCS 4] and Section 340.1125 of this Part, if applicable. (Section 3-115 of the Act)*

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 11) Time, place, and manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:
- Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us
- 12) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: This proposed rule will affect small licensed nursing homes.
- 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 in either of the Department's two most recent Regulatory Agendas because: the Department was not aware of the need for the rulemaking at the time that the Regulatory Agendas were prepared.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

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

## PART 350

## INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensure Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

350.290	Quarterly List of Violators (Repealed)
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

## SUBPART B: ADMINISTRATION

Section	
350.510	Administrator

## SUBPART C: POLICIES

Section	
350.610	Management Policies
350.620	Resident Care Policies
350.625	Determination of Need Screening
350.630	Admission and Discharge Policies
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.682	Resident Attendants
350.683	Registry of Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents
350.750	Contacting Local Law Enforcement

## SUBPART D: PERSONNEL

Section	
350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

SUBPART E: RESIDENT LIVING SERVICES

Section	
350.1010	Service Programs
350.1020	Psychological Services
350.1030	Social Services
350.1040	Speech Pathology and Audiology Services
350.1050	Recreational and Activities Services
350.1055	Volunteer Program
350.1060	Training and Habilitation Services
350.1070	Training and Habilitation Staff
350.1080	Restraints
350.1082	Nonemergency Use of Physical Restraints
350.1084	Emergency Use of Physical Restraints
350.1086	Unnecessary, Psychotropic, and Antipsychotic Drugs

SUBPART F: HEALTH SERVICES

Section	
350.1210	Health Services
350.1220	Physician Services
350.1223	Communicable Disease Policies
350.1225	Tuberculin Skin Test Procedures
350.1230	Nursing Services
350.1235	Life-Sustaining Treatments
350.1240	Dental Services
350.1250	Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section	
350.1410	Medication Policies and Procedures
350.1420	Compliance with Licensed Prescriber's Orders
350.1430	Administration of Medication
350.1440	Labeling and Storage of Medications
350.1450	Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## Section

350.1610	Resident Record Requirements
350.1620	Content of Medical Records
350.1630	Confidentiality of Resident's Records
350.1640	Records Pertaining to Residents' Property
350.1650	Retention and Transfer of Resident Records
350.1660	Other Resident Record Requirements
350.1670	Staff Responsibility for Medical Records
350.1680	Retention of Facility Records
350.1690	Other Facility Record Requirements

## SUBPART I: FOOD SERVICE

## Section

350.1810	Director of Food Services
350.1820	Dietary Staff in Addition to Director of Food Services
350.1830	Hygiene of Dietary Staff
350.1840	Diet Orders
350.1850	Meal Planning
350.1860	Therapeutic Diets (Repealed)
350.1870	Scheduling Meals
350.1880	Menus and Food Records
350.1890	Food Preparation and Service
350.1900	Food Handling Sanitation
350.1910	Kitchen Equipment, Utensils, and Supplies

## SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

## Section

350.2010	Maintenance
350.2020	Housekeeping
350.2030	Laundry Services

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section

350.2210	Furnishings
350.2220	Equipment and Supplies

## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## Section

350.2410	Codes
350.2420	Water Supply
350.2430	Sewage Disposal
350.2440	Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE  
FACILITIES FOR THE DEVELOPMENTALLY DISABLED

## Section

350.2610	Applicability of These Standards
350.2620	Codes and Standards
350.2630	Preparation of Drawings and Specifications
350.2640	Site
350.2650	Administration and Public Areas
350.2660	Nursing Unit
350.2670	Dining, Living, Activities Rooms
350.2680	Therapy and Personal Care
350.2690	Service Departments
350.2700	General Building Requirements
350.2710	Structural
350.2720	Mechanical Systems
350.2730	Plumbing Systems
350.2740	Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE  
FACILITIES FOR THE DEVELOPMENTALLY DISABLED

## Section

350.2910	Applicability
350.2920	Codes and Standards
350.2930	Preparation of Drawings and Specifications
350.2940	Site
350.2950	Administration and Public Areas
350.2960	Nursing Unit
350.2970	Living, Dining, Activities Rooms
350.2980	Treatment and Personal Care
350.2990	Service Department
350.3000	General Building Requirements

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

350.3010	Structural
350.3020	Mechanical Systems
350.3030	Plumbing Systems
350.3040	Electrical Requirements

## SUBPART O: RESIDENT'S RIGHTS

Section	
350.3210	General
350.3220	Medical and Personal Care Program
350.3230	Restraints (Repealed)
350.3240	Abuse and Neglect
350.3250	Communication and Visitation
350.3260	Resident's Funds
350.3270	Residents' Advisory Council
350.3280	Contract With Facility
350.3290	Private Right of Action
350.3300	Transfer or Discharge
350.3310	Complaint Procedures
350.3320	Confidentiality
350.3330	Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR  
THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section	
350.3710	Applicability of Other Provisions of this Part
350.3720	Administration
350.3730	Admission and Discharge Policies
350.3740	Personnel
350.3750	Consultation Services and Nursing Services
350.3760	Medication Policies
350.3770	Food Services
350.3780	Codes and Standards
350.3790	Administration and Public Areas
350.3800	Bedrooms
350.3810	Nurses Station
350.3820	Bath and Toilet Rooms
350.3830	Utility Rooms
350.3840	Living, Dining, Activity Rooms

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

350.3850	Therapy and Personal Care
350.3860	Kitchen
350.3870	Laundry Room
350.3880	General Building Requirements
350.3890	Corridors
350.3900	Special Care Room
350.3910	Exit Facilities and Subdivision of Floor Areas
350.3920	Stairways, Vertical Openings and Doorways
350.3930	Hazardous Areas and Combustible Storage
350.3940	Mechanical Systems
350.3950	Heating, Cooling, and Ventilating Systems
350.3960	Plumbing Systems
350.3970	Electrical Systems
350.3980	Fire Alarm and Detection System
350.3990	Emergency Electrical System
350.4000	Fire Protection
350.4010	Construction Types
350.4020	Equivalencies
350.4030	New Construction Requirements

## SUBPART Q: DAY CARE PROGRAMS

## Section

350.4210	Day Care in Long-Term Care Facilities
350.APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
350.APPENDIX B	Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C	Seismic Zone Map
350.APPENDIX D	Forms For Day Care in Long-Term Care Facilities
350.APPENDIX E	Guidelines for the Use of Various Drugs
350.TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
350.TABLE D	Food Service Sanitation Rules 77 Illinois Admin. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of (16) Beds or Less

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 350.TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
- 350.TABLE F Heat Index Table/Apparent Temperature

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

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995;

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. 11217, effective July 22, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 350.120 Application for License**

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.
- b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act [20 ILCS 3960].
- c) *Application* for a license to establish or *operate* an intermediate care *facility* for persons with developmental disabilities *shall be made* in writing and submitted, with other such information as the Department may require, *on forms* provided by the Department. (Section 3-103(1) of the Act)

## DEPARTMENT OF PUBLIC HEALTH

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~~d)~~ *All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of \$500; 50-99 licensed beds, a flat fee of \$750; and for any facility with 100 or more licensed beds, a fee of \$1,000 plus \$10 per licensed bed. The fee for a 2 year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)*

d)e) *The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:*

- 1) *The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;*
- 2) *The name and location of the facility for which a license is sought;*
- 3) *The name of the person or persons under whose management or supervision the facility will be conducted;*
- 4) *The number and type of residents for which maintenance, personal care, or nursing is to be provided; and*
- 5) *Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)*

e)f) **Ownership Change or Discontinuation**

- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold or leased; when operation is discontinued; when operation is moved to a new location; when the licensee (if an individual) dies; when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

## DEPARTMENT OF PUBLIC HEALTH

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- 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

~~f)g)~~ *Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)*

~~g)h)~~ *The Department may issue licenses or renewals for periods of not less than six months nor more than 18 months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act)*

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Number: 390.120                      Proposed Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45/3-103]
- 5) A complete description of the subjects and issues: This rulemaking deletes a per-bed license fee. There will be no fee for locations licensed under this Part. Public Act 93-0841 amended Section 3-103 of the Nursing Home Care Act to exempt facilities that pay a fee or assessment pursuant to Article V-C of the Illinois Public Aid Code from the licensure fee. Article V-C imposes an assessment on each developmentally disabled care provider in an amount equal to 6% of its adjusted gross developmentally disabled care revenue for the prior State fiscal year.

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

- 6) Will this rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
390.340	Amendment	28 Ill. Reg. 11035
390.360	Amendment	28 Ill. Reg. 11035
390.681	Amendment	28 Ill. Reg. 11035
390.760	New Section	28 Ill. Reg. 11035
390.1020	Amendment	28 Ill. Reg. 11035
390.1130	New Section	28 Ill. Reg. 11035
390.1140	New Section	28 Ill. Reg. 11035
390.1150	New Section	28 Ill. Reg. 11035

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

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

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

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

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect not-for-profit and small licensed nursing homes.

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 Department was not aware of the need for the rulemaking at the time that the Regulatory Agendas were prepared.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 390  
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
390.110	General Requirements
390.120	Application for License
390.130	Licensee
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse Licensure Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
390.220	Information to be Made Available to the Public by the Department
390.230	Information to Be Made Available to the Public By the Licensee
390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
390.271	Presentation of Findings
390.272	Determination to Issue a Notice of Violation or Administrative Warning
390.274	Determination of the Level of a Violation
390.276	Notice of Violation
390.277	Administrative Warning
390.278	Plans of Correction
390.280	Reports of Correction
390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)

## DEPARTMENT OF PUBLIC HEALTH

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390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.315	Supported Congregate Living Arrangement Demonstration
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

## SUBPART B: ADMINISTRATION

Section	
390.500	Administrator

## SUBPART C: POLICIES

Section	
390.610	Management Policies
390.620	Resident Care Policies
390.630	Admission and Discharge Policies
390.640	Contract Between Resident and Facility
390.650	Residents' Advisory Council
390.660	General Policies
390.670	Personnel Policies
390.675	Initial Health Evaluation for Employees
390.680	Child Care/Habilitation Aides
390.681	Health Care Worker Background Check
390.682	Resident Attendants
390.683	Registry of Child Care/Habilitation Aides
390.685	Student Interns
390.690	Disaster Preparedness
390.700	Serious Incidents and Accidents
390.750	Contacting Local Law Enforcement

## SUBPART D: PERSONNEL

Section	
390.810	General
390.820	Categories of Personnel
390.830	Consultation Services

## SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## Section

390.1010	Service Programs
390.1020	Medical Services
390.1025	Life-Sustaining Treatments
390.1030	Physician Services
390.1035	Tuberculin Skin Test Procedures
390.1040	Nursing Services
390.1050	Dental Care Services
390.1060	Physical and Occupational Therapy Services
390.1070	Psychological Services
390.1080	Social Services
390.1090	Speech Pathology and Audiology Services
390.1100	Recreational and Activity Services
390.1110	Educational Services
390.1120	Work Activity and Prevocational Training Services

SUBPART F: RESTRAINTS AND BEHAVIOR  
MANAGEMENT

## Section

390.1310	Restraints
390.1312	Nonemergency Use of Physical Restraints
390.1314	Emergency Use of Physical Restraints
390.1316	Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1320	Behavior Management
390.1330	Behavior Emergencies (Repealed)

## SUBPART G: MEDICATIONS

## Section

390.1410	Medication Policies and Procedures
390.1420	Compliance with Licensed Prescriber's Orders
390.1430	Administration of Medication
390.1440	Labeling and Storage of Medications
390.1450	Control of Medications

## SUBPART H: RESIDENT AND FACILITY RECORDS

## Section

390.1610	Resident Record Requirements
390.1620	Content of Medical Records

DEPARTMENT OF PUBLIC HEALTH

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- 390.1630 Confidentiality of Resident's Records
- 390.1640 Records Pertaining to Residents' Property
- 390.1650 Retention and Transfer of Resident Records
- 390.1660 Other Resident Record Requirements
- 390.1670 Staff Responsibility for Medical Records
- 390.1680 Retention of Facility Records
- 390.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

- 390.1810 Director of Food Services
- 390.1820 Dietary Staff in Addition to Director of Food Services
- 390.1830 Hygiene of Dietary Staff
- 390.1840 Diet Orders
- 390.1850 Meal Planning
- 390.1860 Infant and Therapeutic Diets
- 390.1870 Scheduling Meals
- 390.1880 Menus and Food Records
- 390.1890 Food Preparation and Service
- 390.1900 Preparation of Infant Formula
- 390.1910 Food Handling Sanitation
- 390.1920 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section

- 390.2010 Maintenance
- 390.2020 Housekeeping
- 390.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 390.2210 Furnishings
- 390.2220 Equipment and Supplies
- 390.2230 Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

## DEPARTMENT OF PUBLIC HEALTH

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390.2410	Codes
390.2420	Water Supply
390.2430	Sewage Disposal
390.2440	Plumbing

## SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section	
390.2610	Applicability of these Standards
390.2620	Codes and Standards
390.2630	Preparation of Drawings and Specifications
390.2640	Site
390.2650	Administration and Public Areas
390.2660	Nursing Unit
390.2670	Dining, Play, Activity/Program Rooms
390.2680	Therapy and Personal Care
390.2690	Service Departments
390.2700	General Building Requirements
390.2710	Structural
390.2720	Mechanical Systems
390.2730	Plumbing Systems
390.2740	Electrical Systems

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS  
FOR EXISTING FACILITIES

Section	
390.2910	Applicability
390.2920	Codes and Standards
390.2930	Preparation of Drawings and Specifications
390.2940	Site
390.2950	Administration and Public Areas
390.2960	Nursing Unit
390.2970	Play, Dining, Activity/Program Rooms
390.2980	Treatment and Personal Care
390.2990	Service Department
390.3000	General Building Requirements
390.3010	Structural
390.3020	Mechanical Systems
390.3030	Plumbing Systems
390.3040	Electrical Requirements

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## SUBPART O: RESIDENT'S RIGHTS

## Section

390.3210	General
390.3220	Medical and Personal Care Program
390.3230	Restraints (Repealed)
390.3240	Abuse and Neglect
390.3250	Communication and Visitation
390.3260	Resident's Funds
390.3270	Residents' Advisory Council
390.3280	Contract With Facility
390.3290	Private Right of Action
390.3300	Transfer or Discharge
390.3310	Complaint Procedures
390.3320	Confidentiality
390.3330	Facility Implementation

## SUBPART P: DAY CARE PROGRAMS

## Section

390.3510	Day Care in Long-Term Care Facilities
390.APPENDIX A	Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B	Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C	Guidelines for the Use of Various Drugs
390.TABLE A	Infant Feeding
390.TABLE B	Daily Nutritional Requirements By Age Group
390.TABLE C	Sound Transmissions Limitations
390.TABLE D	Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E	Sprinkler Requirements
390.TABLE F	Heat Index Table/Apparent Temperature

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

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective

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November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15949, effective September 25, 2003; amended at 27 Ill. Reg. 18204, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003; amended at 28 Ill. Reg. 11231, effective July 22, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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## SUBPART A: GENERAL PROVISIONS

**Section 390.120 Application for License**

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.
- b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act [20 ILCS 3960].
- c) *Application* for a license to establish or *operate* an intermediate care facility or skilled nursing *facility shall be made* in writing and submitted, with other such information as the Department may require, *on forms* provided by the Department. (Section 3-103(1) of the Act)
- ~~d) *All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of \$500; 50-99 licensed beds, a flat fee of \$750; and for any facility with 100 or more licensed beds, a fee of \$1,000 plus \$10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license. (Section 3-103(2) of the Act)*~~
- d)e) *The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:*
- 1) *The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;*
  - 2) *The name and location of the facility for which a license is sought;*

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- 3) *The name of the person or persons under whose management or supervision the facility will be conducted;*
- 4) *The number and type of residents for which maintenance, personal care, or nursing is to be provided; and*
- 5) *Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary. (Section 3-103(2) of the Act)*

*e)f)* Ownership Change or Discontinuation

- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold or leased; when operation is discontinued; when operation is moved to a new location; when the licensee (if an individual) dies; when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.
- 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

*f)g)* *Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)*

*g)h)* *The Department may issue licenses or renewals for periods of not less than six months nor more than 18 months for facilities with annual licenses and not less than 18 months for facilities with 2-year licenses in order for the Department to distribute the expiration dates of such licenses throughout the calendar year. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued. (Section 3-110 of the Act)*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Definitions
- 2) Code Citation: 11 Ill. Adm. Code 210
- 3) Section Number: 210.10                      Proposed Action:  
Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: To be consistent with current legislative changes, this rulemaking amends the definition of "minor." The definitions of "Length of Race" and "Racing Day" were deleted and the definitions of "Age", "Entry", and "Paddock" were updated.
- 6) Will this proposed amendment replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendment contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:  

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601  
(312) 814-5017
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None

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- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the most recent two regulatory agendas because it was not anticipated when they were submitted.

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER a: GENERAL RULESPART 210  
DEFINITIONSSection  
210.10 Definitions

AUTHORITY: Implementing Section 15 and authority by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Adopted at 18 Ill. Reg. 2072, effective January 21, 1994; amended at 18 Ill. Reg. 17732, effective November 28, 1994; amended at 19 Ill. Reg. 13891, effective October 1, 1995; amended at 25 Ill. Reg. 15590, effective December 1, 2001; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 210.10 Definitions**

"Act" – The Illinois Horse Racing Act of 1975.

"Added Money" – The money added by a racing association to the various fees paid by the owners of the horses nominated to, entered in and/or starting in a race.

"Added Money Early Closing Event" – A harness race closing in the same year in which it is to be contested in which all entrance and declaration fees received are added to the purse.

"Advanced Wagering" – Any wagering on a race or races to be conducted during a racing program before the next scheduled race.

"Age" – The age of a horse shall be reckoned from the first day of January of the year of foaling ~~except: for foals born in November and December of any year, age shall be reckoned from January 1 of the succeeding year.~~

"Allowance" – Weights and other conditions of a race.

"Allowance Race" – A race, other than a claiming race, for which certain

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

conditions of eligibility are established.

"Also Eligible" – A horse ~~that~~~~which~~ has been entered in a race but is not permitted to start unless the number of entrants is reduced by scratches.

"Appeal" – A request for the Board to investigate, consider or review any decisions or rulings of the officials of a meeting or the decision of the Board itself.

"Applicant" – A person who applies for an organization or occupation license in a specified category or categories.

"Approximate odds" – The probable ratio of the pay-out price to a \$1 wager in the win pool in a pari-mutuel system.

"Arrears" – All monies owed by a licensee, including subscriptions, jockey fees, forfeitures, and any default incident to these rules.

"Association" – A person or business entity holding a license from the Board to conduct racing with pari-mutuel wagering.

"Association Grounds" – All areas used by a racing association in conducting a race meeting.

"Authorized Agent" – A person appointed by an owner or trainer in accordance with Board ~~rules~~~~Rules~~, the appointment to be designated in a document signed by the owner or trainer, approved by the stewards, executed annually and filed with the Illinois Racing Board.

"Battery" – Any battery, buzzer, electrical, or mechanical device or other appliance, except for the ordinary whip, ~~that~~~~which~~ can be used to stimulate or depress a horse or affect its speed in a race or workout.

"Beneficial Interest" – Profit, benefit or advantage resulting from a contract or an ownership interest in an estate as distinct from legal title or ownership, i.e., an interest as a devisee, legatee or donee solely for his own use or benefit and not as holder of title for use and benefit of another.

"Betting interest" – Horse, entry or field.

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"Bleeder" – A horse that is examined by an official veterinarian following a race or workout and sheds blood from one or both nostrils or upon endoscopic examination shows observable amounts of free blood in the respiratory tract.

"Board" – Illinois Racing Board.

"Bookmaker" – A person who accepts wagers on ~~racetracks~~ other than through a pari-mutuel machine.

"Breakage" – The odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10¢.

"Breeder" – (Harness) The owner of a horse's dam at the time of breeding; (Thoroughbred) The owner of the horse's dam at the time of foaling.

"Canceled Ticket" – A ticket ~~that which~~ represents a wager ~~that which~~ has been canceled and withdrawn from the pari-mutuel pools.

"Carryover" – The total amount of non-distributed pool money in a pool ~~that which~~ is retained and added to a corresponding pool in accordance with ~~this Part~~ these rules.

"Cashed Ticket" – Any pari-mutuel ticket ~~that which~~ is refunded or ~~that which~~ is presented for payment of a winning wager and is paid.

"Cashier Accounting" – The record of teller activity by transaction and time of transaction.

"Central Processing Unit" – The main computer ~~that which~~ controls and stores both programs and data.

"Civil Penalty" – A penalty imposed on a licensee for a violation of Board rules or the Act.

"Claim" – The act of an eligible owner requesting the stewards to order the sale of a horse in a claiming race to him/her for a predetermined amount; ~~to file~~ request a weight allowance; ~~to file~~ file a claim in a claiming race; ~~to acquire~~ acquire a horse by claiming.

"Claimant" – A person or racing interest meeting one of the three criteria for

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claiming eligibility.

"Claim Form" – The form upon which an eligible owner agrees to purchase a horse from a claiming race.

"Claiming Price" – The predetermined price at which a horse in a claiming race must be sold if it is claimed.

"Claiming Race" – A race in which any horse starting may be purchased for a predetermined amount in conformance with [Board rules](#)~~the Rules and Regulations~~.

"Colt" – ~~(Harness)~~ An uncastrated [male](#) horse under ~~five~~[four](#) years of age; ~~(Thoroughbred) An uncastrated horse under five years of age.~~

"Computer Log Library" – A record of all operator initiated actions of the transaction processor.

"Concessionaire" – An individual, firm, partnership, corporation, trustee or legal representative licensed to operate as a concessionaire to sell or provide food, beverages, programs, tip sheets or parking to the public at a race track in Illinois.

"Condition Book" – A booklet published by a thoroughbred racing association ~~that~~[which](#) sets out the conditions, purses and descriptions of future races.  
(Synonym: Condition Sheet)

"Conditioned Race" – An overnight event ~~into~~[into](#) which entry eligibility is governed by previously specified qualifications.

"Condition Sheet" – A listing, written by the Racing Secretary, with the conditions a horse must meet in order to enter a particular race.

"Conditions" – Qualifications that determine a horse's eligibility to be entered in a particular race.

"Confirmed Test" – A second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen.

"Console" – The totalizator status monitor ~~that~~[which](#) displays current race pool status information.

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"Contest" – A competitive racing event on which pari-mutuel wagering is conducted.

"Contestant" – An individual participant in a contest.

"Controlled Substance" – Any substance listed in 21 USC 812.

"Coupled Entry" – Two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes. (Also see "Entry")

"Dam" – The female parent.

"Day" – A 24 hour period beginning at 12:01 a.m. and ending at 12:00 midnight.

"Dead Heat" – A race in which two or more horses cross the finish line in a tie.

"Declaration" – (Harness) The process of entering a horse in a particular race. (Thoroughbred) The withdrawal of a horse entered for a race after the closing of entries. (Synonym: scratch)

"Decoder" – A device and/or means to convert encrypted audio-visual signals and/or data into a form recognizable as the original content of the signals.

"Disqualification" – The act of barring a person from acting as an official or from starting or driving a horse in a race. In the case of a horse, the act of barring it from starting or altering its finishing position for betting and purse purposes.

"Disqualify" – To place a horse in a lower position, in the official order of finish in a race, than it actually finished due to an infraction of the rules.

"Downlink" – A receiving antenna coupled with an audio-visual signal receiver compatible with and capable of receiving simultaneous audio-visual signals and/or data emanating from an organization licensee or track outside Illinois, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the inter-track wagering facility.

"Early Closing Race" – A harness race ~~into~~ which entries close at least six weeks preceding the race.

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"Eligible to Race" – Refers to a horse whose trainer has been granted stall space on association grounds; or has been approved to stable elsewhere and to ship in to race at a specific race meeting.

"Encryption" – The scrambling or other manipulations of the audio-visual signals to mask the original video content of the signal and so cause ~~thosesueh~~ signals to be indecipherable and unrecognizable to any person receiving ~~thatsueh~~ signal without a decoder.

"Entry" – ~~A horse made eligible to participate in a race or two or more horses entered in the same race when owned or trained by the same person or trained in the same stable or by the same management. For thoroughbred racing, entries of separate ownership shall be uncoupled. A horse that has been entered for a race; Two or more horses, owned by the same stable, or by husband and wife, or trained by the same trainer, that are coupled for the purpose of pari-mutuel betting as one betting interest.~~

"Equipment" – The items worn by or attached to a horse in a race.

"Exclusion" – The act of barring from all or part of association grounds or the grounds under the jurisdiction of the Illinois Racing Board. Unless specified in the ruling, an exclusion is unconditional and encompasses all of the association grounds.

"Exhibition Race" – A race on which no wagering is permitted.

"Expired Ticket" – An outstanding ticket that was not presented for redemption within the required time period for which it was issued.

"Extended Pari-Mutuel Meeting" – A meeting at which no agricultural fair is in progress, of more than 10 days annually, with pari-mutuel wagering.

"Field" – All the horses that compete in a race; ~~a~~A number of horses grouped together as an entry for the purpose of pari-mutuel betting.

"Filly" – (Thoroughbred) A female horse under five years of age. (Harness) A female horse under four years of age.

"Financial Interest" – An interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership

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or interest in a horse or business entity, or as a result of salary, gratuity or other compensation or remuneration from any person. The lessee and lessor of a horse have financial interests.

"Finish Line" – A real or imaginary line, perpendicular to the race course, that marks the end of a race. (Synonyms: finish wire, wire)

"Flat Race" – A race in which horses mounted by jockeys run over a course on which no obstacles are placed.

"Foreign Substance" – All substances except those ~~that~~ which exist naturally in the untreated horse of normal physiological concentrations or substances, or metabolites thereof ~~that~~ which are contained in equine feeds or feed supplements but do not contain any pharmacodynamic and/or chemotherapeutic agents, or pharmaceutical aids.

"Forfeit" – Money due from a licensee because of error, fault, neglect of duty, breach of contract or a penalty imposed by the stewards or the Board.

"Foul" – An improper act committed by a jockey or a horse in the running of a race.

"Foul Claim" or "Claim of Foul" – An objection, alleging a foul, made to the stewards or their designee by a driver, jockey, owner or trainer of a horse involved in a race.

"Furosemide List" – A tabulation maintained by the Board of all horses approved to race with furosemide.

"Futurity" – (Harness) A stakes race in which the dam of the competing animal is nominated either when in foal or during the year of foaling. (Thoroughbred) A stakes race, for horses not older than three years of age, in which nominations are made before the horse becomes a three-year old.

"Gelding" – A castrated horse.

"Gender and Number" – Pronouns of one gender include the other ~~and~~; singular words include the plural and vice versa, unless the context clearly indicates otherwise.

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"Gimmick Race" – A race on which a form of multiple wagering is conducted, such as Daily Double, Quinella, Exacta, Perfecta, Trifecta, etc.

"Guaranteed Stakes" – A stakes race with a guarantee by the party offering it that the sum paid shall not be less than the amount named (see Stakes Race).

"Guest Association" – An association that offers licensed pari-mutuel wagering on contests conducted by another association (the host) in either the same or another state.

"Handicap" – (Harness) A race in which starting positions are assigned on the basis of past performance so as to equalize the chance of all horses entered; (Thoroughbred) A race in which the weights carried by the entered horses are assigned by the [Racing Secretary Handicapper](#) for the purpose of equalizing [each horse's](#)~~their~~ respective [chance](#)~~chances~~ of winning.

~~"Handicapper" – A person who assigns weights (thoroughbred) or post positions (harness) to horses nominated to a handicap race.~~

"Handle" – The aggregate dollar amount of all pari-mutuel pools, excluding refundable wagers.

"Heat" – One of two or more installments of a race.

"Horse" – An all encompassing term for any equine of any age, including colt, filly, gelding, ridgeling, mare or stallion;~~;~~[An uncastrated male horse five years of age or older.](#)

"Host Association" – The association conducting a licensed pari-mutuel meeting from which authorized contests or entire programs are simulcast.

"Hypodermic Injection" – Any injection into or under the skin or mucosa, including but not limited to intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intrabursal injection, intraocular (intraconjunctival) injection.

"Ineligible Horse" – A horse not qualified to participate in a specific race under the rules or conditions of that race.

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"Ineligible Person" – A person not qualified to participate in a specific racing activity under the rules of that activity.

"Illinois-Bred Colt" or "Illinois-Bred Filly" – A horse sired by a stallion owned by an Illinois resident and standing in the State of Illinois for the season in which the mare was bred.

"Illinois Foaled" – A horse dropped in Illinois.

"Illinois Owned" – A horse owned by a resident of Illinois at the time the horse is declared in to start and at the time of the race.

"Illinois Racing Board" – Whenever the word "Board" is used, it means the "Illinois Racing Board".

"Initial Screening" – A sensitive screening thatwhich determines the presence of drugs and their corresponding families.

"Interference" – Any act, which by design or otherwise, and regardless of actual contact, hampers or obstructs any competing horse or horses.

"Intertrack Wagering Facility" – The physical premises, structure and equipment utilized by an intertrack wagering location or intertrack wagering location licensee for the conduct of intertrack wagering or simulcast wagering.

"Inquiry" – An investigation or examination, conducted by the Board or Stewards, into a possible rule violation.

"Issued Ticket" – A wager for which the ticket issuing machine produces a hard copy.

"Jockey" – A rider of a thoroughbred race horse.

"Laboratory" – The Illinois Racing Board Laboratory or an independent testing laboratory contracted by the Board.

"Late Closing Race" – A race for a fixed amount to which entries close less than six weeks and more than three days before the race is to be contested.

~~"Length of Race" – Races shall be run at the stated distance in units not shorter~~

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~~than a sixteenth of a mile.~~

"Lessee" – A licensed owner whose interest in a horse is by lease agreement.

"Licensee" – A person or legal entity that has been issued an occupation license to participate in racing under the jurisdiction of the Board. (Synonym: Occupation [Licensee](#)~~licensee~~)

"Maiden" – (Harness) A horse that has never won a heat or race, at the gait it is entered to start, for which a purse was offered. (Thoroughbred) A horse that has never earned a winner's purse in a flat race at a recognized meeting in any country.

"Maiden Race" – A contest restricted to nonwinners.

"Mare" – (Harness) A female horse four years of age or older. (Thoroughbred) A female horse five years of age or older.

"Match Race" – A race between two horses under conditions agreed to by their owners.

"Matinee Race" – A race with no entrance fee and where the prizes, if any, are other than money.

"Meeting" – The specified period and inclusive dates each year during which an association is authorized to conduct racing by approval of the Board.

"Minor" – Any person under the age of ~~18~~[seventeen](#).

"Minus Pool" – A minus pool occurs when the amount of money to be distributed on winning wagers is in excess of the amount of money comprising the net pool.

"Month" – A calendar month.

"Mutuel Field" – Two or more horses in a contest that are treated as a single betting interest for pari-mutuel wagering purposes when the total number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

"Mutuel Manager" – The racing official designated by the organization licensee to

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supervise its pari-mutuel department.

"Net Pool" – The amount of gross ticket sales less refundable wagers and statutory commissions.

"Nominator" – The person or entity in whose name a horse is nominated for a race or series of races.

"Nominee" – A horse nominated to a stakes and/or handicap race.

"Nomination" – The naming of a horse to a stakes and/or handicap race. In a futurity, the naming of a foal in utero to a certain race or series of races, eligibility to which is conditioned on the payment of a fee at the time of naming and the payment of subsequent sustaining fees and/or starting fees.

"Objection" – A claim of foul lodged with the stewards or their designee by a jockey of a horse in a race immediately after a race and before the race is made official, or a claim of foul lodged with the patrol judge in a starting car, by a driver of a horse in a race, immediately after the race and before the driver dismounts.

"Odds Board" – A large sign-board structure, located in the infield of a race track, upon which the approximate odds are prominently displayed. (Synonym: Tote Board)

"Off Bell" – The bell, operated by the stewards, that signals the locking of ticket-issuing machines. The bell that rings as a race starts.

"Official Order of Finish" – The order of finish of the horses in a contest as declared official by the stewards.

"Official Starter" – The official responsible for dispatching horses to begin a race.

"Official Time" – The elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

"Official Veterinarian" – A veterinarian employed by the Board or employed by an organization licensee and approved by the Board.

"Off Time" – The moment at which, on the signal of the official starter, the doors

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of the starting gate are opened, officially dispatching the horses in each contest.

"Off-Track Stabling" – Any farm, any Illinois race track not licensed by the Board in the current calendar year, or any other location designated and approved for the purpose of stabling horses to be raced at a race track under the jurisdiction of the Board.

"Organization Licensee" – Any person or entity receiving an organization license from the Board to conduct a race meeting or meetings.

"Outstanding Ticket" – An uncashed winning or refundable pari-mutuel ticket that was not redeemed during the performance for which it was issued and that must be cashed within the statutory time limit.

"Overnight Event" – A contest for which entries close at a time set by the racing secretary. (Synonym: Overnight Race, Overnight)

"Owner" – A person or stable that has property rights in a horse or horses, by ownership or lease of a horse or horses.

"Paddock" – An enclosed area in which harness horses scheduled to compete in a contest are confined and thoroughbred horses are saddled prior to racing. ~~The building or enclosure where horses are saddled for a race. A railed enclosure in which the horses are paraded for public view immediately before the post parade.~~

"Pari-Mutuel Auditor" – An employee of the Board's Pari-Mutuel Audit Unit.

"Pari-Mutuel Audit Unit" – The State Director of Mutuels and the Pari-Mutuel Auditors.

"Pari-Mutuel System" – The manual, electro-mechanical, or computerized system and all software (including the totalizator, account betting system and off-site betting equipment) that is used to record wagers and transmit wagering data.

"Patron" – A member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.

"Payoff" – The amount of money payable on winning wagers.

"Person" – Any individual, partnership, corporation or other association or entity.

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"Pharmaceutical Aids" – Polyethylene glycol, polyoxyethylene glycol, polyalkylene glycol, polyoxyalkylene glycol, polysorbates, sorbitans and their analogues and derivatives.

"Pool" – Total amount of money wagered ~~on~~upon all horses in a race to finish in a specific position or positions.

"Post" – The place on a race course from which the horses start in a race.

"Post Position" – The pre-assigned positions from which the horses leave the starting gate.

"Post Time" – The scheduled starting time of a contest.

"Prescription Drugs" – Any chemical substance ~~that~~which is prohibited from being dispensed by any ~~federal~~Federal or Illinois law without a valid prescription.

"Prima Facie Evidence" – Evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue.

"Profit" – The net pool after deduction of the amount wagered on the winners.

"Profit Split" – A division of profit among separate winning betting interests or winning betting combinations resulting in two or more payoff prices.

"Program" – The published listing of all contests and contestants for a specific day's racing. The races of a particular day, considered together.

"Protest" – An objection lodged with the stewards of any infringement of the rules of racing.

"Purse" – The amount of money won by the owner of any competitor in a race.

"Purse Race" – A race for money to which the owners of the competing horses do not contribute.

"Qualifying Race" – A race for the purpose of viewing horses for speed, racing manners and competitiveness in which no purse money is offered and on which no pari-mutuel wagering is conducted.

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"Quarter Horse" – A horse registered with the American Quarter Horse Association of Amarillo, Texas.

"Race" – A contest between horses at a licensed meeting for purse, stakes, prize or reward.

"Race Course" – The actual racing surface.

"Race on the Flat" – (see Flat Race)

"Race Track Enclosure" – Association grounds, owned, leased or controlled by the racing association, whether or not enclosed by a fence and including, but not limited to, track parking lots.

"Race Track Operator" – Any person, association or corporation licensed by the Illinois Racing Board to conduct horse racing within Illinois for any stake, purse or reward.

"Race Meeting" – The period of time, whether for consecutive or nonconsecutive dates, for which an organization license has been issued.

"Racing Association" – Any person, partnership, corporation, or other entity licensed by the Board to conduct a race meeting. (Synonyms: Organization Licensee or Race Track Operator~~Synonym: organization licensee or race track operator~~)

~~"Racing Day" – Any period beginning at noon included in the period of a race meeting that ends at midnight, unless otherwise provided by statute.~~

"Racing Interest" – Any individual owner, partnership of owners, or corporation that participates as an owning entity or nominator of a race horse.

"Racing Jurisdiction" – A governmental regulatory body that, by statute or ordinance, regulates pari-mutuel racing.

"Racing Soundness Exam" – The physical examination for racing soundness and health of each horse by an official veterinarian.

"Recognized Meeting" – Any race meeting with regularly scheduled races

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licensed by and conducted under rules promulgated by a governmental regulatory body, including meetings in foreign countries.

"Record" – The fastest time made by a horse in a race that [horsehe](#) won or in a performance against time.

"Refunded Ticket" – A ticket [thatwhich](#) has been refunded for the value of a wager that is no longer valid (e.g., when a horse has been scratched or the wagering canceled).

"Restricted Area" – An area on the grounds of a race track where admission can be obtained only upon presentation of valid credentials. Such areas shall include the stable areas, detention barn, jockey or driver room, paddock, race course and pari-mutuel department.

"Result" – That part of the official order of finish used to determine the pari-mutuel payoff pools for each individual contest.

"Ruled Off" – Synonymous with suspended or excluded.

"Rules" – Regulations promulgated by the Board pursuant to the Horse Racing Act.

"Ruling" – A written decision, determination, and/or order of the stewards.

"Satellite Transponder" – A leased space segment [of](#) time of an earth-orbit communication satellite.

"Scoring" – Preliminary warm-ups by horses.

"Scratch" – The withdrawal of a horse from a race after the closing of entries.

"Scratch Time" – The time designated by the racing association as a deadline for an owner or trainer to file a request for a scratch.

"Simulcast" – The live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

"Single Price Pool" – An equal distribution of profit to winning betting interests or winning betting combinations through a single payoff price.

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"Stable Name" – The assumed name or nom de course under which a person or stable races horses.

"Stakes" – All the fees paid by subscribers to a stakes race, which may include the nomination, eligibility, supplemental, entry or starting fees or any fee that is required by the conditions of a race.

"Stakes Race" – A race that is closed to nominees more than 72 hours before it is run, with a purse that includes all stakes payments in addition to the money added by the racing association.

"Starter" – The racing official whose duty it is to get the horses away to a fair start in a race. Any horse that participates, i.e., starts, in a race.

"Starter Race" – An overnight event, under allowance or handicap conditions, restricted to horses who have previously started for the designated claiming price or less, as stated in the conditions of the race.

"State Director of Mutuels" – The individual representing the Board in the supervision and verification of the pari-mutuel wagering pool totals for each racing day.

"State Veterinarian" – A veterinarian employed by the Board.

"Steeplechase Race" – A contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.

"Steward" – Duly appointed top official at a race track with the power to fine, suspend, and rule off persons licensed in racing.

"Stewards' Stand" – The room, generally located on the roof of a race track grandstand or clubhouse, from which the State stewards and association stewards observe the running of races.

"Subscription" – The nomination or entry of a horse in a stakes race.

"Sulky" – A dual-shaft, dual wheel racing vehicle.

"Suspension" – A penalty in which the rights and privileges of a licensee are

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withdrawn for a specified period of time. An occupation licensee whose license is suspended is prohibited from engaging in any licensed occupation and is excluded from all grounds under the jurisdiction of the Board, unless otherwise specified in the ruling or order (example: suspended from riding or driving).

"Sweepstakes" – A race where the owners of horses entered or engaged for the race contribute to a purse to which money or any other prize may be added, and nominations to which close 72 hours or more before starting.

"Takeout" – The total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by statute or rule.

"Test Level" – The concentration of a foreign substance found in a test sample.

"Test Sample" – Any substance, including but not limited to, blood or urine taken from a horse or licensee for the purpose of testing for foreign or controlled substances.

"Threshold Level" – The concentration of a foreign substance found in a test sample.

"Ticket Issuing Machine" – A machine ~~that~~<sup>which</sup> prints hard copies of wagers.

"Totalizator" – An electronic device that automatically registers the wagers made on each horse or pool and prints or issues a ticket representing each ~~such~~ wager or wagers.

"Totalizator System Licensee" – Any person, corporation, company, association or any other entity ~~that~~<sup>which</sup> sells, leases, or operates totalizator equipment and is licensed by the Board.

"Tote Room" – The room at a race track in which the totalizator system's computer is housed.

"Tout" – Someone who furnishes information concerning selection of a horse for wagering purposes, or predicts the outcome of a race for wagering purposes, in exchange for a consideration.

"Trial Race" – Part of a series of contests in which horses participate for the purpose of determining eligibility for a subsequent contest.

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"Uplink" – An earth station broadcasting facility, whether mobile or fixed, ~~that~~<sup>which</sup> is used to transmit audio-visual signals and/or data on FCC-controlled frequencies, and includes any electronic transfer of audio-visual signals from within a racing enclosure to the location of the transmitter at the uplink.

"Utilities" – Programs that are provided by computer vendors to perform tasks such as duplication of program tapes, modification of master files, and access to passwords.

"Validation" – The act or process by which the Board's licensing office at a race meeting stamps or otherwise marks the licensee's identification card, thereby allowing the licensee access to restricted areas during a specific race meeting.

"Vendor" – A seller of feed, medication, stable supplies, or other merchandise in restricted areas.

"Veterinarian" – A veterinary practitioner licensed as such by the Illinois Department of Professional Regulation.

"Veterinarian's List" – A tabulation maintained by the State Veterinarian of horses that are not permitted to enter a race until their names are removed from the list.

"Walkover" – An event in which all horses but one in a race are withdrawn, leaving that horse to walk the prescribed course at the distance of the race. A walkover may be between two or more horses if they belong to a single interest.

"Week" – A calendar week.

"Weigh-In" – The presentation of a jockey to the Clerk of Scales for weighing after a race.

"Weigh-Out" – The presentation of a jockey to the Clerk of Scales for weighing prior to a race.

"Weight for Age" – A race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.

"Winner" – The horse whose nose reaches the finish line first. If there is a dead

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heat for first, those horses shall be considered winners.

"Wire" – See Finish line.

"Year" – A calendar year.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Prohibited Conduct
- 2) Code Citation: 11 Ill. Adm. Code 423
- 3) Section Number: 423.30                      Proposed Action: New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A complete description of the subjects and issues involved: This rulemaking mirrors the language found in Section 24(f) of the Illinois Horse Racing Act of 1975. This rulemaking prohibits an officer, director or holder or controller of 5% or more interest in an organization licensee or concession from making a contribution to any person who is a public official, or a candidate or nominee for public office.
- 6) Will this proposed amendment replace any emergency amendments currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:  

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601  
(312) 814-5017
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small business affected: None

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- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent two regulatory agendas because: it was not anticipated when they were submitted.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 423  
PROHIBITED CONDUCT

Section	
423.20	Sale of Products
<u>423.30</u>	<u>Political Contributions</u>

AUTHORITY: Implementing Section 15 and authority by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Adopted at 9 Ill. Reg. 11654, effective July 15, 1985; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 423.30 Political Contributions**

No organization licensee or concessionaire or officer, director or holder or controller of 5% or more legal or beneficial interest in any organization licensee or concession shall make any sort of gift or contribution of any kind or pay or give any money or other thing of value to any person who is a public official, or a candidate or nominee for public office. [230 ILCS 5/24] Violation of this Section shall be grounds for revocation or suspension of license, revocation or denial of racing dates, or any other appropriate remedy.

(Source: Added at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Race Track Operators and Their Duties
- 2) Code Citation: 11 Ill. Adm. Code 1305
- 3) Section Number: 1305.70      Proposed Action: Repeal
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The Section being repealed in this proposal can be found slightly modified in the proposed new Section in 11 Ill. Adm. Code 423.30.
- 6) Will this proposed amendment replace any emergency amendments currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:  

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601  
(312) 814-5017
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent two regulatory agendas because: it was not anticipated when they were submitted.

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACINGPART 1305  
RACE TRACK OPERATORS AND THEIR DUTIES

## Section

1305.10	Definition of Race Track Operator
1305.20	Application
1305.30	Time for Filing Applications
1305.40	Conditions of License
1305.45	Lease of Race Track (Repealed)
1305.50	Written Disclosure
1305.55	Written Disclosure for Corporations
1305.60	Notice of Changes
1305.70	Political Contributions <u>(Repealed)</u>
1305.80	Termination of License
1305.90	Wagering On Races Conducted off of Premises
1305.100	Reciprocal Suspensions
1305.110	Horse Ambulance
1305.120	Ambulance of Racing Strip (Repealed)
1305.130	First Aid Station (Repealed)
1305.140	Emergency Medical Services
1305.150	Illinois Racing Board Office
1305.170	Moving Office (Repealed)
1305.180	Judges' Stand
1305.190	<u>Drivers'</u> <del>Driver's</del> Bench
1305.200	Stabling of Horses
1305.220	Stall Numbers and Distance Poles
1305.230	Licensed Outrider
1305.240	Drinking Fountains and Rest Rooms
1305.250	Telephones
1305.260	Broadcasting and Telecasting
1305.270	Pest Control
1305.280	Alcohol Sales
1305.290	Track Lights
1305.300	Fire Prevention
1305.310	Backstretch Paging System

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

1305.320	Admissions (Repealed)
1305.330	Inspection Report
1305.340	Lottery Events at Race Tracks
1305.350	Off-Track Betting Agencies of Other States
1305.370	Reporting of Horsemen's Purse Account
1305.380	Notification of Change

AUTHORITY: Implementing Section 15 and authority by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); amended October 9, 1973, filed October 19, 1973; amended October 25, 1973, filed December 17, 1973; amended February 15, 1974, filed February 28, 1974; amended October 25, 1974, filed November 7, 1974; added May 9, 1975, filed May 15, 1975; amended August 21, 1976, filed August 21, 1976, filed August 30, 1976; amended at 2 Ill. Reg. 27, p. 275, effective July 10, 1978; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; codified at 5 Ill. Reg. 10923; amended at 6 Ill. Reg. 11063, effective September 1, 1982; amended at 9 Ill. Reg. 9165, effective May 30, 1985; amended at 14 Ill. Reg. 17661, effective October 16, 1990; amended at 14 Ill. Reg. 20052, effective December 4, 1990; amended at 17 Ill. Reg. 3034, effective February 23, 1993; emergency amendment at 23 Ill. Reg. 7776, effective June 28, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13939, effective November 2, 1999; amended at 28 Ill. Reg. 6596, effective April 19, 2004; amended at 28 Ill. Reg. 11260, effective August 1, 2004; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1305.70 Political Contributions (Repealed)**

~~It is prohibited for any race track operator, or any officer, or director, or shareholder of over five per cent of corporate stock of said race track operator, or employee, agent or representative of such race track operator, to become liable for, pay, or make any contribution directly or indirectly toward the campaign funds or expenses of any political party, or candidate for public office or nomination for public office in this state, or to pay or give any money, stock or other thing of value to any elected or appointed official or state employee. Violation of this rule shall be grounds for revocation or suspension of license, revocation or denial of racing dates, or any other appropriate remedy.~~

(Source: Repealed at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Disclosure Rules
- 2) Code Citation: 11 Ill. Adm. Code 1437
- 3) Section Number: 1437.70                      Proposed Action:  
Repeal
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A complete description of the subjects and issues involved: The Section being repealed in this proposal can be found slightly modified in the proposed new Section in 11 Ill. Adm. Code 423.30.
- 6) Will this proposed amendment replace any emergency amendments currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:  

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601  
(312) 814-5017
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent two regulatory agendas because: it was not anticipated when they were submitted.

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING  
(THOROUGHBRED)

PART 1437  
DISCLOSURE RULES

## Section

1437.10	Written Disclosure
1437.30	Written Disclosure for Corporations
1437.40	Notice of Changes
1437.50	Disclosure for Associates of Applicant
1437.60	Written Disclosure to Participate in Racing
1437.70	Political Contributions <u>(Repealed)</u>

AUTHORITY: Implementing Section 15 and authority by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); codified at 5 Ill. Reg. 11008; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1437.70 Political Contributions (Repealed)**

~~It is prohibited for any race track operator, or any officer, or director, or shareholder of over five per cent of corporate stock of operator, or employee, agent or representative of such operator, to become liable for, pay, or make any contribution directly or indirectly toward the campaign funds or expenses of any political party, or candidate for public office in this state, or to pay or give any money, stock or other thing of value to any elected or appointed official or state employee. Violation of this rule shall be grounds for revocation or suspension of license, revocation or denial of racing dates, or any other appropriate remedy.~~

(Source: Repealed at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.745                      Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 120/2b
- 5) A Complete Description of the Subjects and Issues Involved: Section 2a of the Retailers Occupation Tax Act (35 ILCS 120/1, *et seq.*) provides that it is unlawful for a person to engage in the business of selling tangible personal property at retail without a certificate of registration issued by the Department of Revenue. Section 2b provides authority to the Department of Revenue to revoke the certificate of registration of any person who violates the provisions of the Act and to obtain an injunction restraining the person from engaging in such business until a new certificate is issued.

Many businesses continue to operate after their certificates of registration have been revoked. This often results in the businesses incurring tax liabilities that are not paid, resulting in fiscal harm to the State. As noted above, operating without a certificate of registration is a violation of the law.

The proposed amendment provides that the Department of Revenue may post a notice at the place of business where the certificate of registration has been revoked. This would result in more efficient and effective enforcement of the Act and serve to protect the State from fiscal harm.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
130.101	Amendment	28 Ill. Reg. 15146, 11/19/04
130.111	Amendment	28 Ill. Reg. 15146, 11/19/04
130.120	Amendment	28 Ill. Reg. 15146, 11/19/04
130.320	Amendment	28 Ill. Reg. 15146, 11/19/04

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

130.325	Amendment	28 Ill. Reg. 15146, 11/19/04
130.331	Amendment	28 Ill. Reg. 15146, 11/19/04
130.341	New Section	28 Ill. Reg. 15146, 11/19/04
130.552	Amendment	28 Ill. Reg. 15146, 11/19/04

- 10) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

George Logan  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-2844

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: All small businesses that have had their certificates of registration revoked would be affected. This amendment would not affect not-for-profit businesses or municipalities.
- 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 the 2 most recent Regulatory Agendas because: it was unanticipated at that time.

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 130  
RETAILERS' OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

## SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340	Rolling Stock

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 130.345 Oil Field Exploration, Drilling and Production Equipment
- 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 130.351 Aggregate Manufacturing

## SUBPART D: GROSS RECEIPTS

## Section

- 130.401 Meaning of Gross Receipts
- 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
- 130.410 Cost of Doing Business Not Deductible
- 130.415 Transportation and Delivery Charges
- 130.420 Finance or Interest Charges – Penalties – Discounts
- 130.425 Traded-In Property
- 130.430 Deposit or Prepayment on Purchase Price
- 130.435 State and Local Taxes Other Than Retailers' Occupation Tax
- 130.440 Penalties
- 130.445 Federal Taxes
- 130.450 Installation, Alteration and Special Service Charges
- 130.455 Motor Vehicle Leasing and Trade-In Allowances

## SUBPART E: RETURNS

## Section

- 130.501 Monthly Tax Returns – When Due – Contents
- 130.502 Quarterly Tax Returns
- 130.505 Returns and How to Prepare
- 130.510 Annual Tax Returns
- 130.515 First Return
- 130.520 Final Returns When Business is Discontinued
- 130.525 Who May Sign Returns
- 130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
- 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
- 130.540 Returns on a Transaction by Transaction Basis
- 130.545 Registrants Must File a Return for Every Return Period
- 130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
- 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
- 130.552 Alcoholic Liquor Reporting
- 130.555 Vending Machine Information Returns

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

130.560 Verification of Returns

## SUBPART F: INTERSTATE COMMERCE

## Section

130.601 Preliminary Comments  
130.605 Sales of Property Originating in Illinois  
130.610 Sales of Property Originating in Other States

## SUBPART G: CERTIFICATE OF REGISTRATION

## Section

130.701 General Information on Obtaining a Certificate of Registration  
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements  
130.710 Procedure When Security Must be Forfeited  
130.715 Sub-Certificates of Registration  
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances  
130.725 Display  
130.730 Replacement of Certificate  
130.735 Certificate Not Transferable  
130.740 Certificate Required For Mobile Vending Units  
130.745 Revocation of Certificate

## SUBPART H: BOOKS AND RECORDS

## Section

130.801 General Requirements  
130.805 What Records Constitute Minimum Requirement  
130.810 Records Required to Support Deductions  
130.815 Preservation and Retention of Records  
130.820 Preservation of Books During Pendency of Assessment Proceedings  
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

## SUBPART I: PENALTIES AND INTEREST

## Section

130.901 Civil Penalties  
130.905 Interest

DEPARTMENT OF REVENUE

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130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

130.1101 Definition of Federal Area

130.1105 When Deliveries on Federal Areas Are Taxable

130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

130.1201 General Information

130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

130.1301 When Lessee of Premises Must File Return for Leased Department

130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises

130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale

130.1410 Requirements for Certificates of Resale (Repealed)

130.1415 Resale Number – When Required and How Obtained

130.1420 Blanket Certificate of Resale (Repealed)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

## Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

## Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

## Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

## Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

## SUBPART S: SPECIFIC APPLICATIONS

## Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers
- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiroprodists, Osteopaths and Chiropractors
- 130.1935 Computer Software

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
- 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
- 130.2020 Physicians and Surgeons
- 130.2025 Picture-Framers
- 130.2030 Public Amusement Places
- 130.2035 Registered Pharmacists and Druggists
- 130.2040 Retailers of Clothing
- 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
- 130.2050 Sales and Gifts By Employers to Employees

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

## SUBPART T: DIRECT PAYMENT PROGRAM

Section	
130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

130.2530 Recordkeeping Requirements  
130.2535 Revocation and Withdrawal

## 130.ILLUSTRATION A Examples of Tax Exemption Card

**AUTHORITY:** Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

**SOURCE:** Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994;

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amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART G: CERTIFICATE OF REGISTRATION

**Section 130.745 Revocation of Certificate**

- a) The Department, after notice and hearing as provided under Section ~~2505-38039b47~~ of the Civil Administrative Code [20 ILCS 2505/~~2505-38039b47~~] and Section 2b of the Act, may revoke the certificate of registration (including all sub-

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certificates of registration, if any, issued thereunder) of any person who violates any of the provisions of the Act. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90 day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary.

- b) Upon revocation of the certificate of registration (including all sub-certificates of registration, if any, issued under the certificate), the Department may post notice at the place or places of business to which the revoked certificate applied, stating that the certificate of registration has been revoked and that it is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration issued by the Department.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Motor Fuel Standards Act
- 2) Code Citation: 8 Ill. Adm. Code 850
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
850.10	Amend
850.40	Amend
- 4) Statutory Authority: Motor Fuel Standards Act
- 5) Effective date of amendments: January 24, 2005
- 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) Notices of Proposal Published in Illinois Register: June 25, 2004; 28 Ill. Reg. 8817
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: The Department is withdrawing its repeal of Section 850.50.
- 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? Yes
 

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
850.60	Add	28 Ill. Reg. 15935; 12/17/04 and
850.60	Add	28 Ill. Reg. 16352; 12/17/04 (emergency)
- 15) Summary and Purpose of Amendments: Requirements for complaints regarding motor fuel quality are being amended in Section 850.10. Administrative and laboratory fees for

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

sampling motor fuel in Section 850.40 are being revised since the breakdown of actual expenses incurred is inaccurate.

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

Linda Rhodes  
Illinois Department of Agriculture  
P. O. Box 19281, State Fairgrounds  
Springfield, Illinois 62794-9281  
17/785-5713  
Facsimile: 217/785-4505

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

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TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER s: MOTOR FUELSPART 850  
MOTOR FUEL STANDARDS ACT

## Section

850.10	Written Complaint Required
850.20	Access to Motor Fuels and Records
850.30	Responsibility for Standards of Quality
850.40	Administrative, Laboratory and Sampling Fees
850.50	Label on Motor Fuel Dispensing Device

AUTHORITY: Implementing and authorized by the Motor Fuel Standards Act [815 ILCS 370].

SOURCE: Emergency rules adopted at 8 Ill. Reg. 1455, effective January 12, 1984; adopted at 8 Ill. Reg. 5993, effective April 23, 1984; amended at 9 Ill. Reg. 12711, effective August 6, 1985; amended at 14 Ill. Reg. 5072, effective March 26, 1990; emergency amendment at 28 Ill. Reg. 16352, effective December 1, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1886, effective January 24, 2005.

**Section 850.10 Written Complaint Required**

- a) ~~A Upon request, the Department shall submit to the complainant a~~ complaint regarding motor fuel quality received by the Department via telephone, in writing or by e-mail ~~form which~~ must be completed and signed before the Department will submit an official sample (a sample taken by a Department inspector) for laboratory analysis.
- b) The complainant shall provide the following information:
  - 1) Name and address of the complainant.
  - 2) Location where the product is to be sampled.
  - 3) Identification of product or products to be sampled.
  - 4) ~~Description of complaint~~ ~~Types of laboratory tests the complainant desires to be done on the product(s) that was sampled.~~

## DEPARTMENT OF AGRICULTURE

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~~5) Name of the laboratory where the sample(s) is to be submitted.~~

c) After receiving a complaint, the Department shall investigate the matter, including sampling the product, if applicable, and send a written response to the complainant.

(Source: Amended at 29 Ill. Reg. 1886, effective January 24, 2005)

**Section 850.40 Administrative, Laboratory and Sampling Fees**

~~a) The Department shall assess and collect fees for sampling and testing the quality of a motor fuel. All fees (laboratory, sampling and administrative fees) shall be due and payable when billed by the Department.~~

~~b) Accompanying the complaint form shall be a list of laboratory tests and their respective charges for each laboratory conducting such services under contract with the Department. The laboratory fees shall be charged in addition to the administrative costs and actual expenses incurred for taking the official sample. The Department shall publish a current laboratory fee schedule when fee changes occur.~~

~~e) The Department shall assess a fee of \$100.00 for administrative costs for each complaint until the funds appropriated for the administration of the Motor Fuel Standards Act have been recovered.~~

~~d) In addition to the administrative fees, the Department shall assess the actual expenses incurred for taking an official sample at each location as follows:~~

<del>1) Sampling Container</del>	<del>\$3.00 each container</del>
<del>2) Inspector's Fee</del>	<del>\$10.00 per hour (portal to portal)</del>
<del>3) Mileage</del>	<del>\$.19 per mile</del>
<del>4) Shipping Costs</del>	<del>\$3.00 per sample</del>

~~e) The fees set forth in Section 850.40 (b), (c) and (d) shall be paid by either the complainant (retailer or distributor) if the motor fuel is found to meet American Society for Testing and Materials (ASTM) designations or the last seller of the motor fuel to the complainant if the motor fuel does not meet ASTM designations.~~

af) The The term "or when it deems necessary" in Section 5 of the Motor Fuel

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

~~Standards Act, shall be construed to mean that the~~ Department shall sample and test motor fuels to determine the quality of a motor fuel as follows:

- 1) when there is a specific problem with a motor fuel within a locality;
- 2) when there is a complaint against a specific product or products of a specific retail chain; or
- 3) when there are several specific complaints against a specific product or products of a specific retailer.
- 4) when there is a complaint from a consumer ~~and the consumer agrees to pay the fees listed in Section 850.40 (c) and (d).~~

bg) When sampling and testing of motor fuel is performed by the Department as stated in Section 850.40(~~af~~) and if the motor fuel is found not to meet American Society for Testing and Materials designations, the last seller of the motor fuel shall be responsible to pay \$350 for administrative, laboratory and sampling fees ~~the fees as set forth in Section 850.40 (b), (c), and (d).~~

(Source: Amended at 29 Ill. Reg. 1886, effective January 24, 2005)

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- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1.720	Amendment
1.737	Amendment
1.APPENDIX A	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6, 14C-8, and Art. 21
- 5) Effective date of rulemaking: January 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? The amendments do not contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 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: October 8, 2004; 28 Ill. Reg. 13284
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Changes were made in Section 1.737 to specify more carefully the validity of the provisional vocational certificate in grades lower than 11 and to clarify the applicability of the requirement for 2,000 hours of work experience. In addition, one of the column headings in Appendix A was amplified to indicate that some of the references included relate to the Illinois Administrative Code rather than the School Code.
- 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 amendments currently in effect? Yes
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and purpose of rulemaking: This rulemaking consists almost entirely of technical corrections that are needed to ensure continuity in certification policy. When the personnel-related portions of Part 1 were most recently amended (effective June 1, 2004), no changes were intended in the requirements for serving in the middle grades. However, by virtue of the way the various rules work together, the specific lists of required coursework for teachers whose fields are reading or library/media science became inapplicable and were not replaced. We, therefore, have identified a need to amend Section 1.720 by restating the specific topics that the required 18 hours in the field must address.

Similarly, in the recent amendment process several long-standing requirements for the assignment of teachers in career and technical education programs were inadvertently omitted. These details, which chiefly have to do with the requirement for work experience in the field to be taught, need to be added to new Section 1.737, which discusses the minimum requirements for various assignments. The wording change in the title and in subsection (a) of Section 1.737 is being made only to ensure that it is clear that the requirements expressed apply to grade 9 regardless of the configuration of grades among schools in a district.

Finally, the chart presented in Appendix A should have included both the old and the new specifications for the provisional vocational and temporary provisional certificates, since the previously issued K-12 certificates do continue to be valid if properly registered.

The only policy change being made via Appendix A is to re-amend the validity of the provisional vocational certificate. The amendments that took effect on June 1 of this year included a change in the validity of both the provisional vocational certificate and the temporary provisional vocational certificate from K-12 to grades 11 and 12 only. The difficulties caused by that change were not noted during the public comment period but have now come to our attention. Educators in the field, as well as representatives of the regional superintendents who deal with certification issues, have indicated that smaller districts in particular will be unable to offer career and technical education programs if they are required to employ different staff for exploration and orientation (which occur in grades 7 through 10) than for the "skill-level" instruction that is provided in grades 11 and 12.

Also reflected in Appendix A is a change in the validity of the initial certificate. P.A. 93-679, signed into law on June 30 of this year, added a stipulation that the initial certificate, which was previously not renewable, would be renewable without limitation until the certificate-holder acquires four years of teaching experience. The new Type 78 certificate for school counselor interns also needs to be identified.

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

Dennis Williams  
Certification and Professional Development  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001

(217) 782-7702

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

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## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

## PART 1

## PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

## SUBPART A: SCHOOL RECOGNITION REQUIREMENTS

## Section

1.10	Public School Accountability Framework
1.20	Operational Requirements
1.30	Quality Assurance Reviews
1.40	Student Performance and School Improvement Requirements (Repealed)
1.50	State Assessment
1.60	Operational Compliance (Repealed)
1.70	Effective Dates of Accreditation (Repealed)
1.80	Academic Early Warning and Watch Lists
1.85	Revisions to School Improvement Plans
1.90	System of Rewards and Recognition
1.100	Waiver and Modification of State Board Rules and School Code Mandates

## SUBPART B: SCHOOL GOVERNANCE

## Section

1.210	Powers and Duties
1.220	Duties of Superintendent
1.230	Board of Education and the School Code
1.240	Equal Opportunities for all Students
1.245	Waiver of School Fees
1.250	District to Comply with 23 Ill. Adm. Code 180
1.260	Commemorative Holidays to be Observed by Public Schools
1.270	Book and Material Selection
1.280	Discipline
1.285	Requirements for the Use of Isolated Time Out and Physical Restraint
1.290	Absenteeism and Truancy Policies

## SUBPART C: SCHOOL DISTRICT ADMINISTRATION

## Section

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- 1.310 Administrative Responsibilities
- 1.320 Duties
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.445 Required Course Substitute
- 1.450 Special Programs
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.520 School Food Services
- 1.530 Health Services
- 1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section

- 1.610 Personnel Required to be Qualified
- 1.620 Accreditation of Staff (Repealed)
- 1.630 Noncertificated Personnel
- 1.640 Requirements for Different Certificates (Repealed)
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

- 1.705 Minimum Requirements for Teachers (Repealed)

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- 1.710 Requirements for Elementary Teachers
- 1.720 Requirements for Teachers of Middle Grades
- 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
- 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
- 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
- 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 ~~at the Secondary Level~~ Beginning July 1, 2004
- 1.740 Standards for Reading through June 30, 2004
- 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
- 1.750 Standards for Media Services through June 30, 2004
- 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
- 1.760 Standards for Pupil Personnel Services
- 1.762 Supervision of Speech-Language Pathology Assistants
- 1.770 Standards for Special Education Personnel
- 1.780 Standards for Teachers in Bilingual Education Programs
- 1.781 Requirements for Bilingual Education Teachers in Grades K-12
- 1.782 Requirements for Teachers of English as a Second Language in Grades K-12
- 1.790 Substitute Teacher
- 1.APPENDIX A Professional Staff Certification
- 1.APPENDIX B Certification Quick Reference Chart
- 1.APPENDIX C Glossary of Terms (Repealed)
- 1.APPENDIX D State Goals for Learning
- 1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
- 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
- 1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800,

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effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005.

## SUBPART G: STAFF QUALIFICATIONS

**Section 1.720 Requirements for Teachers of Middle Grades**

- a) The requirements of this Section apply to teachers first employed after September 1, 1973, in departmentalized grades 5 through 8 ("middle-grade teachers"). Teachers first employed in grades 5 through 8 prior to September 1, 1973, or employed in non-departmentalized grades 5 through 8, are subject to the requirements of Section 1.710 of this Part. To qualify as a middle-grade teacher, the teacher must have either completed the coursework identified in subsection (a)(1) of this Section prior to July 1, 1997, or completed the coursework identified in subsection (a)(2) of this Section. In mathematics and reading, and for library information specialists, there is specific coursework that must be included among the 18 semester hours to be earned; see subsection (a)(3), (4), and (5) of this Section.
- 1) 18 semester hours in the subject matter area of major teaching assignment (e.g., language arts, mathematics, general science, social science, music), unless the subject taught is a foreign language and Section 25.86 of the State Board's rules for Certification (23 Ill. Adm. Code 25) applies. Where a teacher is assigned to deliver instruction in two areas (e.g., English and social science or mathematics and science), the teacher shall meet the requirements of this subsection for one area and have no fewer than 5 semester hours in the other instructional area.
  - 2) 18 semester hours in the subject matter area of major teaching assignment

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(e.g., language arts, mathematics, general science, social science, music), unless the subject taught is a foreign language and Section 25.86 of the State Board's rules for Certification applies. Where a middle-grade teacher is assigned to deliver instruction in two areas (e.g., English and social science or mathematics and science), the teacher shall meet the requirements of this subsection for one area and have no fewer than 9 semester hours in the other instructional area. In addition:

- A) 3 semester hours of coursework, approved by the college of education or other institutional unit governing teacher education, that includes middle-grade philosophy, middle-grade curriculum and instruction, and instructional methods for designing and teaching developmentally appropriate programs (i.e., addressing the cognitive, emotional and physical development of each child) in the middle grades, including content area (e.g., science, social sciences) reading instruction.
  - B) 3 semester hours of coursework, approved by the college of education or other institutional unit governing teacher education, that includes educational psychology focusing on the developmental characteristics of early adolescents, the nature and needs of early adolescents, and the role of the middle-grade teacher in assessment, coordination and referral of students to health and social services.
- 3) For teachers of mathematics in grades 6 through 8 first employed on or after September 1, 1985, the required 18 semester hours in the field shall include three semester hours in the methods of teaching mathematics in those grades and 15 semester hours to be selected from four of the following areas:
- A) Math content courses for elementary teachers;
  - B) Calculus;
  - C) Modern algebra or number theory;
  - D) Geometry;
  - E) Computer science;

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F) Probability and statistics;

G) History of mathematics.

4) For major assignments in reading in any of departmentalized grades 5 through 8:

A) persons first employed on or after September 1, 1978, but before July 1, 2004, are required to have completed the 18 semester hours described in Section 1.740 of this Part; and

B) persons first employed on or after July 1, 2004, shall be required to have completed 18 semester hours in the field that include a practicum and address at least five of the six topics listed at 23 Ill. Adm. Code 25.100(i).

5) Persons first employed on or after September 1, 1978, as media professionals or library information specialists serving any of grades 5 through 8 are required to have completed 18 semester hours in the field that address administration, organization (cataloging and classification), reference, and selection of materials. The provisions of subsection (a)(2) of this Section notwithstanding, no individual who has completed only nine semester hours in the field may serve in this capacity.

- b) Beginning July 1, 2004, no individual may be assigned to teach in departmentalized grades 5 through 8 unless he or she holds a certificate that is valid for the grade level or levels to be taught and:
- 1) holds a middle-grades endorsement applicable to the subject area; or
  - 2) meets the relevant requirements of this Section; or
  - 3) met the requirements of this Section or their predecessor requirements at a time when they were applicable, as confirmed by the employing district's verification of the individual's qualifications; or
  - 4) is assigned pursuant to authorization received under 23 Ill. Adm. Code 25.464 (Short-Term Authorization for Positions Otherwise Unfilled).

(Source: Amended at 29 Ill. Reg. 1891, effective January 24, 2005)

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## NOTICE OF ADOPTED AMENDMENTS

**Section 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 ~~at the Secondary Level~~ Beginning July 1, 2004**

- a) Beginning July 1, 2004, no teacher may be assigned to teach a particular subject in any of grades 9 through 12 at the secondary level unless he or she holds a certificate that is valid for the grade level or levels to be taught and:
- 1) holds the applicable endorsement for the subject area (and, in the case of the provisional vocational certificate, has also completed the work experience required pursuant to subsection (c) of this Section); or
  - 2) met the requirements of Section 1.730, 1.735, or 1.736 of this Part, or their predecessor requirements, at a time when they were applicable to that assignment, as confirmed by the employing district's verification of the individual's qualifications; or
  - 3) meets the minimum requirements for that assignment identified in subsection (b) of this Section and has not exhausted the three-year period of eligibility available pursuant to 23 Ill. Adm. Code 25.100(l); or
  - 4) meets the requirements of Section 1.745 of this Part, if applicable; or
  - 5) is assigned pursuant to authorization received under 23 Ill. Adm. Code 25.464 (Short-Term Authorization for Positions Otherwise Unfilled).
- b) Beginning July 1, 2004, the provisions of this Section shall replace those of Sections 1.730, 1.735, and 1.736 of this Part as one basis upon which school districts and other entities subject to this Part may assign individuals to teach specific subjects. The qualifications identified in this subsection (b) are not the same as those for the respective endorsements, nor are they intended to match the requirements for identification as a "highly qualified" teacher in any particular subject area. Each individual who is first assigned to a subject area based upon the qualifications delineated in this subsection (b) shall be subject to the requirement for acquiring an endorsement in the respective field within three years after the date of assignment, in accordance with 23 Ill. Adm. Code 25.100(l). For purposes of the applicability of this requirement, an individual shall be considered "first assigned" to any field in which he or she has not taught ~~for at least two full semesters~~ in Illinois prior to July 1, 2004.
- 1) For agricultural education; visual or drama/theatre arts; business, marketing, and computer education; dance; English language arts; health

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education; health careers; family and consumer sciences; technology education; mathematics; music; physical education; biology; chemistry; earth and space science; environmental science; physics; economics; geography; history; political science; psychology; sociology and anthropology: 24 semester hours in the field.

- 2) For foreign language: 20 semester hours in the language (unless 23 Ill. Adm. Code 25.85 or 25.86 applies).
- 3) For safety and driver education: 16 semester hours in the field.
- 4) For assignments in reading, the requirements of Section 1.745 of this Part shall apply.

c) Additional Requirements for Career and Technical Education

- 1) Assignments at the "skill-level" (grades 11 and 12) in reimbursable career and technical education generally require 2,000 hours of work experience in the area to be taught or, for more than one area, a total of 2,000 hours with no fewer than 250 hours in each area taught. A district may, however, employ an individual who holds a secondary certificate with the appropriate career and technical education endorsement but who has not completed 2,000 hours of work experience in the occupational area to be taught, provided that the individual acquires this experience in paid employment outside the teaching profession within four years after the date of first assignment. The employing entity shall maintain records to substantiate this experience, which may include written statements from former supervisors who can be reached for verification or, in cases where supervisors are no longer available to verify the individual's employment, affidavits by the applicant's instructors describing the work experience.
- 2) A teacher who is eligible under this Section to provide skill-level instruction in a particular area shall also be eligible to serve as a coordinator of either a specific cooperative education program or interrelated cooperative education, provided that he or she has also completed six semester hours of coursework in the organization and administration of cooperative education.
- 3) A teacher serving as a coordinator of cooperative education for special education students shall be required to meet the requirements for assignment as a special education teacher rather than those for assignment

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as a teacher of career and technical education, except that an individual serving in this capacity shall be required to have completed 2,000 hours of work experience as provided in subsection (c)(1) of this Section and six semester hours of coursework in the organization and administration of cooperative education.

(Source: Amended at 29 Ill. Reg. 1891, effective January 24, 2005)

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**Section 1.APPENDIX A Professional Staff Certification**

## Types of Certificates

The following list of certificates identifies those certificates which, if properly registered and renewed, are valid for teaching, administering or performing the specified service in Illinois public schools.

Code	Type of Certificate	Grade Level Valid For	Still Issued	Years Valid	School Code <u>or Ill.</u> <u>Adm. Code</u>
02	Early Childhood	to age 6 excluding Kdg.	No	4	21-2.1
03	Standard Elementary	K-9	No	4	21-3
03	Initial Elementary	K-9	Yes	4 years of teaching <u>within 12 years</u>	21-1a; 21-2; 21-3
03	Standard Elementary	K-9	Yes	5	21-1a; 21-2; 21-3
03	Master Elementary	K-9	Yes	10	21-1a; 21-2; 21-3
04	Early Childhood	Birth-3	No	4	21-2.1
04	Initial Early Childhood	Generally Birth- Grade 3 (as endorsed)	Yes	4 years of teaching <u>within 12 years</u>	21-1a; 21-2; 21-2.1
04	Standard Early Childhood	Generally Birth- Grade 3 (as endorsed)	Yes	5	21-1a; 21-2; 21-2.1
04	Master Early Childhood	Generally Birth- Grade 3 (as endorsed)	Yes	10	21-1a; 21-2; 21-2.1
05	Provisional Early Childhood	Birth-3	Yes	2	21-10
06	Kindergarten-Primary	K-3	No	4	

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09	Standard High School	6-12*	No	4	21-5
09	Initial Secondary	6-12	Yes	4 years of teaching within 12 years	21-1a; 21-2; 21-5
09	Standard Secondary	6-12	Yes	5	21-1a; 21-2; 21-5
09	Master Secondary	6-12	Yes	10	21-1a; 21-2; 21-5
10	Standard Special	K-12 Field Endorsed	No	4	21-4
10	Initial Special K-12	K-12 Field Endorsed	Yes	4 years of teaching within 12 years	21-1a; 21-2; 21-4
10	Standard Special K-12	K-12 Field Endorsed	Yes	5	21-1a; 21-2; 21-4
10	Master Special K-12	K-12 Field Endorsed	Yes	10	21-1a; 21-2; 21-4
10	Initial Special Preschool-Age 21	Generally Birth- Age 21	Yes	4 years of teaching within 12 years	21-1a; 21-2; 21-4
10	Standard Special Preschool-Age 21	Generally Birth- Age 21	Yes	5	21-1a; 21-2; 21-4
10	Master Special Preschool-Age 21	Generally Birth- Age 21	Yes	10	21-1a; 21-2; 21-4
11	Vocational	7-12 Field Endorsed	No	4	
14	Junior College	9-14 Field Endorsed	No	4	
17	Special Exc. Children	K-14 Field Endorsed	No		
20	Special	11-12 Electives 10 hrs. per Week	No	4	

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21	General	Adult Field Endorsed	No		(21-11 repealed)
22	Alternative Elementary	K-9	No	4	21-5b
22	Initial Alternative Elementary	K-9	Yes	4	21-5b
22	Standard Alternative Elementary	K-9	No	4	21-5b
23	Provisional Alternative Elementary	K-9	Yes	1	21-5b; 21- 5c
24	Alternative Secondary	6-12	No	4	21-5b
24	Initial Alternative Secondary	6-12	Yes	4	21-5b
24	Standard Alternative Secondary	6-12	No	4	21-5b
25	Provisional Alternative Secondary	6-12	Yes	1	21-5b; 21- 5c
26	Provisional Alternative Administrative	K-12	Yes	1	21-5d
27	Provisional Alternative Special	K-12 Field Endorsed	Yes	1	21-5b; 21- 5c
28	Alternative Special	K-12 Field Endorsed	No	4	
28	Initial Alternative Special	K-12 Field Endorsed	Yes	4	21-5b
29	Transitional Bilingual	K-12 Language Endorsed	Yes	6	14C-8
30	Provisional Elementary	K-9	Yes	2	21-10
31	Provisional Secondary	6-12	Yes	2	21-10

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32	Provisional Foreign Lang.	K-14 Language Named	No	4	
33	Provisional Special	K-12 Field Endorsed	Yes	2	21-10
<u>34</u>	<u>Provisional Vocational</u>	<u>K-12 Field Endorsed</u>	<u>No</u>		<u>21-10</u>
34	Provisional Vocational	11-12 Field Endorsed	<u>No</u> Yes		21-10
<u>35</u>	<u>Provisional Vocational</u>	<u>7-12 Field Endorsed**</u>	<u>Yes</u>		<u>21-10</u>
<u>36</u> <del>37</del>	Temp. Prov. Vocational	11-12 Field Endorsed***	Yes	1	21-10
<u>37</u>	<u>Temp. Prov. Vocational</u>	<u>K-12 Field Endorsed</u>	<u>No</u>	<u>1</u>	<u>21-10</u>
38	Resident Teacher	K-12	No	4	21-11.3
39	Substitute-90 days	K-12 All	Yes	4	21-9
40	Part-Time Provisional	6-12	Yes	2	21-10
42	Life Elementary	1-8	No	Life	
43	Provisional Alternative Early Childhood	Birth-Grade 3	Yes	1	21-5b; 21-5c
44	Alternative Early Childhood	Birth-Grade 3	No	4	21-5b
44	Initial Alternative Early Childhood	Birth-Grade 3	Yes	4	21-5b
45	Life Kindergarten	K-3	No	Life	
47	Life High School	6-12*	No	Life	

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48	Life Special	K-14 Field Endorsed	No	Life	
49	Life Junior College	9-14 Field Endorsed	No	Life	
50	Visiting International Teacher – Special	K-12	Yes	3	23 Ill. Adm. Code 25.92
51	Life School Librarian	K-14 Library	No	Life	
53	Visiting International Teacher – Elementary	K-6	Yes	3	23 IAC 25.92
54	Visiting International Teacher – Early Childhood	Birth-Grade 3	Yes	3	23 IAC 25.92
59	Visiting International Teacher – Secondary	6-12	Yes	3	23 IAC 25.92
60	Ltd. Supervisory	K-14 All	*No	4	
61	All-Grade Supervisory	K-14 All	*No	4	
62	Ltd. Elem. Supervisory	K-9 All Elementary	*No	4	
63	Ltd. H.S. Supervisory	6-12 All Secondary	*No	4	
70	Life General Supervisory	K-14 All	*No	Life	
71	Life Supervisory	K-14 All	*No	Life	
72	Temporary TMH	K-12 TMH	No	1	
73	School Service Personnel	K-12 Area of Service Endorsed	Yes	5 (beginning July 1, 2004)	21-25
74	Provisional School Service Personnel	K-12 Area of Service Endorsed	Yes	2	21-10

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75	Administrative	K-12 All	*Yes	5	21-7.1
76	Provisional Administrative	K-12 All	Yes	2	21-10
77	Administrative K-12	K-12	Yes	5	21-5d
78	<u>Interim School Counselor Intern</u>	<u>K-12</u>	<u>Yes</u>	<u>3</u>	<u>23 IAC 25.227</u>
80	Resident Teacher – Special	K-12	Yes	4	21-11.3
83	Resident Teacher – Elementary	K-9	Yes	4	21-11.3
84	Resident Teacher – Early Childhood	Birth-Grade 3	Yes	4	21-11.3
89	Resident Teacher – Secondary	6-12	Yes	4	21-11.3

\* If endorsed for teaching, valid for subjects for which the individual is assignable under Section 1.710, 1.720, 1.737, 1.745, or 1.755 of this Part, or to which the individual is assigned pursuant to authorization received under 23 Ill. Adm. Code 25.464 (Short-Term Authorization for Positions Otherwise Unfilled).

\*\* Valid in approved, reimbursable programs of career and technical education (CTE), for "skill-level" instruction in grades 11 and 12 in the field of specialization. Provided that the certificate-holder is employed to teach in Grade 11 and/or Grade 12 in the field of specialization, the certificate is also valid for "orientation-level" instruction in grades 9 and 10 in the field of endorsement to which the specialization belongs, and for exploratory career and technical education courses in grades 7 and 8 in that field of endorsement.

\*\*\* Valid only in approved, reimbursable CTE programs for "skill-level" instruction in grades 11 and 12 in the field of specialization.

(Source: Amended at 29 Ill. Reg. 1891, effective January 24, 2005)

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Claims, Adjudication, Appeals And Hearings
- 2) Code Citation: 56 Ill. Adm. Code 2720
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2720.20	Amend
2720.132	Amend
2720.160	Amend
- 4) Statutory Authority: 820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304
- 5) Effective date of the amendment: January 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted 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: October 22, 2004; 28 Ill. Reg. 13864
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Difference between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of the rules: In accordance with an agreement between this Department, business, organized labor and the Illinois State Bar Association, the Department wishes to increase the maximum hourly amount that an attorney may charge a claimant, without prior approval from the Board of Review, for representation in a contested unemployment insurance matter.

## DEPARTMENT OF EMPLOYMENT SECURITY

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The proposed amendment to Section 2720.132 updates an address.

The Department intends to revise its rules to reflect the amendment to the Unemployment Insurance Act which expands the period in which it may reconsider a claimant's eligibility for benefits where the claimant had received a back pay award or misstated his/her earnings from one and two years, respectively, to three years.

- 16) Information and questions regarding these adopted amendments may be addressed to:

Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street – Room 937  
Chicago, Illinois 60603  
312/793-2333

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

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER a: GENERAL PROVISIONSPART 2720  
CLAIMS, ADJUDICATION, APPEALS AND HEARINGS

## SUBPART A: GENERAL PROVISIONS

Section	
2720.1	Definitions
2720.3	"Week" In Relation To "Benefit Year"
2720.5	Service Of Notices, Decisions, Orders
2720.7	Application For Electronic Data Transmission
2720.10	Computation Of Time
2720.15	Disqualification Of Adjudicator, Referee, Or Board Of Review
2720.20	Attorney Representation Of Claimants
2720.25	Form Of Papers Filed
2720.30	Correction Of Technical Errors

## SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section	
2720.100	Filing A Claim
2720.101	Filing, Registering And Reporting By Mail Under Special Circumstances
2720.105	Time For Filing An Initial Claim For Benefits
2720.106	Dating Of Claims For Weeks Of Partial Unemployment
2720.107	Employing Unit Reports For Partial Unemployment
2720.108	Alternative "Base Period"
2720.110	Required Second Visit To Local Office (Repealed)
<u>2720.112</u>	<u>Telephone Certification</u>
2720.115	Continuing Eligibility Requirements
2720.120	Time For Filing Claim Certification For Continued Benefits
2720.125	Work Search Requirements For Regular Unemployment Insurance Benefits (Repealed)
2720.126	Availability For Part Time Work Only (Repealed)
2720.127	Director's Approval Of Training (Repealed)
2720.128	Active Search For Work: Attendance At Training Courses (Repealed)
2720.129	Regular Attendance In Approved Training (Repealed)
2720.130	Employing Unit Protest Of Benefit Payment
2720.132	Required Notice By An Employer Of Separation For Alleged Felony Or Theft

## DEPARTMENT OF EMPLOYMENT SECURITY

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	Connected With The Work
2720.135	Adjudicator Investigation
2720.140	Adjudicator Determination
2720.145	Payment Of Unemployment Insurance Benefits For Initial Claims
2720.150	Applying For Unemployment Insurance Benefits Under Extension Programs
2720.155	Non-Resident Application For Benefits
2720.160	Reconsidered Findings Or <del>Determinations</del> <u>Determination</u>

## SUBPART C: APPEALS TO REFEREE

Section	
2720.200	Filing Of Appeal
2720.201	Application For Electronic Data Transmission Of Notice Of Hearing
2720.205	Notice Of Hearing
2720.210	Preparation For The Hearing
2720.215	Format Of Hearings
2720.220	Ex Parte (One Party Only) Communications
2720.225	Subpoenas
2720.227	Depositions
2720.230	Consolidation Or Severance Of Proceedings
2720.235	Withdrawal Of Appeal
2720.240	Continuances
2720.245	Conduct Of Hearing
2720.250	Rules Of Evidence
2720.255	Failure Of Party To Appear At The Scheduled Hearing
2720.265	The Record
2720.270	Referee's Decision
2720.275	Labor Dispute Appeals
2720.277	Prehearing Conference In Labor Dispute Appeal

## SUBPART D: APPEALS TO THE BOARD OF REVIEW

Section	
2720.300	Filing Of Appeal
2720.305	Notice Of Appeal
2720.310	Request For Oral Argument
2720.315	Submission Of Written Argument Or Request to Submit Additional Evidence
2720.320	Access To Record
2720.325	Withdrawal Of Appeal
2720.330	Consolidation Or Severance Of Appeals
2720.335	Decision Of The Board Of Review

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

- 2720.340 Extensions Of Time In Which To Issue A Board Of Review Decision  
2720.345 Issuance Of Notice Of Right To Sue

AUTHORITY: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].

SOURCE: Adopted at 8 Ill. Reg. 24957, effective January 1, 1985; amended at 10 Ill. Reg. 12620, effective July 7, 1986; amended at 11 Ill. Reg. 14338, effective August 20, 1987; amended at 11 Ill. Reg. 18671, effective October 29, 1987; amended at 12 Ill. Reg. 14660, effective September 6, 1988; emergency amendments at 13 Ill. Reg. 11890, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18263, effective November 9, 1989; amended at 14 Ill. Reg. 15334, effective September 10, 1990; amended at 14 Ill. Reg. 18489, effective November 5, 1990; amended at 16 Ill. Reg. 2556, effective January 30, 1992; emergency amendment at 16 Ill. Reg. 7506, effective April 22, 1992, for a maximum of 150 days; emergency expired September 19, 1992; amended at 17 Ill. Reg. 17937, effective October 4, 1993; amended at 18 Ill. Reg. 16340, effective October 24, 1994; amended at 21 Ill. Reg. 9441, effective July 7, 1997; amended at 21 Ill. Reg. 12129, effective August 20, 1997; emergency amendment at 27 Ill. Reg. 4217, effective February 15, 2003, for a maximum of 150 days; emergency expired July 15, 2003; amended at 29 Ill. Reg. 1909, effective January 24, 2005.

## SUBPART A: GENERAL PROVISIONS

**Section 2720.20 Attorney Representation Of Claimants**

- a) Attorneys for claimants must file an "Attorney Appearance and Authorization for Representation" form signed by the claimant and his attorney. This form must be filed with the Agency prior to a hearing before an Adjudicator or Referee, or prior to the decision of an Adjudicator, Referee, or Board of Review, whichever occurs first after the Attorney begins his representation of the claimant.
- b) Absent prior approval by the Board of Review pursuant to subsection (c), an attorney representing a claimant may not charge or receive more than:
  - 1) 15% of the amount of the weekly benefits in a claim series received by the claimant after the claimant hires the attorney; or
  - 2) ~~\$150~~\$50 per hour, whichever is greater.

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- c) If an attorney believes that the fee arrived at pursuant to subsection (b) is inadequate, the attorney may file a request with the Board of Review setting forth the facts supporting the attorney's claim for additional fees. Such requests shall include the attorney's certification that the claimant was served with a copy of the request. The Board of Review shall grant or deny ~~thesueh~~ request in whole or in part based on whether the complexity of the case, the result obtained, the expertise required and the time expended in rendering legal services warrant a fee in excess of that allowable pursuant to subsection (b).
- d) A claimant wishing to comment on or object to a request for additional fees under subsection (c) shall do so in writing to the Board of Review within 10 days after the request is served on him. All decisions regarding requests for additional fees shall articulate the reasons for the grant or denial of ~~thesueh~~ request and shall be final administrative decisions. Nothing in this Section shall be construed as prohibiting an attorney from collecting the sum allowable under subsection (b) prior to the decision of the Board of Review.
- e) A claimant or employer may authorize an attorney or his designated agent to review the agency file regarding ~~thesueh~~ claimant or employer for the purpose of determining whether to represent ~~thesueh~~ claimant or employer in proceedings before the Agency. ~~TheSueh~~ authorization shall be in writing and may be delivered to the Agency office applicable to the particular claimant's or employer's case. Upon delivery of ~~thesueh~~ authorization to the applicable Agency office, the attorney or its designated agent may review the file without filing an appearance form or becoming the claimant's or employer's counsel of record.

(Source: Amended at 29 Ill. Reg. 1909, effective January 24, 2005)

## SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

**Section 2720.132 Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work**

- a) Whenever an employer discharges an individual for an alleged felony or theft in connection with his work, the employer shall notify the Agency of the separation.
- b) The notification required by subsection (a) shall include the name of the individual discharged, his social security number, the name of the employer, its mailing address, its Illinois Employer Account Number, and the date of separation.

## DEPARTMENT OF EMPLOYMENT SECURITY

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- c) If the notification required by subsection (a) meets the sufficiency requirements of Section 602B of the Act and is mailed to the Agency within at least 10 days after the date that the individual files his next claim for benefits, then such employer shall be a party to the Agency's determination of eligibility under Section 602(B) of the Act.
- d) Except when the notification is being made in response to a "Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party", the notification required by subsection (a) must be sent to:

Illinois Department of Employment Security  
~~33401~~ South State Street, ~~9<sup>th</sup> Floor~~~~3-South~~  
Chicago, IL ~~60603~~~~60605~~  
Attn: Felony and Theft Unit

(Source: Amended at 29 Ill. Reg. 1909, effective January 24, 2005)

**Section 2720.160 Reconsidered Findings Or Determination**

- a) *An Adjudicator shall reconsider an original Finding or Determination at the written request of a party or upon receipt of new information relating to the original issues, if the request is received by the Agency within the following time limits herein:*
- 1) *In the case of a Finding, within 13 weeks after the close of the claimant's benefit year;*
  - 2) *In the case of a Determination, within 1 year after the last day of the week for which the Determination was made, except that if the issue is whether or not the claimant misstated his earnings for the week or whether or not the claimant has been paid wages by reason of a back pay award made by any governmental agency or pursuant to arbitration proceedings or by reason of a payment of wages wrongfully withheld by an employing unit, within 32 years after the last day of the week [820 ILCS 405/703]-(III. Rev. Stat. 1985, Ch. 48, par. 453);*
  - 3) A Finding or Determination shall not be reconsidered subsequent to the filing of an appeal under Section 2720.200, except where the issue is newly discovered as to whether or not the claimant misstated his earnings, or unless the matter is remanded to the Adjudicator by a Referee, the

## DEPARTMENT OF EMPLOYMENT SECURITY

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Board of Review or a court.

- b) A reconsidered Finding or Determination shall relate only to the issues and period of time set forth in the original Finding or Determination.
- c) The Adjudicator shall investigate the original records and facts and document a report of a reconsidered investigation ~~that~~<sup>which</sup> includes the new information, and shall:
  - 1) Affirm the original Finding or Determination if the new facts are not sufficient to modify or reverse the original Finding or Determination and, unless otherwise instructed by the party, process an appeal to the Referee on behalf of the requesting party, in accordance with Section 2720.200, in which case the appeal shall be considered an appeal to the original Finding or Determination; or,
  - 2) Modify or reverse the original Finding or Determination if the new facts require a different result, and issue a reconsidered Finding or Determination to the parties vacating and replacing the original Finding or Determination and affording full appeal rights under Section 2720.200.

(Source: Amended at 29 Ill. Reg. 1909, effective January 24, 2005)

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Notices, Records, Reports
- 2) Code Citation: 56 Ill. Adm. Code 2760
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2760.105	Amend
2760.110	Amend
2760.140	Amend
- 4) Statutory Authority: 820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208
- 5) Effective date of the amendment: January 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted 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: October 22, 2004; 28 Ill. Reg. 13872
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: In the first line of (c)(1) of Section 2760.110, "sole" is changed to "only". In that same Section, "timely" is added before "protest". The second sentence of (c) of Section 2760.140 is deleted.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of the amendments: The proposed amendment to Section 2760.105 removes language which was made obsolete by a change in the statute (Section 1507 of the Unemployment Insurance Act).

## DEPARTMENT OF EMPLOYMENT SECURITY

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The proposed amendment to Section 2760.110 implements Section 301B of the Unemployment Insurance Act which allows the Director to terminate employer accounts on her own initiative pursuant to promulgated rules.

This proposed amendment to Section 2760.140 is intended to clarify the ramifications of an employer's failure to comply with this rule. The new example explains that a reporting penalty will be imposed monthly even if the employer submits its report on paper. When each penalty is imposed, the employer's contribution payment is reallocated to cover the penalty, and this will increase the balance of its unpaid contributions.

The second change in this rule clarifies that, if the Internal Revenue Service grants an employer a waiver from its electronic reporting requirements for a year, the Illinois exemption will apply to the employer's compliance with this rule for the next year. For example, if the employer had more than 250 employees in 2004 and the Internal Revenue Service exempts it from electronic reporting for that year, the employer is not required to report electronically in Illinois for any quarter in the next year, 2005.

16) Information and questions regarding these adopted amendments may be addressed to:

Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street – Room 937  
Chicago, Illinois 60603  
312/793-2333

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

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2760  
NOTICES, RECORDS, REPORTS

## SUBPART A: GENERAL OBLIGATIONS

## Section

- 2760.1 Posting And Maintaining Notices
- 2760.5 Identification Of Workers Covered By The Act
- 2760.10 Filing By Mail

## SUBPART B: REPORTS AND RECORDS

## Section

- 2760.100 Reports
- 2760.105 Reports Of Employing Units As To Their Status
- 2760.110 Employing Unit Terminating Business
- 2760.115 Records With Respect To Employment
- 2760.120 Employer's Contribution Report
- 2760.125 Employer's Wage Report
- 2760.130 Reporting "Excess" Wages
- 2760.135 Remittance Of Contributions Due And Use Of Transmittal Form
- 2760.140 Use Of Electronic Data Processing Media For Quarterly Reporting
- 2760.145 Correcting The "Employer's Contribution And Wage Report"
- 2760.150 Consequences Of An Error In The Preparation Of The "Employer's Contribution And Wage Report"

AUTHORITY: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].

SOURCE: Department of Labor, Bureau of Employment Security Regulations 4, 7 and 8, filed as amended May 3, 1977, effective May 13, 1977; Regulation 11 filed as amended May 4, 1977, effective May 14, 1977; Regulations 5 and 32 filed as amended June 23, 1977, effective July 3, 1977; Regulations 6 and 12 filed as amended September 12, 1977, effective September 12, 1977; rules repealed by operation of law on October 1, 1984; new rules adopted at 10 Ill. Reg. 6939,

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effective April 15, 1986; emergency amendment at 12 Ill. Reg. 222, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 13604, effective August 4, 1988; amended at 12 Ill. Reg. 16070, effective September 23, 1988; amended at 16 Ill. Reg. 3993, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 13798, effective August 4, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 261, effective December 27, 1993; emergency amendment at 18 Ill. Reg. 2631, effective February 3, 1994, for a maximum of 150 days; emergency amendment modified at 18 Ill. Reg. 7492; emergency expired July 3, 1994; amended at 18 Ill. Reg. 14942, effective September 27, 1994; amended at 29 Ill. Reg. 1917, effective January 24, 2005.

## SUBPART B: REPORTS AND RECORDS

**Section 2760.105 Reports Of Employing Units As To Their Status**

- a) Any employing unit ~~that~~which commences business in any manner whatsoever, whether by purchase of a business already being operated, by starting a new business, or otherwise, shall, within 30 days after such commencement, file form ~~UI-1 UC-1~~ "Report To Determine Liability Under the Illinois Unemployment Insurance Act", ~~or a document that includes the same information with the Director of Employment Security, 401 South State Street, Chicago, Illinois, 60605, Attn: Revenue Division.~~
- b) ~~In addition to complying with the requirements of subsection (a) where applicable, Effective with transfers or sales made on or after January 1, 1988,~~ any employing unit ~~that~~which succeeds to substantially all of the assets of an organization, trade or business, or of a severable portion ~~of those assets thereof,~~ shall ~~file~~notify the Director, within 120 calendar days of such transfer or sale on form ~~UI-1 S&PUC-1~~ "Report To Determine Succession"~~Liability Under the Illinois Unemployment Insurance Act~~" or a document ~~that~~which includes the same information ~~(copies of form UC-1 are available at the address given in (a) above). Any successor employing unit which fails to so notify the Director within the 120 day period shall not be entitled to the lower contribution rate of the predecessor employing unit. Notice~~ A report of such a sale or transfer by the successor to a severable portion of the predecessor's organization, trade or business shall not constitute a joint application for the predecessor's experience rating record ~~(to which a different time limit applies)~~ unless the ~~report~~notice also includes the additional requirements set forth in Section 1507(B)(2)-(3) of the Unemployment Insurance Act (Act).
- c) The reports required under subsections (a) and (b) shall be filed with the Director

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[of Employment Security, 33 South State Street, 10<sup>th</sup> Floor, Chicago, Illinois 60603, Attn: Revenue Division. Copies of forms UI-1 and UI-1 S&P are available at that address and at \[www.ides.state.il.us\]\(http://www.ides.state.il.us\).](#)

(Source: Amended at 29 Ill. Reg. 1917, effective January 24, 2005)

**Section 2760.110 Employing Unit Terminating Business**

- a) Any employing unit ~~that~~<sup>which</sup> terminates business (including dissolution of a partnership), for any reason whatsoever, or transfers or sells substantially all of the assets of the organization, trade or business or a severable portion ~~of those assets~~<sup>thereof</sup> to another or changes the trade name of such business shall, within ~~ten~~<sup>(10)</sup> days after such termination, transfer or change of name, give notice in writing of that fact to the Director.
- 1) If an employer dies, written notice of his death shall be given to the Director by the executor or administrator or other legal representative of his estate within 90 days after the date of death.
  - 2) In the case of bankruptcy or receivership proceedings for the relief of a debtor who is an employing unit, the trustees in bankruptcy, receiver or person designated by order of the court as in control of the assets of the debtor shall give written notice to the Director of such proceedings within 90 days ~~after~~<sup>of</sup> the commencement of such proceedings.
- b) The notice required under this Section shall be mailed to the Department of Employment Security, Revenue Division, ~~33404~~ South State Street, 10<sup>th</sup> Floor, Chicago, Illinois; ~~6060360605~~. Forms for such notice shall be sent out by the Division upon request; they are also included in the quarterly packet sent to all employers.
- c) Notwithstanding the requirements of subsections (a) and (b), an employing unit shall cease to be an employer as of the last day of a calendar quarter in which it ceases to pay wages for services in employment and ceases to have any individual performing services for it if, based on all available evidence, the Director determines that, as of the last day of that quarter, the employing unit has permanently ceased to pay wages for services in employment and permanently ceased to have any individual performing services for it. A termination of coverage under this subsection(c) shall be rescinded as of the date that the employing unit begins, later in the same calendar year or in the succeeding

## DEPARTMENT OF EMPLOYMENT SECURITY

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calendar year, to have any individual performing services for it on any part of any day. Any Determination and Assessment issued against the employing unit shall be null and void to the extent it pertains to any quarter during which the employing unit paid no wages for services in employment and had no one performing services for it, as long as that quarter is subsequent to the quarter as of the end of which the employing unit's coverage was terminated pursuant to this subsection (c) and prior to the date, if any, as of which the termination was rescinded or as of which the employing unit otherwise again became an employer.

- 1) Example: Employer A (a sole proprietor) employed B (his only employee) as a word processor. B left A's employ in September 2003 and A did not hire anyone else thereafter. A filed a contribution and wage report for the third quarter of 2004, but did not file a contribution and wage report for the fourth quarter of that year. He did not file a notice requesting termination of coverage or otherwise inform the Department that he had ceased to pay wages and no longer had any individual performing services for him. In March 2004, the Department issued a Determination and Assessment against A based upon estimated wages for the fourth quarter of 2003. A failed to file a timely protest and petition for hearing to the Determination and Assessment. In June 2004, A presented evidence to the Department that, since September 2003, he had no one performing services for him and had not paid any wages. With no evidence to suggest otherwise, the Department treated the Determination and Assessment as null and void.
- 2) Example: Employer C (a sole proprietor) employed D (her only employee) as a word processor. In September 2003, C decided that D would continue the word processing work, but as an "independent contractor". C did not report D's wages to the Department, nor pay contributions on those wages, with respect to periods after the third quarter of 2003 and did not file a notice requesting termination of coverage. In March 2004, the Department issued a Determination and Assessment against C based upon estimated wages for the fourth quarter of 2003. C failed to file a timely protest and petition for hearing to the Determination and Assessment, but in June 2004, wrote the Director explaining that D was now working as an "independent contractor". As D was still performing services for C during the fourth quarter, the Director lacked the authority to terminate C's coverage. By not timely protesting the Determination and Assessment, C allowed it to become final and waived

## DEPARTMENT OF EMPLOYMENT SECURITY

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[her opportunity to reach the merits of whether D was an independent contractor during the fourth quarter.](#)

(Source: Amended at 29 Ill. Reg. 1917, effective January 24, 2005)

**Section 2760.140 Use Of Electronic Data Processing Media For Quarterly Reporting**

- a) Except as provided in subsections (g) and (h) of this Section, effective with the reports due for the first quarter of 1994, the reports required by Sections 2760.120 and 2760.125 must be filed by the use of an electronic data processing medium [thatwhich](#) meets the approval of the Director. The Director shall approve the use of electronic data processing media for reporting if he finds that:
- 1) All of the data required on the forms provided by the Director for quarterly reporting are also provided by the employer in the same format on the electronic data processing medium; and
  - 2) The employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.
- b) Subsection (a) shall only apply to an employer for a calendar year if the employer had 250 or more individuals in its employ (though not necessarily at the same time) during the prior calendar year.

Example: During 1993, the employer has no more than 225 individuals in its employ at any one time. However, during the year, 25 of these individuals leave the employ of the employer and are replaced by 25 other individuals. Though the employer's labor force never exceeds 225 individuals at any one time, the employer had 250 individuals in its employ during 1993 and, therefore, is subject to subsection (a) for 1994.

- c) Except as otherwise provided for in this subsection [\(c\)](#), the failure of an employer [thatwhich](#) is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act. ~~The Director shall, without further action by the employer being required, find good cause for the waiver of penalty, for any quarter in 1994 only, where an employer subject to the mandatory electronic reporting requirements of this Section files its reports for that quarter in compliance with Sections 2760.120 and 2760.125.~~

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Example: An employer subject to the reporting requirements of subsection (a) beginning in 2004 files a report only in compliance with Sections 2760.120 and 2760.125 for the fourth quarter of that year on January 20, 2005, and also remits the contributions then due for that quarter. On February 1, 2005, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its fourth quarter of 2004 report, the penalty set forth in Section 1402 of the Act shall be imposed, and its payment shall be reallocated in accordance with Section 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before March 1, 2005 and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

- d) Where not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium thatwhich meets the prior written approval of the Director. The Director shall approve the use of an electronic data processing medium for reporting if it meets the requirements of subsections (a)(1) and (a)(2) of this Section and if the employer agrees to file both reports by the use of an electronic data processing medium.
- e) Any employer thatwhich was authorized by the Director, before December 27, 1993, to submit both of its quarterly reports on an electronic data processing medium may continue to do so without further approval by the Director, on the condition that the medium continues to meet the requirements of subsections (a)(1) and (a)(2) of this Section. TheSueh employer is, however, subject to the requirements of subsection (f) of this Section.
- f) The first report submitted electronically pursuant to this Section for any calendar year must be accompanied by a certification, on a form provided for this purpose by the Director, signed by the owner, partner or authorized officer or official, that the information submitted is true and correct to the best of his knowledge and belief and that no part of the contribution reported was or is to be deducted from the worker's wages.
- g) Where the employer demonstrates that the Commissioner of the Internal Revenue Service has waived the electronic reporting requirements of Treasury Regulation

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301.6011-2 (26 CFR 301.6011-2), or its successor, for the employer with respect to documents covering a calendar year, the Director shall waive the reporting requirements of this Section for that employer with respect to reports covering the subsequent calendar year.

Example: In December 2004, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), or its successor, have been waived with respect to Form W-2 data covering calendar year 2004, meaning that the employer will not be required to submit the data electronically in 2005. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering 2005.

~~The Director shall waive the reporting requirements of this Section for any employer which has been granted waiver of the electronic reporting requirements of Internal Revenue Service Procedure 91-33. If the waiver granted by the Commissioner of the Internal Revenue Service covers a period other than a calendar year, the Director shall waive the reporting requirements of this Section for the calendar year or years of which the Internal Revenue Service's waiver covers a portion.~~

~~Example: The Commissioner of the Internal Revenue Service waives the reporting requirements of Internal Revenue Service Procedure 91-33 for an employer for the period from July 1, 1994 through June 30, 1995. The Director shall waive the reporting requirements of this Section for both calendar years 1994 and 1995.~~

- h) Where an employer was not subject to the mandatory electronic reporting requirements of this Section for any quarter of the prior calendar year but is subject to those requirements for the current calendar year, the employer may, for the first and second quarters of the current calendar year, file its quarterly reports in compliance with Sections 2760.120 and 2760.125.

Example: The employer had, in total, 240 individuals in its employ during calendar year 1993. In calendar year 1994, the employer had, in total, 260 individuals in its employ. The employer will not be required to report electronically for the first or second quarter of calendar year 1995 but will be required to report electronically for at least the third and fourth quarters of that year.

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(Source: Amended at 29 Ill. Reg. 1917, effective January 24, 2005)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Claimant's Availability For Work, Ability To Work And Active Search For Work
- 2) Code Citation: 56 Ill. Adm. Code 2865
- 3) 

<u>Section Number</u> :	<u>Adopted Action</u> :
2865.100	Amend
2865.130	Amend
- 4) Statutory Authority: 820 ILCS 405/409, 500, 1700 and 1701.
- 5) Effective date of the amendments: January 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted 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: October 22, 2004; 28 Ill. Reg. 13892
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Difference between proposal and final version: In Section 2865.100(b), "see Section 2720.112" was added after "telephone" in the last sentence. In Section 2865.130(b)(1), "see 20 CFR 662.100" was added after "System", and in Section 2865.100(b)(4), "and" was added after the semicolon.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of the amendments: In order to provide the best possible referrals for employers, this proposed amendment to Part 2865 expands the reasons that an unemployment insurance applicant would be exempted from mandatory registration with the Employment Service.

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As a result of a prior amendment to Section 500 of the Unemployment Insurance Act (P.A.92-396), recognizing that the federal Workforce Investment Act replaced the federal Job Training Partnership Act, this amendment to Part 2865 will also provide that the Director will issue blanket approval of training programs implemented pursuant to the federal Workforce Investment Act as she did with regard to programs under the federal Job Training Partnership Act, if both the training and the criteria for an individual's participation meet the statutory requirements. Participating in "approved training" exempts claimants from certain eligibility requirements.

- 16) Information and questions regarding these Adopted Amendments may be addressed to:

Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street – Room 937  
Chicago, Illinois 60603  
312/793-2333

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER f: ELIGIBILITY FOR BENEFITS

PART 2865  
CLAIMANT'S AVAILABILITY FOR WORK, ABILITY TO WORK  
AND ACTIVE SEARCH FOR WORK

SUBPART A: GENERAL PROVISIONS

- Section
- 2865.1 Definitions
- 2865.50 Union Registration In Satisfaction Of Active Search Provisions
- 2865.55 Requirements For Union Local Certification
- 2865.60 Procedures For Approval As A Certified Union

SUBPART B: REGULAR BENEFITS

- Section
- 2865.100 Work Search Requirements For Regular Unemployment Insurance Benefits
- 2865.105 Able To Work
- 2865.110 Available For Work
- 2865.115 Actively Seeking Work
- 2865.120 Suitability Of Work – Labor Standards
- 2865.125 Availability For Part-Time Work Only
- 2865.130 Director's Approval Of Training
- 2865.135 Availability For Work And Active Search For Work: Attendance At Training Courses
- 2865.140 Regular Attendance In Approved Training
- 2865.145 Ineligibility To Receive Benefits For Failure To Participate In Reemployment Services
- 2865.150 Profiling/Referral To Reemployment Services

SUBPART C: EXTENDED BENEFITS

- Section
- 2865.205 Applicability Of Rules For Eligibility For Regular Benefits
- 2865.210 Systematic And Sustained Search For Work
- 2865.215 When An Individual's Prospects For Finding Work Shall Be Deemed To Be Good

AUTHORITY: Implementing and authorized by Sections 409, 500, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/409, 500, 1700 and 1701].

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SOURCE: Adopted at 10 Ill. Reg. 11887, effective July 1, 1986; amended at 14 Ill. Reg. 18466, effective November 5, 1990; amended at 17 Ill. Reg. 17917, effective October 4, 1993; amended at 18 Ill. Reg. 4160, effective March 3, 1994; emergency amendment at 18 Ill. Reg. 17764, effective November 28, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 6555, effective April 28, 1995; amended at 29 Ill. Reg. 1927, effective January 24, 2005.

## SUBPART B: REGULAR BENEFITS

**Section 2865.100 Work Search Requirements For Regular Unemployment Insurance Benefits**

- a) Unless otherwise instructed, the claimant must establish that he is able to work, available for work and actively seeking work during each week for which he is claiming benefits.
  - 1) The claimant must register in person at the Illinois EmploymentJob Service Office unless otherwise instructed by the local office for one of the following reasons:
    - A) The claimant's unemployment is due to a labor dispute at his last employing unit even if the claimant is not involved in the dispute;
    - B) The claimant's unemployment is due to a temporary lay-off not exceeding tenfour weeks in duration;
    - C) The claimant is a member of a labor union whose placement service has been certified by the Agency under this Part;
    - D) The claimant is still attached to a regular job but he is only partially employed due to a temporary reduction in his hours;
    - E) The claimant is a seasonal worker who is between seasons and has a reasonable expectation of returning to the same job in the next succeeding season. For example, park, golf course and landscape workers would fall within this subsection (a)(1)(E) during a winter shutdown;
    - F) The claimant is an academic worker, such as a teacher or school administrator, or a non-academic employee, such as a food service worker or school bus driver, who is seeking work at an educational

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institution or for a company that contracts with an educational institution during a period between academic years or terms;

G) The claimant is a construction worker seeking construction work, whether or not he belongs to a union that operates a hiring hall defined in Section 2865.50;

H) The claimant is enrolled and participating in training, whether or not that training is approved under Section 500(C)(5) of the Act;

I) The claimant is a resident of a state that borders Illinois and has filed a claim in this State;

J) The Agency determines that, based on local labor market information, registration with the Illinois EmploymentJob Service would not increase the likelihood of the claimant's return to work.

2) The claimant must show that he is conducting a thorough, active and reasonable search for appropriate work on his own by keeping records of what he is doing to find work, including:

A) The names and addresses of the employing units contacted and the names of the specific persons contacted, if possible;

B) The dates, methods and results of the contacts;

C) The types of work that the claimant has been seeking, including wages and hours requested or desired; and

D) Any other information regarding his work search efforts.

b) The claimant shall provide the written records required by this Section to the Agency whenever requested, pursuant to Section 2720.112(f) or 2720.115, or, in the event of a Claims Adjudicator's interview, an appeal or a hearing in which work search is an issue. Even if the claimant has been denied benefits, he must either file by telephone (see Section 2720.112) or complete and file the Claim Certification (BIS-653) every two weeks and meet the eligibility requirements of the Act for each week for which he expects payment upon reversal of that denial.

(Source: Amended at 29 Ill. Reg. 1927, effective January 24, 2005)

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**Section 2865.130 Director's Approval of Training**

~~Paragraph 5 of subsection C of~~ Section 500(C)(5) of the Act provides that *"an individual shall not be deemed unavailable for work or to have failed actively to seek work... with respect to any week, because he is enrolled in and is in regular attendance at a training course approved for him by the Director...."*

- a) The following criteria must be satisfied in order for a training course to be approved for an individual by the Director:
- 1) The training course shall relate to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable work opportunities in the locality. This means that:
    - A) The training course must be vocational or provide the individual with skills essential for the performance of work in a specific occupation; and  

Example: The Director shall not approve classes designed solely to provide an individual with a high school equivalency diploma since this would not enhance opportunities in a specific occupation. However, the Director shall approve courses of study ~~that~~~~which~~ include some purely academic courses if ~~thatsuch~~ course work is secondary to the vocational aspects.
    - B) The course must be designed to facilitate the individual's reemployment in a reasonably expeditious manner; however, the Director shall not approve courses of study of more than one year in duration unless ~~thesuch~~ course is approved under 56 Ill. Adm. Code 2620; and
    - C) The course must focus on providing the individual with the competency necessary for securing entry level employment in the selected occupation; and  

Example: The Director shall not approve training for the purpose of allowing an individual to improve his marketability, i.e., a bookkeeper who wishes to become an

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accountant. If there exists a reasonable job market for bookkeepers in the individual's locality, the Director will not approve training ~~that~~<sup>which</sup> enhances the claimant's already marketable skills.

D) The course must consist of at least ~~12~~<sup>twelve</sup> hours per week of instruction from a competent and reliable training agent. This minimum of ~~12~~<sup>twelve</sup> hours of instruction must include contact between the student and the instructor. ~~The~~<sup>Such</sup> contact could result from classroom training, laboratory instruction or tutoring.

2) ~~The~~<sup>Such</sup> training course must be offered by a competent and reliable agency, educational institution or employing unit.

3) Work opportunities for which the individual is qualified by training and experience are limited or do not exist in the individual's locality;~~;~~<sup>and,</sup>

Example: If the individual is a trained and certified nurse's aide, the Director shall not approve training to become a registered nurse if reasonable openings exist in the individual's locality for nurse's aides, even if the individual is dissatisfied with her present occupation.

4) The individual has the qualifications and aptitude to complete the course successfully;~~;~~<sup>and,</sup>

~~Example: The Director shall not approve a course which requires the ability to read and write in English for an individual who is not fluent in English.~~

5) The enrollee is not a recipient nor eligible for subsistence payments or similar assistance under any public or private retraining program.

b) Notwithstanding subsection (a), a training course is approved for an individual by the Director for the purposes of ~~subsection C of~~ Section 500(C) of the Act if:

1) both the training course and the individual's participation in the training course are approved under Title I of the federal Workforce Investment Act (29 USC 2801-12945) by a One Stop Delivery System (see 20 CFR 662.100) by the Department of Commerce and Community Affairs or by

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~~the Private Industry Council or a substate grantee of a Service Delivery Area within the State; and~~

- 2) the course is part of a program authorized pursuant to the Workforce Investment Job Training Partnership Act or other federal legislation establishing an employment and training program; and
- 3) the criteria on the basis of which a One Stop Delivery System ~~the Department of Commerce and Community Affairs, the Private Industry Council or the substate grantee~~ approves the course under Title I of the Workforce Investment Act include criteria consistent with ~~clauses (2) and (3) of subparagraph (a) of paragraph 5 of subsection C of Section 500(C)(5)(a)(2) and (3) of the Act;~~ and
- 4) the criteria on the basis of which a One Stop Delivery System ~~the Department of Commerce and Community Affairs, the Private Industry Council or the substate grantee~~ approves an individual's participation under Title I of the Workforce Investment Act in the course include criteria consistent with ~~clauses (1) and (2) of subparagraph (a) of paragraph 5 of subsection C of Section 500(C)(5)(a)(1) and (2) of the Act;~~ and
- 5) the course is not disapproved by reason of ~~clause (5) of subparagraph (a) of paragraph 5 of subsection C of Section 500(C)(5)(a)(5) of the Act.~~

(Source: Amended at 29 Ill. Reg. 1927, effective January 24, 2005)

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- 1) Heading of the Part: Disqualifying Income And Reduced Benefits
- 2) Code Citation: 56 Ill. Adm. Code 2920
- 3) Section Number: 2920.40                      Adopted Action:  
Amend
- 4) Statutory Authority: 820 ILCS 405/234, 235, 239, 245, 401, 402, 500.1, 600, 605, 606, 610, 611, 1300, 1700 and 1701
- 5) Effective date of the amendment: January 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted 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: October 22, 2004; 28 Ill. Reg. 13900
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Difference between proposal and final version: The text was reformatted to show headings for (a), "Wages", and (b), "Severance Payments". The remainder of the section was renumbered accordingly. In addition, in 2790.40(a)(1), [820 ILCS 65] is added after the reference to the Illinois Act and (29 USC 2101 et seq.) is added after the reference to the federal Act.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of the rules: The recent enactment of the Illinois Worker Adjustment and Retraining Notification Act (P.A. 93-0915) necessitates amending this Section to conform to new Section 500.1 of the Unemployment Insurance Act.
- 16) Information and questions regarding this adopted amendment may be addressed to:

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DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT

Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
33 South State Street – Room 937  
Chicago, Illinois 60603  
312/793-2333

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

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT  
 CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
 SUBCHAPTER g: INELIGIBILITY FOR BENEFITS

PART 2920  
 DISQUALIFYING INCOME AND REDUCED BENEFITS

Section	
2920.1	Definitions
2920.5	Ineligibility To Receive Benefits Due To Performing Full-Time Work Or Due To The Receipt Of Various Income Whose Sum Is Equal To Or Greater <del>Than</del> <u>Than</u> <del>For</del> The Individual's Weekly Benefit Amount
2920.10	Reduction In Benefits Due To Receipt Of Vacation Pay, Holiday Pay, Retirement Pay, And Workers' Compensation Whose Sum Is Less Than The Individual's Weekly Benefit Amount
2920.15	Reduction In Benefits Due To Receipt Of Wages For Less Than Full-Time Work
2920.18	Voluntary Withholding For Federal Income Tax
2920.20	Reduced Benefits: Payment Of Dependents' Allowance Or Spouse's Allowance
2920.25	Payments Made During Shutdown For Inventory Or Vacation Purposes
2920.30	Payments Made In Connection With Separation Or Layoff As, Or In The Nature Of Vacation Pay, Vacation Pay Allowance Or As Pay In Lieu Of Vacation
2920.35	Holiday Pay
2920.40	Payments In Lieu Of Notice Of Separation Or Layoff
2920.45	Severance Pay
2920.48	Residual Payments
2920.50	Back Pay Awards
2920.55	Receipt Of Or Filing For Unemployment Insurance Benefits Under The Laws Of Another State, Canada, Or The United States
2920.60	Supplemental Unemployment Benefits (SUB Pay)
2920.65	Retirement Pay
2920.66	Payments To An Election Judge
2920.68	Payments By A Labor Union
2920.69	Jury Service
2920.70	Retirement Pay Considered Disqualifying Income
2920.75	Allocation Of Retirement Pay
2920.80	Miscellaneous Forms Of Retirement Pay
2920.85	Conformity With Federal Unemployment Tax Act

AUTHORITY: Implementing and authorized by Sections 234, 235, 239, 245, 401, 402, 500.1, 600, 605, 606, 610, 611, 1300, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/234, 235, 239, 245, 401, 402, 500.1, 600, 605, 606, 610, 611, 1300, 1700 and 1701].

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SOURCE: Adopted at 11 Ill. Reg. 1853, effective January 7, 1987; amended at 12 Ill. Reg. 16066, effective September 23, 1988; amended at 13 Ill. Reg. 1773, effective January 27, 1989; amended at 13 Ill. Reg. 5936, effective April 18, 1989; emergency amendments at 13 Ill. Reg. 11899, effective July 1, 1989, for a maximum of 150 days; emergency amendments to 56 Ill. Adm. Code 2920.5 and 2920.75, expired November 28, 1989; amended at 13 Ill. Reg. 17402, effective October 30, 1989; amended at 15 Ill. Reg. 180, effective December 28, 1990; amended at 15 Ill. Reg. 11416, effective July 30, 1991; amended at 18 Ill. Reg. 4166, effective March 3, 1994; amended at 21 Ill. Reg. 567, effective January 1, 1997; emergency amendment at 25 Ill. Reg. 10226, effective August 7, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 15415, effective November 15, 2001; amended at 29 Ill. Reg. 1935, effective January 24, 2005.

~~SUBPART A: GENERAL PROVISIONS~~**Section 2920.40 Payments In Lieu Of Notice Of Separation Or Layoff**a) Wages

1) Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff, ~~except for payments related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act [820 ILCS 65] or the federal Worker Adjustment and Retraining Notification Act (29 USC 2101 et seq.),~~ shall be treated as wages with respect to the period of notice. ~~If the amounts exceed the individual's weekly benefit amount, such individual shall be ineligible to receive benefits with respect to such period~~ provided that the following conditions are met:

A+) There must be an employment agreement, ~~a statutory requirement~~ or a uniformly applied company policy ~~that~~which requires that the employing unit give the employee a definite period of notice before a layoff or separation;

~~Example: Pursuant to the federal Worker Adjustment and Retraining Notification Act (P.L. 100-379), certain employers are required, under specified conditions, to provide at least 60 days notice of a mass layoff or plant closing. If an employer fails to provide the required notice, it may be required to compensate its employees for the number of days for which such notice was not given. Such compensation constitutes payments in lieu of notice of separation or layoff, thus rendering the workers ineligible during the period with respect to which the required notice was not given.~~

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~~The payment of such compensation does not relieve the employer of its responsibilities or from potential liability under the federal Worker Adjustment and Retraining Notification Act.~~

~~B2)~~ ~~The~~ employee must be laid off or separated without the required notice; and,

~~C3)~~ The employing unit must pay the employee a sum equal to his regular wages, or an amount computed in accordance with a formula ~~which is~~ based on the employee's past earnings, for the required period of the notice.

~~2)~~ If the amounts treated as wages in lieu of notice with respect to a week pursuant to this subsection (a) exceed the individual's weekly benefit amount, the individual shall be ineligible to receive benefits with respect to that week.

b) Service Payments. Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff ~~that~~which do not satisfy the conditions set forth in subsection (a) shall be treated as severance pay described in Section 2920.45 ~~except for unless these~~ payments that qualify as vacation pay in connection with a layoff or separation, as provided in Section 2920.30 ~~and are not related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act or the federal Worker Adjustment and Retraining Notification Act.~~

(Source: Amended at 29 Ill. Reg. 1935, effective January 24, 2005)

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- 1) Heading of the Part: Service Occupation Tax
  - 2) Code Citation: 86 Ill. Adm. Code 140
  - 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.101	Amendment
140.125	Amendment
  - 4) Statutory Authority: 35 ILCS 115
  - 5) Effective Date of Rulemaking: January 24, 2005
  - 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: March 12, 2004; 28 Ill. Reg. 4528
  - 10) Has JCAR issued a Statement of Objection to these amendments? No
  - 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
  - 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the 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? Yes
- | <u>Section Number</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-----------------------|------------------------|-----------------------------------|
| 140.124               | New Section            | 20 Ill. Reg. 15148; 11/19/04      |
- 15) Summary and Purpose of Rulemaking: This rulemaking amends the Service Occupation Tax Act regulations to reflect the repeal of the Graphic Arts Machinery and Equipment Exemption; Automatic Vending Machines Exemption; Pollution Control Facilities

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Exemption; Oil Field Exploration, Drilling and Production Equipment Exemption; Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment Exemption, Distillation Machinery and Equipment Exemption and Aggregate Manufacturing Exemption (P.A. 93-0024). Provisions regarding the tax rate applicable to biodiesel, biodiesel blends, majority blended ethanol and gasohol are also included (P.A. 93-0017). Provisions amending the Rolling Stock Exemption are also included (P.A. 93-0023).

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

Terry D. Charlton  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794

Phone: (217)782-2844

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF REVENUE

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 140  
SERVICE OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section	
140.101	Basis and Rate of the Service Occupation Tax
140.105	Calculation of Tax Incurred by Servicemen – Threshold Determination of Cost Ratio
140.106	When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price
140.108	"De Minimis" Servicemen Who Incur Use Tax on Their Cost Price
140.109	"De Minimis" Servicemen Who Incur Service Occupation Tax on Their Cost Price
140.110	Example of Methods Used by Servicemen to Determine Liability
140.115	Occasional Sales to Servicemen by Suppliers (Repealed)
140.120	Meaning of Serviceman
140.125	Examples of Nontaxability
140.126	Taxation of Food, Drugs and Medical Appliances
140.127	Service Provided to Persons Who Lease Tangible Personal Property to Exempt Hospitals
140.128	Persons Who Lease Tangible Personal Property to Governmental Bodies
140.130	Suppliers of Printers (Repealed)
140.135	Sales of Drugs and Related Items, to or by Pharmacists (Repealed)
140.140	Other Examples of Taxable Transactions
140.141	Warranty Repairs
140.145	Multi-Service Situations

## SUBPART B: DEFINITIONS

Section	
140.201	General Definitions

## SUBPART C: BASE OF THE TAX

Section	
140.301	Cost Price

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140.305 Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section

- 140.401 Monthly Returns When Due – Contents of Returns
- 140.405 Annual Tax Returns
- 140.410 Final Return
- 140.415 Taxpayer's Duty to Obtain Form
- 140.420 Annual Information Returns by Servicemen
- 140.425 Filing of Returns for Serviceman Suppliers by their Suppliers Under Certain Circumstances
- 140.430 Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

Section

- 140.501 Sales of Service Involving Property Originating in Illinois
- 140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section

- 140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section

- 140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section

- 140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section

- 140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

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Section

- 140.1001 Payment of Tax
- 140.1005 Receipt to be Obtained for Tax Payments
- 140.1010 Payment of Tax Directly to the Department (Repealed)
- 140.1015 Itemization of the Tax by Suppliers (Repealed)
- 140.1020 Use of Bracket Chart
- 140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY  
FILING AND PAYING – MEANING OF DUE DATE  
WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section

- 140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

- 140.1201 When Lessee of Premises May File Return for Leased Department
- 140.1205 When Lessor of Premises Should File Return for Leased Department
- 140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section

- 140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
- 140.1305 When Purpose of Serviceman's Purchase is Unknown
- 140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 140.1401 Claims for Credit – Limitations – Procedure
- 140.1405 Disposition of Credit Memoranda by Holders Thereof
- 140.1410 Refunds
- 140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

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Section  
140.1501      Procedures

## SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section  
140.1601      Requirements and Procedures

## SUBPART Q: POWER OF ATTORNEY

Section  
140.1701      General Information

**AUTHORITY:** Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

**SOURCE:** Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December 16, 1996; amended at 24 Ill. Reg. 8125, effective May 26, 2000; emergency amendment at 25 Ill. Reg. 1811, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4971, effective March 23, 2001; amended at 25 Ill. Reg. 6531, effective May 3, 2001; amended at 26 Ill. Reg. 4905, effective March 15, 2002; amended at 27 Ill. Reg. 812, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11187, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15257, effective November 3, 2004 for a maximum of 150 days; amended at 29 Ill. Reg. 1940, effective January 24, 2005.

## SUBPART A: NATURE OF TAX

**Section 140.101 Basis and Rate of the Service Occupation Tax**

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- a) The Service Occupation Tax Act (the Act) [35 ILCS 115] imposes a tax upon persons engaged in this State in the business of making sales of service, based on tangible personal property transferred incident to sales of service. These persons are referred to in this Part as servicemen.
- b) Rate of Tax
- 1) The rate of Service Occupation Tax (SOT) incurred by a serviceman from October 1, 1969 through December 31, 1983, is 4%, and on and after January 1, 1984 and prior to January 1, 1990, is 5% of the serviceman's cost price of tangible personal property transferred by the serviceman incident to a sale of service. On and after January 1, 1990, if SOT is computed on the selling price or Use Tax is computed on the cost price of the tangible personal property transferred incident to sales of service, the rate is 6.25%. Effective January 1, 1990 and prior to July 1, 2003, sales of "gasohol" (a motor fuel that is no more than 90% gasoline and at least 10% denatured ethanol that contains no more than 1.25% water by weight [35 ILCS 105/3-40]) are subject to tax, based upon 70% of the proceeds of sales. On and after July 1, 2003 and on or before December 31, 2013, tax shall be based upon 80% of the proceeds from sales of gasohol. On and after January 1, 2014, tax shall be based upon 100% of the proceeds of sales of gasohol. However, from July 1, 1997 to June 30, 1998, the rate was 85% for gasohol sold in this State during the 12 months beginning July 1 following any calendar year for which the Department determined that the percentages in Section 10 of the Gasohol Fuels Tax Abatement Act were not met. The Gasohol Fuels Tax Abatement Act was repealed effective July 1, 1998. Effective July 1, 2003, if at any time the tax under the Service Occupation Tax Act (SOTA) on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by SOTA applies to 100% of the proceeds of sales of gasohol made during that time. With respect to majority blended ethanol fuel, as defined in Section 3-44 of the Use Tax Act, the tax imposed by SOTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013, but applies to 100% of the proceeds of sales made thereafter. With respect to biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by SOTA applies to 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013 and 100% of the proceeds of sales made thereafter. If at any time, however, the tax under SOTA on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and

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no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by SOTA applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time. With respect to 100% biodiesel, as defined in Section 3-41 of the Use Tax Act, and biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by SOTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013, but applies to 100% of the proceeds of sales made thereafter. [35 ILCS 115/3-10] On and after January 1, 1993, if SOT is computed on the cost price of tangible personal property transferred incident to service, the rate is also 6.25%. Exceptions to these rules, however, are as follows:

- A) On and after January 1, 1984, and prior to January 1, 1990, food for human consumption that is to be consumed off the premises where it is sold (other than soft drinks, alcoholic beverages and food that has been prepared for immediate consumption and except as provided in subsection (b)(1)(B)) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics, for human use, will be taxed at the rate of 0%. On and after January 1, 1990, the rate of tax will be 1%.
  - B) Effective January 1, 1993 *food prepared for immediate consumption and transferred incident to a sale of service by an entity licensed under the Hospital Licensing Act or the Nursing Home Care Act shall be subject to tax at the rate of 1%. Effective August 13, 1999, the 1% rate shall also apply to food prepared for immediate consumption and transferred incident to a sale of service by an entity licensed under the Child Care Act of 1969.* (Section 3-10 of the Act)
  - C) *Beginning on July 1, 2000 through December 31, 2000, with respect to motor fuel and gasohol, the tax is imposed at the rate of 1.25% (Section 3-10 of the Act). (See the provisions of 86 Ill. Adm. Code 130.101, which is incorporated by reference as if fully set forth in this subsection (b).)*
- 2) *On and after January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed*

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*under the Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. (Section 3 of the Act) "Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act [35 ILCS 630]. "Prepaid telephone calling arrangements" does not include an arrangement whereby the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan. (Section 3-27 of the Act)*

- c) The date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property that the serviceman transfers as an incident to a sale of service.
- d) *When a serviceman contracts to design, develop and produce special order machinery or equipment, the tax imposed under the Service Occupation Tax shall be based on the serviceman's cost price of the tangible personal property transferred incident to completion of the contracts regardless of that serviceman's annual threshold. (Section 3-10 of the Act)*
- e) *For the purpose of determining the tax base, selling price shall in no event be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item of tangible personal property transferred incident to a sale of service may be stated as a distinct item by the serviceman to the service customer and the tax imposed by the Act shall when collected be stated as a distinct item separate and apart from the selling price of the tangible personal property. If the selling price of each item of tangible personal property transferred incident to a sale of service is not stated as a*

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*separate item on the serviceman's billing to the service customer, then the tax imposed by the Act shall be based on 50% of the serviceman's entire billing to the service customer (Section 3-10 of the Act), but in no event shall this amount be less than the cost price to the serviceman of the tangible personal property so transferred.*

- f) Taxpayers who are registered may purchase all tangible personal property for retransfer by providing their suppliers with valid resale certificates even if in some transactions the cost price of the tangible personal property will be less than 35% of the total gross receipts from the transaction. If the serviceman paid tax to his supplier in the expectation that the cost of parts would be less than 35% of the total transaction selling price, but the actual percentage was more than 35%, the serviceman would be able to take credit for the tax paid to the supplier but would be liable for tax on the selling price of the parts, if stated, or on 50% of the total transaction selling price. In the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, replace the references to 35% in this subsection with 75%. The serviceman may also be liable for penalties due to a failure to file returns.

(Source: Amended at 29 Ill. Reg. 1940, effective January 24, 2005)

**Section 140.125 Examples of Nontaxability**

The tax does not apply to:

- a) sales of intangible personal property;
- b) sales of real property;
- c) sales of personal services as such;
- d) sales of tangible personal property which come within the protection of the Commerce Clause of the Constitution of the United States (see Subpart E of this Part);
- e) *personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (Section 3-5(1) of the*

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Act);

- f) the retail selling of tangible personal property which is taxable under the Retailers' Occupation Tax Act [35 ILCS 120] or the Use Tax Act [35 ILCS 105];
- g) a sale of tangible personal property for the purpose of resale apart from the purchaser's engaging in a service occupation, made in compliance with Section 2c of the Retailers' Occupation Tax Act (Section 2 of the Act);
- h) sales of tangible personal property as an incident to sales of service:
  - 1) *to or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes* (Section 2(c) of the Act), in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (h)(1);
  - 2) *to or by any corporation, society, association, foundation or institution operated primarily for the recreation of persons aged 55 years or older which has no compensated officers or employees*, in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (h)(2) (Section 2(c) of the Act);
  - 3) *to or by any governmental body* (Section 2(c) of the Act), in accordance with the provisions of 86 Ill. Adm. Code 130.2055 and 130.2080, which are effective as if fully set forth in this subsection (h)(3);
  - 4) *to a not-for-profit Illinois county fair association for use in conducting, operating or promoting the county fair* (Section 3-5(2) of the Act);
  - 5) *to any not-for-profit arts or cultural organization that has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed above must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media*

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*arts organizations.* (Section 3-5 of the Act)

In order to qualify for exemption, all the above listed organizations (and on and after July 1, 2001, those described in subsection (h)(5)) must have been issued an active exemption identification number by the Department;

- i) the sale, employment and transfer of such tangible personal property as newsprint and ink for physical incorporation into newspapers or magazines;
- j) the incorporation of tangible personal property into real estate by a construction contractor, which activity constitutes a taxable "use" under the Retailers' Occupation Tax Act and the Use Tax Act, rather than the carrying on of a service occupation;
- k) through June 30, 2003, the sale, employment and transfer, as an incident to a sale of service, of such tangible personal property as pollution control facilities ~~and low sulphur dioxide coal fueled devices~~, in accordance with the provisions of 86 Ill. Adm. Code 130.335, which are effective as if fully set forth in this subsection (k). The sale, employment and transfer, as an incident to a sale of service of such tangible personal property as low sulphur dioxide coal fueled devices, in accordance with the provisions of 86 Ill. Adm. Code 130.335, which are effective as if fully set forth in this subsection (k);
- l) sales of stock tonics, serums and other medicinal products to veterinarians for retransfer as an incident to service in caring for animals that are to be sold or the products of which are to be sold;
- m) sales of sprays and farm chemicals as an incident to service by persons engaged in the service occupation of spraying crops or applying farm chemicals for others, in accordance with the provisions of 86 Ill. Adm. Code 130.1955, which are effective as if fully set forth in this subsection (m);
- n) sale of either new or used farm machinery, equipment or replacement parts transferred as an incident to a sale of service for use in production agriculture or for use in State or federal agricultural programs, in accordance with the provisions of 86 Ill. Adm. Code 130.305, which are effective as if fully set forth in this subsection (n);
- o) *a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new*

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*manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a service occupation tax or service use tax, rather than retailers' occupation tax or use tax.* (Section 2 of the Act) (Amended by Public Act 87-876, effective January 1, 1993) The transfer of standard or stock parts in the repair of qualifying exempt manufacturing machinery and equipment is exempt. The provisions of 86 Ill. Adm. Code 130.330 are effective as if fully set forth in this subsection (o);

- p) through August 12, 1999, a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing or other processes or *defined in Major Group 27 of the U.S. Standard Industrial Classification Manual*. However, effective August 13, 1999 and through June 30, 2003, this exemption applies to a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing, *including ink jet printing, by one or more of the processes as described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511 and Group 512230 of Subsector 512 of the North American Industry Classification System published by the United States Office of Management and Budget, 1997 edition*, in accordance with the provisions of 86 Ill. Adm. Code 130.325, which are effective as if fully set forth in this subsection (p) (Sections 3-5 and 3-30 of the Act);
- q) through June 30, 2003, *sales of oil field exploration, drilling and production equipment and individual replacement parts*, in accordance with the provisions of 86 Ill. Adm. Code 130.345, which are effective as if fully set forth in this subsection (q) (Section 3-5(10) of the Act);
- r) through June 30, 2003, *sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment and repair parts*, in accordance with the provisions of 86 Ill. Adm. Code 130.350, which are effective as if fully set forth in this subsection (r) (Section 3-5(12) of the Act);
- s) *a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at*

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*the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce, in accordance with the provisions of 86 Ill. Adm. Code 130.340, which are effective as if fully set forth in this subsection (s). ~~Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Sections 2(d) and 2d of the Act);~~*

- t) *a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce, in accordance with the provisions of 86 Ill. Adm. Code 130.340, which are effective as if fully set forth in this subsection (t). ~~Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Sections 2(d) and 2d of the Act);~~*
- u) *through June 30, 2003, the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale (Section 2(f) of the Act);*
- v) *sales by teacher-sponsored student organizations affiliated with Illinois elementary and secondary schools, in accordance with the provisions of 86 Ill. Adm. Code 130.2006, which are effective as if fully set forth in this subsection*

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- (v) (Section 3-5(6) of the Act);
- w) *sales of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States or any foreign country and bullion*, which shall mean gold, silver or platinum in a bulk state with a purity of not less than 980 parts per 1,000. In no circumstance shall items sold as jewelry or mounted for wear as jewelry qualify for this exemption (Section 3-5(4) of the Act);
- x) sales of modified or custom software are exempt. Sales of canned software in a service transaction are subject to tax. Computer software means all types of software including operational, applicational, utilities, compilers, templates, shells and all other forms. Software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail or transfer of canned software intended for general or repeated use is taxable, including the sale of software which is subject to manufacturer licenses restricting the use or reproduction of the software. Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates and maintenance of software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of software. For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.1935 are effective as if fully set forth in this subsection (x);
- y) *sales of semen used for artificial insemination of livestock for direct agricultural production*. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(14) of the Act);
- z) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification*

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*number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased for donation, and a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(18) of the Act);*

- aa) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(19) of the Act);*
- bb) *beginning July 20, 1999, game or game birds purchased incident to a sale of service at:*
- 1) *a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS*

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5/3.27]),

- 2) *an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or*
  - 3) *a hunting enclosure approved through rules adopted by the Department of Natural Resources (Section 3-5 of the Act);*
- cc) *fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers (Section 3-5(8) of the Act);*
- dd) *proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed (Section 3-5(9) of the Act);*
- ee) *photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, as photoprocessing is defined in Section 3-15 of the Act, and including photoprocessing machinery and equipment purchased for lease (Section 3-5(11) of the Act);*
- ff) *until May 31, 2000, horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes (Section 3-5(15) of the Act);*
- gg) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act in accordance with the provisions of 86*

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Ill. Adm. Code 130.2011, which are effective as fully as if set forth in this subsection (gg) (Section 3-5(16) of the Act);

- hh) effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, *personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act*, in accordance with the provisions of 86 Ill. Adm. Code 130.2012, which are effective as fully as if set forth in this subsection (hh) (Section 3-5(17) of the Act);
- ii) through June 30, 2003, *aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code*, in accordance with the provisions of 86 Ill. Adm. Code 130.351, which are effective as fully as if set forth in this subsection (ii) (Section 3-7 of the Act);
- jj) effective August 20, 1999, *sales of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, a "corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.* (Section 3-5 of the Act) Exemption certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes

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(see 86 Ill. Adm. Code 130.2005), such entity's tax exemption identification number, and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and made available to the Department for inspection or audit;

- kk) *food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicine, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [210 ILCS 45] (Section 3-5(13) of the Act);*
- ll) *beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (ll) does not apply to fundraising events:*
- 1) *for the benefit of private home instruction; or*
  - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity (Section 3-5 of the Act). For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.2009 are effective as if fully set forth in this subsection (ll);*
- mm) *of jet fuel and petroleum products sold to and used in the conduct of the business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act [20 ILCS 655], provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [220 ILCS 5/9-222.1] (Section 12 of the Act, referencing Section 1j.1 of the Retailers' Occupation Tax*

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Act, 35 ILCS 120/1j.1). High impact service facilities qualifying under the Act and seeking the exemption for such jet fuel and petroleum products shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemption for jet fuel and petroleum products described in this subsection. *The certification of eligibility issued to the high impact service facility by the Department of Commerce and Community Affairs for exemption shall be presented by the high impact service facility to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted, together with a certification by the high impact service facility that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Retailers' Occupation Tax Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order.* (Section 1i of the Act) (Section 12 of the Act, referencing Section 1i of the Retailers' Occupation Tax Act [35 ILCS 120/li]);

- nn) *beginning January 1, 2000 through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines.* [35 ILCS 115/3-5 (23)] For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.332 are effective as if fully set forth in this subsection (nn).

(Source: Amended at 29 Ill. Reg. 1940, effective January 24, 2005)

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Rules, Definitions
- 2) Code Citation: 92 Ill. Adm. Code 1000
- 3) Section Number: 1000.70                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing Chapters 11, 2 and 3 of the Illinois Vehicle Code [625 ILCS 5/Ch. 11, 2 and 3] and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)]
- 5) Effective Date of Amendment: January 20, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in the Illinois Register: June 18, 2004; 28 Ill. Reg. 8448
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: All nonsubstantive changes recommended by JCAR were made. There were no substantive changes made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were made.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment regarding the application and testing procedures for Investigator Sergeants for Secretary of State Police removes the definition of "command personnel" and makes subsequent changes to the required panel members for oral interviews.
- 16) Information and questions regarding this adopted amendment shall be directed to:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Secretary of State  
Robert Mueller, 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:

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## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1000  
GENERAL RULES, DEFINITIONS

Section	
1000.10	Definitions
1000.20	Appointment of Subordinates
1000.30	Reciprocity, Prorate and Forced Registration Review Board (Repealed)
1000.40	Offices of the Secretary of State
<a href="#">1000.41</a>	<a href="#">Voter Registration at Driver Services Facilities</a>
1000.50	Forms
1000.60	Certification of Copies of Records
1000.70	Department of Police
1000.80	Enforcement of the Illinois Vehicle Code (Repealed)
1000.90	Hearings (Repealed)
1000.110	Audits and Collections (Repealed)
1000.120	Audit Costs

AUTHORITY: Implementing Chapters 11, 3 and 3 of the Illinois Vehicle Code [625 ILCS 5/Ch. 11, 2 and 3] and authorized by 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed and effective December 15, 1970; amended at 6 Ill. Reg. 2239, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 7152, effective May 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11067, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amendment at 6 Ill. Reg. 15040, effective December 1, 1982; amended at 7 Ill. Reg. 13677, effective October 14, 1983; amended at 8 Ill. Reg. 5353, effective April 6, 1984; amended at 9 Ill. Reg. 2326, effective February 1, 1985; amended at 13 Ill. Reg. 5185, effective April 1, 1989; amended at 13 Ill. Reg. 11844, effective July 1, 1989; emergency amendment at 24 Ill. Reg. 1681, effective January 14, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6950, effective April 24, 2000; emergency amendment at 25 Ill. Reg. 9376, effective July 1, 2001, for maximum of 150 days; emergency expired November 27, 2001; amended at 26 Ill. Reg. 12040, effective July 19, 2002; amended at 29 Ill. Reg. 1960, effective January 20, 2005.

**Section 1000.70 Department of Police**

- a) The investigators authorized pursuant to Section 2-115 of the Illinois Vehicle Code [625 ILCS 5/2-115] shall be appointed by the Secretary and organized into

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the Department of Police.

- b) The Department of Police, which is headquartered in Springfield, Illinois, shall have District headquarters throughout Illinois to enable the Department to best distribute its supervisory responsibilities and work load.
- c) The employees of the Department of Police shall be subject to the Secretary of State Merit Employment Code [15 ILCS 310]; the Office of the Secretary of State's rules entitled Department of Personnel (~~80 Ill. Adm. Code 420~~); and the Department of Police General Orders. Where there is conflict between the policies of the Office and the General Orders of Police, the Office policies shall prevail. All employees and applicants of the Department of Police shall be subject to a background check conducted by the Department of Police and an interview conducted by the Department of Police to determine if the applicant is qualified to perform the job duties.
- d) Sworn personnel
  - 1) Sworn personnel shall mean the peace officers within the Department of Police.
  - 2) The grades of sworn personnel, from lowest to highest, shall be Investigator Trainee, Investigator, Investigator Sergeant, Investigator Lieutenant, and Investigator Commander. Position descriptions for these employees shall be established by the Department of Personnel in accordance with Section 10a of the Secretary of State Merit Employment Code and 80 Ill. Adm. Code 420.210.
  - 3) Application and Testing Procedures for Investigators and Investigator Trainees. Any applicant for the position of Investigator or Investigator Trainee must complete or pass successfully each of the following application procedures before proceeding to the next procedure.
    - A) The filing of the standard personnel form application.
    - B) A written entrance examination developed for police officers with general testing areas including, but not limited to, mathematics, logic, reading comprehension, scoring the highest score among the potential applicants.

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- C) A physical ability test, consistent with the physical ability standards set forth by the Illinois Law Enforcement Illinois Police Officer Training and Standards Board (~~f~~20 Ill. Adm. Code 1720.20.Appendix A)} prior to the entrance into any of the Illinois certified basic police academies.
- D) A background investigation conducted by the Department of Police to determine if the applicant has any criminal convictions and to verify that all information contained in the applicant's application is true and accurate.
- E) A medical and a psychological examination using standard criteria.
- F) An oral interview conducted by a panel of sworn officers of the Department in the grade of at least Investigator Sergeant to determine the applicant's qualifications and suitability for employment in the Department of Police.
- 4) Veterans preference points in accordance with 80 Ill. Adm. Code 420.300 will be given to persons who are honorably discharged from any armed force of the United States or any state~~State~~ National Guard.
- 5) Each person newly hired into the Department as an Investigator Trainee shall have a 9 month training period (80 Ill. Adm. Code 420.320). Upon successful completion of the training period, that person shall be promoted to an Investigator position and shall serve a 3 month probationary period (80 Ill. Adm. Code 420.360).
- 6) Applicants may submit their applications for consideration whenever a vacancy occurs.
- 7) Each person newly hired into the Department as an Investigator shall have a 6 months probationary period as defined in 80 Ill. Adm. Code 420.130.
- 8) Application and Testing Procedures for Investigator Sergeants. Any applicant for the position of Investigator Sergeant must complete or successfully pass the following application procedure:
- A) The filing of the standard personnel application form with the Department of Personnel with a copy to the Department of Police.

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- B) A written examination for Investigator Sergeants.
- C) An oral interview conducted by a panel of [sworn officers of the Department in the grade of at least Investigator Sergeant, command personnel](#) appointed by the Director to determine the applicant's qualifications and suitability for promotion to the rank of Investigator Sergeant.

~~9) For purposes of this subsection (d), the term "command personnel" shall include the Director, Chief Deputy Director, Deputy Directors and Administrators of the Personnel and Finance Management Section of the Department of Police.~~

- e) Miscellaneous provisions pertaining to the Department of Police
  - 1) The Department of Police shall collect a storage fee in the amount of \$5.00 per day from any person or entity owning a vehicle which is stored on Secretary of State property for any reason. Such fees shall be deposited in the Road Fund.
  - 2) The Department of Police, to implement Section 3-308 of the Illinois Vehicle Code, shall operate inspection stations at various locations throughout Illinois as the workload of inspecting rebuilt and salvage vehicles requires.

(Source: Amended at 29 Ill. Reg. 1960, effective January 20, 2005)

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## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Collection of Fees
- 2) Code Citation: 92 Ill. Adm. Code 1003
- 3) Section Number: 1003.40                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/2-124,3-824, 2-101 and 2-104]
- 5) Effective Date of Amendment: January 20, 2005
- 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 Proposed Published in the Illinois Register: July 2, 2004; 28 Ill. Reg. 9046
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: No substantive changes made between proposal and adoption. All nonsubstantive 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? No agreements were made.
- 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 Amendment: This amendment will update the fees imposed by the Secretary of State for International Registration Plan (I.R.P.) audits conducted within the State of Illinois due to changes made to the Illinois Vehicle Code by Senate Bill 1903 (PA 93-32) of the 93<sup>rd</sup> General Assembly.
- 16) Information and questions regarding this adopted amendment shall be directed to:

SECRETARY OF STATE

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:

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## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1003  
COLLECTION OF FEES

Section	
1003.10	Definitions
1003.20	Collection and Refund
1003.30	Collection of All Motor Vehicle Fees
1003.40	Audits for Truck License Fees
1003.50	Use of State Comptroller's Offset Authority
1003.60	Bankruptcy Discharge of Fees
1003.70	Invalidity

AUTHORITY: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/2-124, 3-824, 2-101 and 2-104].

SOURCE: Adopted at 12 Ill. Reg. 14719, effective September 15, 1988; amended at 13 Ill. Reg. 7048, effective May 1, 1989; amended at 29 Ill. Reg. 1966, effective January 20, 2005.

**Section 1003.40 Audits for Truck License Fees**

- a) All licensees selected by the Department of Accounting Revenue for auditing shall be notified by letter sent by regular mail of the purpose of the audit, the date and location of the audit, the years of licensing to be examined, the records required to be provided for the auditor, and the consequences of non-appearance for the audit (to include assessments at 100% of miles run), suspension of all registration plates and stickers, and collection action filed by the Attorney General of Illinois in the Circuit Court of venue.
- b) The provisions of Section 2-124 of the Act shall apply to all audits.
- c) Illinois based truck licensees shall produce their records and be audited at the Chicago or Springfield, Illinois, offices of the Department of Accounting Revenue. Illinois based truck licensees who fail to appear for a scheduled audit meeting, and who request another appointment for auditing shall report to the Chicago or Springfield offices, whichever is closest to the licensee's office. Requests for reaudits for which 100% assessments have been applied must be

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submitted to the Department of Accounting Revenue before the 30 day notice provided for in Section 2-124(h) and (j) of the Act has expired.

- d) No costs shall be assessed against a licensee for audits conducted at Secretary of State offices, as provided in Section 2-124(d) of the Act.
- e) For Illinois based International Registration Plan (I.R.P.) audits conducted within the State of Illinois except as subsection (d) above, an audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor shall be assessed if an assessment is found to be due and owing the State of Illinois or any I.R.P. jurisdiction. In the case of an audit of an Illinois based International Registration Plan licensee that takes place outside the State of Illinois, transportation costs incurred, such as: airplane, automobile, train, car rental, taxi, etc., shall be assessed in addition to the audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor, and will be assessed regardless of the amount of the assessment or if any assessment is made. The cost of personal or state owned automobile usage shall be equivalent to the reimbursement mileage rate as provided by the State of Illinois travel rules (80 Ill. Adm. Code 3000). If more than one licensee is audited on a single trip, the transportation costs shall be apportioned between the companies based on the amount of time spent at each company.
- f) For audits of non-Illinois based licensees that take place within the State of Illinois except as subsection (d) above, an audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor shall be assessed if any assessment is found to be due and owing the State of Illinois. In the case of an audit of a non-Illinois based licensee that takes place outside the State of Illinois, transportation costs incurred such as: airplane, automobile, train, car rental, taxi, etc., shall be assessed in addition to the audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor if an assessment is found to be due and owing the State of Illinois. The cost of personal or state owned automobile usage shall be equivalent to the reimbursement mileage rate as provided by the State of Illinois travel rules (80 Ill. Adm. Code 3000). If more than the licensee is audited on a single trip, the transportation costs shall be apportioned between the companies based on the amount of time spent at each company.
- g) No charge shall be assessed for an auditor trainee being trained on the job by an auditor. If an auditor trainee performs an audit, the audit fee of ~~\$100~~~~\$50.00~~ per day or ~~\$50~~~~\$25.00~~ per half day per auditor shall be assessed.
- h) A notice of any deficit and the amount of money owed to the Secretary of State

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shall be sent by regular mail to the truck licensee. Payment is due within 30 calendar days ~~after~~ the date of the written notice or the registration plates shall be suspended, unless a hearing is requested, in accordance with Section 2-124(i) of the Act.

- i) The rules at 92 Ill. Adm. Code 1001.Subpart A shall apply to any hearing requested by a truck licensee pursuant to Section 2-124(j) of the Act.

(Source: Amended at 29 Ill. Reg. 1966, effective January 20, 2005)

## SEX OFFENDER MANAGEMENT BOARD

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Sex Offender Management Board Standards and Guidelines for the Evaluation, Treatment and Monitoring of Adult Sex Offenders
- 2) Code Citation: 20 Ill. Adm. Code 1900
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :	
1900.10	Repealed	
	1900.20	Repealed
1900.30	Repealed	
1900.40	Repealed	
1900.50	Repealed	
1900.60	Repealed	
1900.70	Repealed	
1900.80	Repealed	
1900.90	Repealed	
1900.100	Repealed	
1900.110	Repealed	
1900.120	Repealed	
1900.130	Repealed	
1900.140	Repealed	
1900.150	Repealed	
1900.160	Repealed	
1900.170	Repealed	
1900.180	Repealed	
1900.190	Repealed	
- 4) Statutory Authority: Sex Offender Management Board Act [20 ILCS 4026], amended by P.A 93-616, effective January 1, 2004
- 5) Effective Date of Repealer: January 24, 2005
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposed Repealer published in Illinois Register: June 11, 2004; 28 Ill. Reg. 7898

## SEX OFFENDER MANAGEMENT BOARD

## NOTICE OF ADOPTED REPEALER

- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? There were no agreed changes.
- 13) Will this repealer replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of Repealer: Part 1900 established, on an advisory basis, standards for the conduct of evaluations and treatment of sex offenders and qualifications for evaluators and treatment providers. With the enactment of Public Act 93-616, evaluators and treatment providers became required to meet the Board's qualifications and standards for the conduct of evaluations and the provision of treatment, which led the Board to review, modify and replace the recommended standards. The recommended standards are repealed so as to avoid confusion with respect to the nature of the requirements that apply to evaluations and treatment that satisfy the requirements of Public Act 93-616.
- 16) Information and questions regarding this repealer shall be directed to:

Cara Smith, Chair  
Sex Offender Management Board  
James R. Thompson Center, 12<sup>th</sup> Floor  
100 W. Randolph Street  
Chicago IL 60601  
312/814-2970

## SEX OFFENDER MANAGEMENT BOARD

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Interim Sex Offender Evaluations and Treatment
- 2) Code Citation: 20 Ill. Adm. Code 1905
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1905.10	New
1905.20	New
1905.30	New
1905.40	New
1905.50	New
1905.60	New
1905.70	New
1905.80	New
1905.100	New
1905.110	New
1905.120	New
1905.130	New
1905.140	New
1905.200	New
1905.210	New
1905.220	New
1905.230	New
1905.240	New
1905.250	New
1905.300	New
1905.310	New
1905.320	New
- 4) Statutory Authority: 20 ILCS 4026/15
- 5) Effective date of Rules: January 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including material incorporated by reference, is on file and is available for public inspection in office of the Board's chair, which is located in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).

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## NOTICE OF ADOPTED RULES

- 9) Notice of Proposal published in Illinois Register: June 11, 2004; 28 Ill. Reg. 7900
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: In the three sections establishing interim qualifications for providers (Sections 1905.50 through 1905.70), a more specific statement of the type of degree required was substituted for the requirement of a degree in "behavioral science." Numerous, non-substantive, stylistic changes and corrections were also 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 amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: The purpose of this rulemaking was to implement various requirements of Public Act 93-616. The act amended the Sex Offender Management Board Act and several other statutes to require not only that convicted adult felony sex offenders and juvenile sex offenders undergo sex offender evaluations and treatment at various stages of the criminal justice processes (e.g., evaluations before sentencing and before release into the community, and treatment as a condition of probation or conditional release), but also to require that evaluation and treatment be provided by persons approved by the Board and in conformance with standards adopted by the Board. In addition, Public Act 93-616 required that certain examinations and treatment required by pre-existing statutes relating to sexually violent or sexually dangerous persons also be conducted by persons approved by the Board and in conformance with standards adopted by the Board. With this rulemaking the Board adopts interim standards and procedures for the approval of evaluators and treatment providers and for the provision of evaluations and treatment that will be in effect until July 1, 2005.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Cara Smith, Chair  
Sex Offender Management Board  
James R. Thompson Center, 12<sup>th</sup> Floor  
100 W. Randolph Street  
Chicago IL 60601

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312/814-2970

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

SEX OFFENDER MANAGEMENT BOARD

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT  
CHAPTER VII: SEX OFFENDER MANAGEMENT BOARD

PART 1905  
INTERIM SEX OFFENDER EVALUATION AND TREATMENT

SUBPART A: GENERAL

Section  
1905.10 Purpose and Scope  
1905.20 Definitions

SUBPART B: PROVIDER LIST AND QUALIFICATIONS

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1905.40 General Requirements for Approval of Evaluators and Providers  
1905.50 Interim Qualifications for Provision of Evaluations Before Sentencing  
1905.60 Interim Qualifications for Provision of Pre-release and SVP Evaluations  
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SUBPART C: APPROVAL AND REMOVAL PROCEDURES

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SUBPART D: INTERIM STANDARDS OF PRACTICE

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1905.220 Release of Information and Confidentiality  
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1905.310 Treatment Provider Client Written Treatment Agreement  
1905.320 Completion of Treatment

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**AUTHORITY:** Authorized by Sec. 15 of the Sex Offender Management Board Act [20 ILCS 4026/15] and implementing Sections 15-18 of the Act; Sections 5-701 and 5-715(3.10) of the Juvenile Court Act of 1987 [705 ILCS 405/5-701 and 5-715(3.10)]; Section 8 of the Sexually Dangerous Persons Act [725 ILCS 205/8]; Sections 10(c)(2), 25(e), 30(c), 40(b)(1), 55(b), 60(c), and 65(a)(2) and (b)(2) of the Sexually Violent Persons Commitment Act [725 ILCS 207/10(c)(2), 25(e), 30(c), 40(b)(1), 55(b), 60(c), and 65(a)(2) and (b)(2)]; and Sections 3-3-7(a)(7.5), 3-6-2(j) and (k), 3-9-7(b), 5-3-2(b-5), 5-6-3(a)(8.5) and 5-7-1(f-5) of the Unified Code of Corrections [730 ILCS 5/3-3-7(a)(7.5), 3-6-2(j) and (k), 3-9-7(b), 5-3-2(b-5), 5-6-3(a)(8.5) and 5-7-1(f-5)].

**SOURCE:** Adopted by emergency rulemaking at 28 Ill. Reg. 8300, effective May 27, 2004, for a maximum of 150 days; emergency expired October 23, 2004; adopted at 29 Ill. Reg. 1973, effective January 24, 2005.

## SUBPART A: GENERAL

**Section 1905.10 Purpose and Scope**

Effective January 1, 2004, the Sex Offender Management Board Act [20 ILCS 4026] and various other statutes provide for the evaluation and/or treatment of convicted sex offenders in conformance with standards adopted by, and by persons approved by, the Sex Offender Management Board. This Part establishes requirements for evaluators and treatment providers to obtain Board approval to perform those functions through July 1, 2005. It also establishes standards for conducting evaluations of, and providing treatment to, sex offenders in all circumstances where conformance with Board standards is required through July 1, 2005.

**Section 1905.20 Definitions**

In this Part, the terms "Board," "sex offender," "sex offense," "management," and "sexually motivated" have the meanings ascribed to them in Section 10 of the Act. In addition, the following definitions apply:

"Accountability": Accurate attributions of responsibility, without distortion, minimization, or denial.

"Act": Sex Offender Management Board Act [20 ILCS 4026].

"Behavioral monitoring": A variety of methods for checking, regulating, and supervising the behavior of sex offenders.

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"Case management": The coordination and implementation of the cluster of activities directed toward supervising, treating, and managing the behavior of individual sex offenders. (See the definition of containment approach.)

"Containment approach": A method of case management and treatment that seeks to hold offenders accountable through the combined use of both offenders' internal controls and external control measures (such as the use of polygraph and relapse prevention plans). A containment approach requires the integration of a collection of attitudes, expectations, laws, policies, procedures, and practices that have clearly been designed to work together. This approach is implemented through interagency and interdisciplinary teamwork.

"Containment team": A group comprising, at a minimum, a sex offender's supervising officer, and treatment provider and utilizing the containment approach. Team members may change over time as issues develop regarding treatment and supervision.

"Defense mechanisms": Normal, adaptive, self-protective functions that keep human beings from feeling overwhelmed and/or becoming psychotic, but which become dysfunctional when overused or overgeneralized.

"Denial": As used in Subpart D of this Part, a defense mechanism used to protect the ego from anxiety-producing information.

"Evaluation": The systematic collection and analysis of psychological, behavioral, and social information; the process by which information is gathered, analyzed, and documented.

"Experience": Any activity directly related to providing evaluation and/or treatment to individual sex offenders, e.g., face-to-face therapy, report writing, administration, scoring, and interpretation of tests; participation on containment teams of the type described in this Part; and clinical supervision of therapists treating sex offenders.

"Informed assent": Compliance; a declaration of willingness to do something in compliance with a request; acquiescence; agreement. The use of the term "assent" rather than "consent" in this Part recognizes that sex offenders are not voluntary clients, and that their choices are therefore more limited. Informed means that a

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person's assent is based on a full disclosure of the facts needed to make the decision intelligently, e.g., knowledge of risks involved, alternatives.

"Informed consent": "Consent" means voluntary agreement or approval to do something in compliance with a request. "Informed" means that a person's consent is based on a full disclosure of the facts needed to make the decision intelligently, e.g., knowledge of risks involved, alternatives.

"Non-deceptive polygraph examination result": A non-deceptive polygraph examination result must include a deceptive response to control questions. Any inconclusive or deceptive response to any relevant question disallows a non-deceptive examination result.

"Parole": Parole or mandatory supervised release.

"Polygraph": The employment of instrumentation, as defined by the Illinois Detection of Deception Examiners Act [225 ILCS 430], used for the purpose of detecting deception or verifying truth of statements of a person under criminal justice supervision and/or treatment for the commission of sex offenses. A clinical polygraph examination is specifically intended to assist in the treatment and supervision of convicted sex offenders. Clinical polygraphs include specific-issue, disclosure and periodic or maintenance examinations. Clinical polygraphs may also be referred to as post-conviction polygraphs.

"Professional license": A license issued by a State governmental body to practice a particular health or mental health profession.

"Sex offense specific": Relating to the problem of sexual offense behavior.

"Sexually violent person": As defined in Section 5 of the Sexually Violent Persons Commitment Act [725 ILCS 207/5].

"Supervising officer": The probation or parole officers are responsible for the behavioral monitoring of sex offenders. In addition, any person employed by the Department of Human Services or by an entity that contracted with the Department of Human Services to supervise sexually violent persons on conditional release.

"SVP": Sexually violent person or persons, depending on the context.

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"Treatment": Therapy, monitoring and supervision of a sex offender.

## SUBPART B: PROVIDER LIST AND QUALIFICATIONS

**Section 1905.30 Interim Provider List**

The Board will establish an interim approved provider list upon which will be placed the names of all individuals who are approved by the Board to provide evaluations and treatment of sex offenders through July 1, 2005, along with the category of the services the providers are approved to provide (e.g., pre-sentence or pre-release evaluations). Providers will be placed on the list if they complete the application process described in Section 1905.100, meet the general requirements of Section 1905.40, and meet the specific qualifications and requirements that correspond to the designation sought.

- a) Individuals who meet the qualifications of Section 1905.50 will be approved for conducting pre-sentencing evaluations to meet the requirements for evaluations of:
  - 1) felony sex offenders who are to be considered for probation, pursuant to Section 16(b) of the Act (adult or juvenile),
  - 2) any adult who is being considered for probation before sentencing on a felony sex offense or any felony offense that is sexually motivated, pursuant to 730 ILCS 5/5-3-2(b-5) and 5-3-1, and
  - 3) a minor found guilty of a sex offense, pursuant to 705 ILCS 405/5-701.
- b) Individuals who meet the qualifications of Section 1905.60 will be approved for conducting evaluations to meet the requirements for evaluations of:
  - 1) every person convicted of a sex offense, prior to release into the community from the Department of Corrections, pursuant to 730 ILCS 5/5-4-1(e)(3.5);
  - 2) any person as required in Section 5 of the Sexually Violent Persons Commitment Act [725 ILCS 207/5].
- c) Individuals who meet the qualifications of Section 1905.70 will be approved to provide sex offender treatment to any person, adult or juvenile, who is required to undergo treatment from a provider approved by the Board.

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- d) An individual who is approved to conduct pre-sentencing evaluations under subsection (a) is also approved to conduct the evaluations listed under subsection (b).

**Section 1905.40 General Requirements for Approval of Evaluators and Providers**

- a) Sex offender evaluators and treatment providers will not be eligible for Board approval if they have ever:
  - 1) been convicted of any felony;
  - 2) been convicted of any misdemeanor involving a sex offense;
  - 3) had a professional license placed on inactive status, suspended, revoked, non-renewed, or placed on probationary status for disciplinary reasons, unless the applicant has been restored to full practice rights;
  - 4) been found by any licensing body to have engaged in unethical or unprofessional conduct, unless the applicant has been restored to full practice rights; or
  - 5) been engaged in deceit or fraud in connection with the delivery of services, supervision, or the documentation of their credentials.
- b) A provider must continue to maintain eligibility under this Section in order to remain on the approved provider list and has a continuing duty to notify the Board should he or she ever become disqualified under this Section.

**Section 1905.50 Interim Qualifications for Provision of Evaluations Before Sentencing**

In order to be approved to provide pre-sentence evaluations as described in Section 1905.30(a), an applicant must:

- a) hold a bachelor's degree or higher in social work, psychology, marriage and family therapy, counseling, psychiatry, or other coursework within which degree the applicant can verify successful completion of coursework in assessment, social problems, abnormal psychology, counseling skills, or similar therapeutic discipline;

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- b) have 400 hours of supervised experience in the treatment/evaluation of sex offenders in the last 4 years, at least 200 of which are face-to-face therapy/evaluation with sex offenders;
- c) have completed at least 10 sex offender evaluations under supervision in the past 4 years; and
- d) have at least 40 hours of documented training in the specialty of sex offender evaluation/treatment/management.

**Section 1905.60 Interim Qualifications for Provision of Pre-release and SVP Evaluations**

In order to be approved to provide pre-release and SVP evaluations as described in Section 1905.30(b), an applicant must:

- a) hold a bachelor's degree or higher in social work, psychology, marriage and family therapy, counseling, psychiatry, or other coursework within which degree the applicant can verify successful completion of coursework in assessment, social problems, abnormal psychology, counseling skills, or similar therapeutic discipline;
- b) have 400 hours experience with forensic clients within the past 4 years; and
- c) have at least 20 hours of documented training in the specialty of sex offender evaluation/treatment/management or will work under the supervision of a provider who has undergone 40 hours of documented training and 400 hours experience in sex offender evaluation/treatment/management.

**Section 1905.70 Interim Qualifications for Treatment Providers**

In order to be approved to provide sex offender treatment, an applicant must:

- a) hold a bachelor's degree or higher in social work, psychology, marriage and family therapy, counseling, psychiatry, or other coursework within which degree the applicant can verify successful completion of coursework in assessment, social problems, abnormal psychology, counseling skills, or similar therapeutic discipline;
- b) have 400 hours of supervised experience in the treatment of sex offenders in the last 4 years, at least 200 of which are face-to-face therapy with sex offenders; and

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- c) have at least 40 hours documented training in the specialty of sex offender assessment/treatment/management.

**Section 1905.80 Supervision by Approved Providers**

Wherever this Subpart conditions eligibility for placement on the interim provider list upon the applicant's having attained a specified level of supervised experience of any type (Sections 1905.50(b) and (c) and 1905.70(b) of this Part), any qualifying experience attained after January 1, 2004 must have been directly supervised (in-room supervision) by a provider on the Board's interim provider list for the activities for which approval is sought by the applicant.

- a) Notwithstanding a requirement for supervised experience, qualifying experience attained prior to January 1, 2004 need not have been supervised.
- b) If the qualifying experience was attained outside of Illinois after January 1, 2004, the experience must have been supervised by a provider who would have been eligible for Board approval for the appropriate purpose if practicing in Illinois.

## SUBPART C: APPROVAL AND REMOVAL PROCEDURES

**Section 1905.100 Application**

A provider seeking placement on the interim approved provider list must complete and submit to the Board an application form provided by the Board that contains the elements prescribed in this Section and identifies the services for which the provider seeks approval. The elements of the application include:

- a) provider identification, including name and business address, telephone number, fax number, and e-mail address;
- b) a listing of the counties in which the applicant provides services;
- c) a listing of any and all currently held licenses or certifications;
- d) identification of any languages other than English in which the applicant is fluent and can provide services (optional);
- e) the applicant's separate attestations that none of the bars to eligibility listed in Section 1905.40 of this Part apply;

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- f) separate attestations that the applicant meets each of the qualifications applicable to the types of approval sought;
- g) an agreement that the applicant will conduct sex offender evaluations and provide sex offender treatment in accordance with the requirements of Subpart D of this Part;
- h) attestation that the applicant's placement on the interim provider list will expire no later than July 1, 2005;
- i) attestation that the applicant's submission of false information will result in removal from the approved provider list; and
- j) an agreement to notify the Board immediately if the provider becomes ineligible under Section 1905.40 of this Part.

**Section 1905.110 Application Review and Approval**

Submitted applications will be referred to an application review committee, appointed by the Board, for review and approval.

- a) The committee will consist of no fewer than three members, including at least one sex offense specific treatment provider, one sex offense specific evaluator, and one victim advocate.
- b) No committee member holding a personal or financial interest in an application before the committee shall participate in the deliberation or voting on approval of the application.
- c) The committee shall review the application and, within 45 days after receipt of the application, shall either:
  - 1) if it appears to the committee that all requirements for the type of approval applied for are met, direct that the applicant's name be added to the interim approved provider list and notify the applicant; or
  - 2) if deficiencies are found in the application, notify the applicant of the deficiencies in writing. An application may be resubmitted after the deficiencies have been corrected.

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**Section 1905.120 Appeal of Application Denial**

An applicant whose application for placement on the interim approved provider list is denied may appeal the decision of the application review committee by requesting review by the Board.

- a) The request must be made in a writing that is received by the Board within 30 days after the denial was mailed to the business address supplied by the applicant.
- b) The applicant must submit with the appeal all documentation necessary and available to support placement on the list.
- c) Copies of the appeal, including supporting documentation, will be provided to each Board member, and the appeal shall be considered on the next regularly scheduled meeting of the Board held more than two weeks after receipt of the appeal.
- d) The vote of the Board shall be final, and the Board will notify the applicant of the result within two weeks after the Board's action.
- e) Individuals whose applications have been denied may re-apply at such time that the circumstances leading to the original denial of placement on the interim approved provider list have substantively changed.

**Section 1905.130 Removal from Provider List**

The Board may rescind its approval of a person on the interim approved provider list for any of the reasons listed in this Section.

- a) The provider was not, in fact, qualified for placement on the list at the time of application, but was placed on the list on the basis of false or erroneous information provided with the application.
- b) Circumstances of the provider have changed such that the provider is no longer eligible for placement on the list under Section 1905.40 of this Part.
- c) The provider has substantially failed to follow the agreement to conduct evaluations and provide treatment to sex offenders in accordance with the requirements of Subpart D of this Part. For purposes of this Section, a substantial failure is one that is detrimental to the patient or the community.

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- d) If such an action is taken, the Board will inform any regulatory body with jurisdiction over the provider's professional license, if any.

**Section 1905.140 Complaints Against Providers**

Should any person have reason to believe that the Board's approval of a provider should be rescinded, the person may submit the concern to the Board in writing together with any available documentation. Complaints will be reviewed in accordance with the procedure set forth in this Section.

- a) The Board will refer the complaint to a committee it empowers for that purpose, and the committee will make a determination of whether the complaint alleges cause to rescind approval under Section 1905.130 of this Part. The Board will notify the provider in question of receipt of a complaint and its nature and, if the complaint does allege cause to rescind, will request a written response from the provider within 30 days after receipt of the notice.
- b) The committee shall review all information presented and determine whether the provider shall remain approved or whether approval shall be rescinded. The committee shall provide written notification of the decision, including the rationale, to the provider and the complainant within 30 days after the committee's receipt of the provider's response or, if there is no response, within 30 days after the committee's notification to the provider.
- c) If the committee rescinds approval, it shall instruct the provider as to the circumstances under which the provider may be reinstated.
- d) For 35 days after the committee notifies the provider, the provider may appeal to the Board the decision of the subcommittee to rescind approval. On appeal, the pertinent documentation shall be provided to the full Board for review at the next regularly scheduled meeting of the Board held more than 30 days after receipt of the appeal. The provider shall have an opportunity to appear before the Board with respect to the appeal or, if unable to attend the meeting at which the matter is to be considered, to submit a statement to the Board. The provider shall be notified in writing of the decision of the Board within 30 days after Board consideration is complete.
- e) The decision of the full Board shall be final.

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## SUBPART D: INTERIM STANDARDS OF PRACTICE

**Section 1905.200 Scope**

This Subpart prescribes interim standards for the conduct of evaluations of, and the provision of treatment to, sex offenders in whatever circumstances require that the services be provided in accordance with standards adopted by the Board under the Act.

**Section 1905.210 Ethical Standards**

All providers of sex offender evaluations or treatment under this Part are to adhere to the Ethical Principles in the Professional Code of Ethics (2001 Edition) published by the Association for the Treatment of Sexual Abusers (ATSA) (4900 S.W. Griffith Drive, Suite 274, Beaverton, Oregon 97005; Web: [www.atsa.com](http://www.atsa.com)). A copy of the Code is available at the office of the Chair of the Board (in the Office of the Attorney General, 100 W. Randolph St., 11<sup>th</sup> Floor, Chicago, Illinois 60601) or on the Board's Web site at <http://www.illinoisattorneygeneral.gov/communities/somb>. This incorporation by reference does not include any later amendments or editions.

**Section 1905.220 Release of Information and Confidentiality**

- a) Prior to evaluating or accepting a sex offender into treatment, the provider shall obtain from, and with the informed consent of, the offender a signed release that, subject to the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110], allows the provider to share the offender's confidential information with:
  - 1) all therapists treating the sex offender;
  - 2) when indicated, the victim's therapist;
  - 3) the supervising officer and all members of the team and, if applicable, with the Department of Human Services and other individuals or agencies responsible for the supervision of the sex offender;
  - 4) when indicated, the victim or custodial parent or guardian of a child victim, particularly with regard to family reunification or the sex offender's compliance with treatment and information about risk, threats, and possible escalation of violence; and

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- 5) when indicated, the victim's guardian ad litem, advocate, guardian, caseworker or other professional involved in care or treatment of the victim regarding reunification of the family or contact with past or potential child victims.
- b) Information received pursuant to a release under this Section shall be kept confidential except to the extent the release allows the information to be shared.
- c) A provider shall notify all clients of the limits of confidentiality imposed on therapists by the Abused and Neglected Child Reporting Act [325 ILCS 5].
- d) A provider shall ensure that a sex offender understands the scope and limits of confidentiality in the context of his/her particular situation, including the collection of collateral information, which may or may not be confidential.

**Section 1905.230 General Standards for Conducting Evaluations**

- a) Sex offender evaluations are to be comprehensive and sex offense-specific. They are to be designed to achieve the following purposes:
  - 1) To document the offense-specific and/or mental health treatment needs identified by the evaluation (even if resources are not available to address adequately the treatment needs of the sexually abusive offender);
  - 2) To provide a written clinical evaluation of a sex offender's risk for re-offending and current amenability to treatment;
  - 3) To guide and direct specific recommendations for the conditions of treatment and supervision of a sex offender;
  - 4) To provide information that will help to identify the optimal setting, intensity of intervention, and level of supervision; and
  - 5) To provide information that will help to identify sex offenders who should not be referred for community-based treatment.
- b) The evaluator must obtain the offender's informed assent to the evaluation and shall inform the offender regarding the evaluation methods, how the information will be used, and to whom it will be given. The evaluator shall respect a sex

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offender's right to be fully informed about the evaluation procedures. Results of the evaluation should be shared with the sex offender and any questions clarified.

- c) The evaluator shall be sensitive to any cultural, ethnic, developmental, sexual orientation, gender, medical and/or educational issues that may arise during the evaluation.
- d) Evaluations shall include:
  - 1) Examination of criminal justice information, including prior juvenile adjudications, the details of the current offense and documents that describe victim trauma, when available.
  - 2) Examination of collateral information, including information from other sources on the sex offender's sexual behavior.
  - 3) Review of child welfare investigations and case records, where applicable.
- e) In the case of a pre-sentence evaluation, the evaluator (if different from the treatment provider) shall provide complete information obtained in the course of the evaluation to the containment team or prison treatment provider at the beginning of the sex offender's term of supervision or incarceration.

**Section 1905.240 Elements of Comprehensive Sex Offense Specific Evaluations**

Pre-sentence evaluations must include the following elements using one or more of the listed possible evaluation procedures as clinically indicated:

- a) Evaluation of mental and/or organic disorders, including the areas of:
  - 1) IQ functioning (developmental disability, learning disability, and literacy), using history or functioning and/or standardized tests, examples of which include:
    - A) tests of non-verbal intelligence such as WAIS-III, WRAT-R, Revised Beta, TONI (tests of non-verbal intelligence)
    - B) Shipley Institute of Living Scale Revised, Kaufman IQ Test for Adults

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- 2) Organic Brain Syndrome (OBS), using history or functioning and/or standardized tests (Examples: WAIS-III, Weschler Memory Scale Revised, Limbic System Checklist, Structured Mental Status, Jacobs Cognitive Screening Test, medical tests necessary for diagnosis)
- 3) Mental illness, using:
  - A) History of Functioning and/or Structured Interview
  - B) MMPI2
  - C) MCMI-III
  - D) Beck Depression Scale
- b) Evaluation of drug/alcohol use, including the areas of:
  - 1) Use/abuse, using:
    - A) History of functioning and/or structured interview
    - B) MMPI2
    - C) CAQ (clinical analysis questionnaire)
    - D) PHQ (personal history questionnaire)
    - E) ADS
    - F) DAST-20
    - G) Adult substance use survey
    - H) Substance use history matrix
    - I) Collateral information
  - 2) Number of relapses, using:
    - A) History of functioning and/or structured interview

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- B) Treatment history
  - C) Collateral information
- c) Evaluation of degree of psychopathology, in particular the degree of impairment, using:
- 1) Hare Psychopathy Checklist Revised (PCLR or PCLSC)
  - 2) Structured interview
  - 3) MCMI-III
  - 4) MMPI2
  - 5) History
  - 6) Collateral information
- d) Evaluation of stability of functioning, including the areas of:
- 1) Marital/family stability
    - A) covering:
      - i) Past
      - ii) Current
      - iii) Familial violence
      - iv) Familial sexual
      - v) Financial
      - vi) Housing
    - B) using:

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- i) History of functioning and/or structured interview
  - ii) FES (Family Environment Scale)
  - iii) DAS (Dyadic Adjustment Scale)
  - iv) MSI (Marital Satisfaction Inventory)
  - v) SARA (Spousal Assault Risk Assessment)
  - vi) Interview attitudes
  - vii) Collateral information
- 2) Employment/education – Completion of Major Life Tasks, using:
- A) History of functioning and/or structured interview
  - B) PHQ (Personal History Questionnaire)
- 3) Social skills
- A) covering:
    - i) Ability to form relationships
    - ii) Ability to maintain relationships
    - iii) Courtship/dating skills
    - iv) Ability to demonstrate assertive behavior
  - B) using:
    - i) History of functioning and/or structured interview
    - ii) Collateral information
    - iii) IBS (interpersonal behavior survey)

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- iv) Social Avoidance and Distress Scale
  - v) Waring's Intimacy Scale
  - vi) UCLA Loneliness Scale
  - vii) Tesch's Intimacy Scale
  - viii) Miller's Social Intimacy Scale
- e) Evaluation of developmental history
- 1) covering:
    - A) Disruptions in parent/child relationship
    - B) History of bed wetting, cruelty to animals
    - C) History of behavior problems in elementary school
    - D) History of special education services, learning disabilities, school achievement
    - E) Indicators of disordered attachments
  - 2) using:
    - A) History of functioning and/or structured interview
    - B) Collateral Information
- f) Evaluation of self-image and self-esteem, using:
- 1) History of functioning and/or structured interview
  - 2) MPD (measures of psychological development)
  - 3) CAQ (clinical analysis questionnaire)
  - 4) CPI (California Personality Inventory)

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- g) Evaluation of medical screening measures
  - 1) covering:
    - A) Pharmacological needs
    - B) Medical condition impacting offending behavior
    - C) History of medication use/abuse
  - 2) using:
    - A) History of functioning and/or structured interview
    - B) Referral to physician if indicated
    - C) Medical tests
- h) Sexual evaluation, including the areas of:
  - 1) Sexual history (onset, intensity, duration, pleasure derived)
    - A) covering:
      - i) Age of onset of expected normal behaviors
      - ii) Quality of first sexual experience
      - iii) Age of onset of deviant behavior
      - iv) Witnessed or experienced victimization (sexual or physical)
      - v) Genesis of sexual information
      - vi) Age/degree of use of pornography, phone, cable, video, or internet for sexual purposes
      - vii) Current and past range of sexual behavior

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- B) using:
  - i) History of functioning and/or structured interview
  - ii) PSCI (Personal Sentence Completion Inventory – Miccio-Fonseca)
  - iii) Wilson Sexual Fantasy Questionnaire
  - iv) SONE Sexual History Background Form
  - v) SORI (Sex Offender Risk Instrument – in research stage)
  - vi) Collateral information
- 2) Reinforcement structure for deviant behavior
  - A) covering:
    - i) Culture
    - ii) Environment
    - iii) Cults
    - iv) Gangs
  - B) using structured interview
- 3) Arousal pattern
  - A) covering:
    - i) Sexual arousal
    - ii) Sexual interest
  - B) using:
    - i) Structured interview

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- ii) Sexual autobiography
  - iii) Plethysmography
  - iv) Abel Assessment for Sexual Interest
  - v) Collateral information (such as from spouses or significant others)
- 4) Specifics of sexual crimes (onset, intensity, duration, pleasure derived)
- A) covering:
    - i) Detailed description of sexual assault
    - ii) Seriousness, harm to victim
    - iii) Mood during assault (anger, erotic, "love")
    - iv) Progression of sexual crimes
    - v) Thoughts preceding and following crimes
    - vi) Fantasies preceding and following crimes
  - B) using:
    - i) Structured interview
    - ii) History of crimes
    - iii) Review of criminal records
    - iv) Contact with victim therapist
    - v) Polygraph
    - vi) Collateral information

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- 5) Sexual deviance, using:
  - A) Structured interview
  - B) MSI (Multiphasic Sex Inventory)
  - C) SONE
- 6) Dysfunction
  - A) covering:
    - i) Impotence
    - ii) Priapism
    - iii) Injuries
    - iv) Medications affecting sexual functioning, etc.
  - B) using:
    - i) Structured interview
    - ii) MSI (Multiphasic Sex Inventory)
    - iii) Sexual autobiography
- 7) Sex offender's perception of dysfunction, using:
  - A) Structured interview
  - B) Sexual autobiography
  - C) Bentler Heterosexual Inventory
  - D) History
- 8) Perception of sexual functioning, using:

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- A) Structured interview
  - B) Sexual autobiography
  - C) Plethysmography
  - D) Bentler Sexual Behavior Inventory
- 9) Preferences
- A) covering:
    - i) Male/female
    - ii) Age
    - iii) Masturbation
    - iv) Use of tools
    - v) Utensils
    - vi) Food
    - vii) Clothing
    - viii) Current sexual practices
    - ix) Deviant as well as normal behavior
  - B) using:
    - i) Structured interview
    - ii) Sexual autobiography
    - iii) Plethysmography
    - iv) Abel Assessment for Sexual Interest

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- v) Collateral information (such as from spouses or significant others)
- 10) Attitudes/cognition
- A) covering:
    - i) Motivation to change/continue behavior
    - ii) Attitudes toward women, children
    - iii) Sexuality in general
    - iv) Attitudes about offenses (i.e., seriousness, harm to victim)
    - v) Degree of victim empathy
    - vi) Presence/degree of minimalization
    - vii) Presence/degree of denial
    - viii) Ego-syntonic vs. ego-dystonic sense of deviant behavior
  - B) using:
    - i) Structured interview
    - ii) Burt Rape Myth Acceptance Scale
    - iii) MSI (Multiphasic Sex Inventory)
    - iv) Buss/Durkee Hostility Inventory
    - v) Abel and Becker Cognitions Scale
    - vi) Attitudes Towards Women Scale
    - vii) Socio-Sexual Knowledge and Attitudes Test (for use with sex offenders who have developmental disabilities)

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- i) Evaluation of level of denial and level of deception, using:
  - 1) Structured interview
  - 2) Polygraph
  - 3) Collateral Information (such as from victim, police, others)
  
- j) Evaluation of level of violence and coercion
  - 1) covering:
    - A) Level of violence
    - B) Overall pattern of assaultiveness
    - C) Victim selection
    - D) Pattern of escalation of violence
  - 2) using:
    - A) Structured interview
    - B) History
    - C) Review of criminal records
    - D) Collateral information
  
- k) Evaluation of risk of re-offense, using:
  - 1) Criminal history
  - 2) Violence Risk Assessment Guide (normed on a psychiatric hospital sample) (good predictor of violence recidivism but not of sexual recidivism)
  - 3) Rapid Risk Assessment for Sex Offender Re-Arrest (sample excludes incest offenders)

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- 4) MnSOST-R (normed on Minnesota Offenders in the Department of Corrections, excludes incest offenders)
- 5) Static 99
- 6) SONAR
- 7) Any other validated risk instrument that is generally accepted by sex offender evaluators

**Section 1905.250 Evaluator Recommendations**

- a) The evaluator shall consider the following factors when making recommendations relating to a sex offender's risk to re-offend and amenability to treatment:
  - 1) Admission of offenses;
  - 2) Accountability (internal and external factors that control behavior);
  - 3) Cooperation;
  - 4) Offense history and victim choice;
  - 5) Escalating pattern of offenses, violence, and dangerous behaviors;
  - 6) Sexual deviance, arousal patterns, and sexual interest;
  - 7) Social interest;
  - 8) Lifestyle characteristics;
  - 9) Psychopathology;
  - 10) Developmental markers;
  - 11) History of childhood or adolescent delinquency;
  - 12) Substance abuse;

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- 13) Criminal history;
  - 14) Social support systems;
  - 15) Overall control and intervention;
  - 16) Motivation for treatment and recovery;
  - 17) Self-structure;
  - 18) Disowning behaviors;
  - 19) Prior treatment;
  - 20) Impact on victims;
  - 21) Access to potential victims;
  - 22) Availability of treatment in the community;
  - 23) Availability of supervision, including surveillance agents, in the community.
- b) The evaluator shall recommend:
- 1) The level and intensity of offense-specific treatment needs;
  - 2) Referral for assessment and/or treatment of co-existing conditions (e.g., substance abuse, mental illness, medical/pharmacological);
  - 3) Methods to lessen victim impact (e.g., no-contact orders, paying for counseling, involvement of non-offending spouse, etc.);
  - 4) Appropriateness of community placement with emphasis on the risks associated with the home, neighborhood, school or community;
  - 5) The level and intensity of behavioral monitoring needed;
  - 6) The types of external controls that should be considered specifically for that sex offender (e.g., controls of work environment, access to children,

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leisure time, or transportation; life stresses; or other issues that might increase risk and require increased supervision).

**Section 1905.300 General Standards for Treatment**

- a) Treatment of sex offenders must be sex offense specific.
- b) A treatment provider shall develop a written treatment plan with measurable goals based on the needs and risks identified in current and past assessments or evaluations of the sex offender.
- c) The treatment plan shall:
  - 1) Provide for the protection of victims and potential victims and not cause the victims to have unsafe or unwanted contact with the sex offender;
  - 2) Be individualized to meet the unique needs of the sex offender;
  - 3) Identify:
    - A) the issues to be addressed, including multi-generational issues if indicated;
    - B) the planned intervention strategies; and
    - C) the goals of treatment;
  - 4) Define expectations of the sex offender, his/her family (when possible), and support systems;
  - 5) Address the issue of ongoing victim input;
  - 6) Describe the treatment provider's role in implementing the treatment plan.
- d) A provider shall submit written quarterly progress reports to the referral source.
- e) A provider shall employ treatment methods that are supported by current professional research and practice. Group therapy (with the group comprised only of sex offenders) is the preferred method of treatment. At a minimum, any method of psychological treatment used must conform to the standards for content

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of treatment and must contribute to behavioral monitoring of sex offenders. The sole use of individual therapy is not recommended with sex offenders and shall be avoided except when geographical (specifically rural) or disability limitations dictate its use or when it is clinically indicated. While group therapy is the preferred modality, individual therapy may be an appropriate adjunct treatment.

- 1) The use of male and female co-therapists in group therapy is highly recommended and may be required by the supervising agency.
  - 2) The ratio of therapists to sex offenders in a treatment group shall not exceed 1:10.
  - 3) Treatment group size shall not exceed 12 sex offenders.
  - 4) The provider shall employ treatment methods that give priority to the safety of the sex offender's victims and the safety of potential victims and the community.
  - 5) The provider shall employ treatment methods that are based on recognition of the need for long-term, offense-specific treatment for sex offenders. Self-help or time-limited treatment shall be used only as adjuncts to long-term, comprehensive treatment.
- f) Sex offender-specific treatment may also be supplemented with treatment for drug/alcohol abuse, marital therapy, and/or crisis intervention services.
- g) In order to achieve the goals of sex offense specific treatment, the following elements shall be addressed in treatment:
- 1) Offense Disclosure: The sex offender discloses all of his or her sexual offenses, reducing denial and defensiveness and/or assisting the sex offender in assuming full responsibility for his or her sexual offending.

## Completion indicators:

- A) The sex offender makes a disclosure of all sex offenses.
- B) The sex offender attends treatment sessions as ordered or required.
- C) The sex offender completes all assigned tasks as required.

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- D) When available, the sex offender completes non-deceptive polygraphs on past and maintenance issues.
  - E) The sex offender consistently takes full responsibility for all of his or her actions, including sex offenses, as indicated by polygraph.
  - F) The sex offender holds himself/herself accountable for his/her behavior in general.
- 2) Offense-Specific Cognitive Restructuring: Cognitive distortions refer to distortions in thinking, including thinking errors that enable sexually offending behaviors. Identifying and correcting or changing sex offenders' cognitive distortions that fuel sexual offending is the purpose of this element of treatment.

## Completion indicators:

- A) The sex offender identifies and restructures offense-specific cognitive distortions.
  - B) The sex offender assumes responsibility for offending.
  - C) There is evidence that offense-specific distortions have been restructured or changed as indicated by the lack of using cognitive distortions and that the sex offender holds self fully accountable when discussing the offenses.
- 3) Assault Cycle and Intervention: The assault cycle comprises the repetitive patterns of sexual offending. This element of treatment is intended to: identify the sex offender's patterns of offending, including risk factors; teach sex offenders self-management methods and skills to prevent re-offending; educate sex offenders and individuals who are identified as the sex offender's support system and the containment team about the potential for re-offending and the sex offender's specific risk factors; and require sex offenders to learn specific relapse prevention strategies, including the development of a written, specific relapse prevention plan, which should identify antecedent thoughts, feelings, situations, social behaviors, and any other behaviors associated with sexual offenses, along with specific interventions.

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## Completion indicators:

- A) The sex offender demonstrates identification of his/her own assault cycle and how he/she applies it to his/her daily lifestyle.
  - B) The sex offender demonstrates knowledge of relapse intervention concepts.
  - C) The sex offender has consistently demonstrated the effective use of relapse prevention skills, i.e., is able to diffuse cycle behaviors, relapse processes, deviant arousal and other factors that contribute to sexual offending.
  - D) The sex offender has disengaged from relationships that support his or her denial, minimization, and resistance to treatment.
  - E) The sex offender is engaged in relationships that are supportive of treatment and seeks feedback from his/her support system.
  - F) The sex offender has demonstrated consistently the ability to avoid high-risk environments.
- 4) Victim Empathy: Empathy is the capacity to understand and identify with another's perspective and experience the same emotions. The ability to develop victim empathy may vary from sex offender to sex offender and may have varying emphasis in treatment.

## Completion indicators:

- A) The sex offender verbalizes and demonstrates victim empathy, identifies feelings, recognizes victim impact, assumes ownership of offenses, understands and takes the perspective of others, demonstrates emotional regret, and expresses feelings of empathy and remorse.
- B) The sex offender demonstrates behaviors that indicate reduced risk of harm to victims.

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C) Cautionary Note: TREATMENT TO ASSIST IN THE DEVELOPMENT OF VICTIM EMPATHY IS CONTRAINDICATED FOR PSYCHOPATHIC OFFENDERS.

- 5) Arousal Control: This element of treatment is intended to assess, identify, and decrease or replace deviant sexual desires, arousal, thoughts, and fantasies, replacing this deviancy with healthier sexual attitudes and functioning.

## Completion indicators:

- A) The sex offender discloses deviant and/or violent sexual fantasies.
- B) The frequency and intensity of deviant arousal, violent and/or sadistic fantasies, and masturbation to deviant fantasies are decreased.
- C) The sex offender develops behavioral/self management strategies to reduce deviant arousal and behavior patterns, including eliminating self-abusive sexual behaviors.
- D) The sex offender develops and maintains normal, non-victimizing fantasies.

- 6) Clinical/Core Issue Resolution: It is commonly assumed that offending involves multiple unresolved emotional issues and not just deviant sexual urges. Motivational dynamics that may fuel sexual offending or other victimizing or assaultive behaviors may arise from the effects of trauma or past victimization, key developmental events, or other unresolved problems or needs. It is critical for resolution of these core issues to occur without the sex offender assuming a victim stance. Sex offenders must still be held accountable for their offending when these issues are resolved.

## Completion indicators:

- A) The sex offender has identified and resolved or mostly resolved core issues that may facilitate sexual re-offense. Core issues may include anger, power, control, inferiorities, dependency, insecurity,

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rejection, jealousy, possessiveness, resentment, and inadequacies in terms of self-worth and self-esteem.

- B) The sex offender has identified and changed the effects of past trauma and past victimizations to decrease their impact on the risks of re-offending.
- 7) **Social Skills and Interpersonal Restructuring:** Social skills refer to specific communication skills and social behaviors. Interpersonal restructuring refers to redefining the way sex offenders form attachments or relate to others. Interpersonal deficits are frequently associated with attachment issues. The development of basic social skills replaces deficits and inappropriate attachments or relationships, diminishing the risk of sexual re-offending. This element of treatment is intended to: identify deficits in specific interpersonal skills and decrease the sex offender's deficits in social and relationship skills, where applicable; and assist sex offenders in developing and practicing social skills, improving the quality of their relationships with others.

Completion indicators:

- A) Demonstrates appropriate social relationships.
- B) Demonstrates appropriate boundaries.
- C) Has the skills to manage interpersonal relationship issues.
- 8) **Lifestyle Balancing and Restructuring:** Lifestyle balancing and restructuring refers to assisting sex offenders in changing their existing lifestyles to lifestyle patterns that minimize sexual re-offending and maintaining this lifestyle. The focus of this element of treatment is to: educate sex offenders about non-abusive, adaptive, legal, and pro-social sexual functioning; identify and treat sex offenders' personality traits, lifestyle, behaviors, patterns, and deficits that are related to their potential for re-offending; and maximize opportunities for the sex offender to develop a healthy self-esteem.

Completion indicators will demonstrate a change in personality traits, lifestyle behaviors, patterns, and deficits related to the potential for re-offending, including:

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- A) Antisocial/psychopathic behaviors.
  - B) Narcissistic behaviors.
  - C) Borderline characteristics of behavior.
  - D) Schizoid behaviors.
  - E) Obsessive-compulsive/passive-aggressive behaviors.
  - F) Demonstrates a healthy and balanced lifestyle.
- 9) The provision of treatment referrals, as indicated, links sex offenders with other resources, such as medical, pharmacological, mental, substance abuse, and/or domestic violence services.

## Completion indicators:

- A) Monitoring sex offenders' linkage with other referral resources.
  - B) Communication with others. Communication is a critical element in treatment, aftercare and supervision. This element of treatment maintains communication with significant persons in sex offenders' support systems, when indicated and to the extent possible to assist in meeting treatment goals.
- h) Providers shall maintain sex offenders' files in accordance with the professional standards of their individual disciplines. The files shall:
- 1) Document the goals of treatment, the methods used, and the sex offender's observed progress, or lack thereof, toward reaching the goals in the treatment records. Specific achievements, failed assignments, rule violations, and consequences given should be recorded.
  - 2) Accurately reflect the sex offender's treatment progress, sessions attended, and changes in treatment.

**Section 1905.310 Treatment Provider Client Written Treatment Agreement**

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- a) Prior to treatment and as a condition of treatment, a provider shall enter into a written contract with the sex offender prior to the commencement of treatment. The contract shall describe the responsibilities of both the provider and the sex offender. Breach of the contract by the offender may serve as the basis for revocation of probation or a recommendation to the Prisoner Review Board to revoke parole or other community supervision.
- b) The contract shall describe the role of the treatment provider in implementing the treatment plan as well as the responsibility of the provider to:
  - 1) Define and provide timely statements of the costs of the assessment, evaluation, and treatment, including all medical and psychological tests, physiological tests, and consultations;
  - 2) Describe the releases of information that will be required for a provider to treat the sex offender for his/her sexual offending behavior, describe the various parties with whom treatment information will be shared during the treatment, describe the time limits on the releases, and describe the procedures necessary for the sex offender to revoke the releases;
  - 3) Describe the right of the sex offender to refuse treatment and/or to refuse to sign a release, and describe the risks and potential risks and outcomes of that decision;
  - 4) Describe the type, frequency, and requirements of the treatment and outline how the duration of treatment will be determined;
  - 5) Describe the limits of confidentiality imposed on the therapist by the mandatory reporting law.
- c) The contract shall describe the responsibilities of the sex offender (as applicable) to:
  - 1) Pay for the cost of evaluation and treatment for self and his or her family, if applicable;
  - 2) Pay for the cost of evaluation and treatment for the victims and their families, when ordered by the court, including all medical and psychological tests, physiological testing, and consultation;

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- 3) Inform the treatment provider, the sex offender's immediate family, and support system of the details of all past sexual offenses to ensure help and protection for past victims and/or as relevant to the development of the relapse prevention plan. Clinical judgment should be exercised in determining what information is provided to children;
  - 4) Actively involve members of the sex offender's family and support system, as indicated in the relapse prevention plan;
  - 5) Notify the treatment provider of any changes or events in the lives of the sex offender, the members of the sex offender's family, or support system;
  - 6) Comply with the limitations and restrictions placed on the behavior of the sex offender, as described in the terms and conditions of probation, parole, or conditional release for sexually violent persons or sexually dangerous persons and/or in the contract between the provider and the sex offender.
- d) The contract shall describe the responsibility of and restrictions on the sex offender to protect community safety by avoiding risky, aggressive, or re-offending behavior by avoiding high-risk situations, and by reporting any such behavior to the provider and supervising officer as soon as possible.
- e) The contract shall describe the responsibility of the provider to:
- 1) Identify, and provide timely statements of, the costs of assessment, evaluation, and treatment, including all medical and psychological tests, physiological tests, and consultations, to the sex offender as well as the parent or guardian.
  - 2) Describe the information releases that will be required for a provider to treat the sex offender for his/her sexual offending behavior; describe the various parties with whom treatment information will be shared during the treatment; describe the time limits on the waivers of confidentiality; and describe the procedures necessary for the sex offender to revoke the waiver.
  - 3) Describe the right of the sex offender to refuse treatment and/or to refuse to consent to disclosure, and describe the consequences, risks and potential risks and outcomes of that decision, including the provider's right not to provide treatment if the necessary releases are not given.

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- 4) Describe the type, frequency, and requirements of the treatment and outline how the duration of treatment will be determined.
- 5) Describe the limits of confidentiality imposed on the therapist by the mandatory reporting law.
- f) The provider shall explain the terms of the contract to the sex offender in language that the sex offender understands.

**Section 1905.320 Completion of Treatment**

- a) Completion of treatment should be understood as meaning the successful completion of treatment, and not as the cessation of court-ordered, offense-specific treatment or the completion of the sentence imposed by the court or the Prisoner Review Board. Successful completion of treatment may not end the sex offender's need for ongoing rehabilitation or elimination of risk to the community. If risk increases, treatment may be re-instated upon the request of the sex offender or the recommendation of the containment team. Treatment should be viewed as ranging from intensive to aftercare.
- b) The sex offender containment team shall consult about the completion of treatment. The decision shall come after the evaluation and assessment, treatment plan, course of treatment sequence, and a minimum of a non-deceptive disclosure polygraph examination and two or more non-deceptive maintenance polygraph examinations, regarding compliance with court rules, compliance with supervision conditions, compliance with treatment contract provisions, including complete abstinence from grooming (i.e., manipulation intended to reduce victims' defenses) of victims, or potential victims, and full, voluntary compliance with all conditions required to prevent re-offending behavior. The two or more non-deceptive polygraph examinations must be those most recent prior to termination of treatment. (See definitions for non-deceptive polygraph results.) A failed polygraph examination should not be used as the sole reason to deny successful completion of treatment. The team should carefully consider termination of treatment based on maintaining community safety.
- c) Those sex offenders who pose an ongoing threat to the community require supervision, even while demonstrating progress in treatment, and may require ongoing supervision and treatment to manage their risk, including revocation as authorized and approved in writing by the Prisoner Review Board when on

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parole. Any exception made to any of the requirements for treatment completion must be made by the consensus of the containment team. In this case, the team must document the reasons for the determination that treatment completion is appropriate without meeting all of the standard requirements and note the potential risk to the community.

- d) To determine the recommendations for the termination of treatment, the provider shall:
  - 1) Assess actual changes in a sex offender's potential to re-offend prior to recommending treatment termination;
  - 2) Attempt to repeat, where indicated, those evaluations that might show changes in the sex offender;
  - 3) Assess and document how the goals of the treatment plan have been met, what actual changes in a sex offender's re-offense potential have been accomplished, and what risk factors remain, particularly those affecting the emotional and physical safety of the victims;
  - 4) Seek input from others who are aware of a sex offender's progress as part of the decision about whether to terminate treatment;
  - 5) Report to the supervising officer regarding a sex offender's compliance with treatment and recommend any modifications in conditions of community supervision and/or termination of treatment; and
  - 6) At the end of this evaluation process, inform the sex offender regarding the recommendation to end or continue court-ordered treatment.
- e) Prior to terminating offense-specific treatment, a provider shall, in cooperation with the containment team, develop an aftercare plan that includes ongoing behavioral monitoring, such as periodic polygraph examinations. Such monitoring is intended to motivate the sex offender to avoid high-risk behaviors that might be related to increased risks of re-offense.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
146.400	New Section
146.410	New Section
146.420	New Section
146.430	New Section
146.440	New Section
146.450	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and the Hemophilia Care Act [410 ILCS 420]
- 5) Effective Date: January 21, 2005
- 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 21, 2005
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments regarding the State Hemophilia Program establish the necessary administrative rules for program operation by the Department. Rules concerning the Hemophilia Program had been previously recodified to the Department of Human Services (DHS) and the proposed repeal of DHS' rules will soon be considered for adoption. Because of the unanticipated amount of time required to develop the Department's new Hemophilia Program rules, immediate implementation is now required to ensure the continuation of program operation under adopted rules.
- 10) Complete Description of the Subjects and Issues Involved: New Subpart C, State Hemophilia Program, adds six Sections to Part 146, Specialized Health Care Delivery Systems. This Program provides care for persons suffering from hemophilia who have financially qualified for the Program. This Program is a payer of last resort: after Medicare and/or private insurance, after other government agencies, and after a patient's determined participation fee, if applicable, and if the patient is not eligible for public assistance at the time services are provided.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

Administrative rules concerning the State Hemophilia Program were recodified to the Department of Human Services in 1997 during the period of State agency reorganization. However, the Department is responsible for the administration of this Program.

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

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
146.200	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.205	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.210	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.215	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.220	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.225	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.230	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.235	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.240	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.245	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.250	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.255	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.260	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.265	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.270	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.275	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.280	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.295	Amendment	October 29, 2004 (28 Ill. Reg. 14087)
146.300	Amendment	October 29, 2004 (28 Ill. Reg. 14087)

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 Public Aid  
 201 South Grand Avenue East, Third Floor  
 Springfield, Illinois 62763-0002  
 (217) 524-0081

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 146  
SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

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

SUBPART B: SUPPORTIVE LIVING FACILITIES

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Termination or Suspension of SLF Provider Agreement
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups

SUBPART C: STATE HEMOPHILIA PROGRAM

## DEPARTMENT OF PUBLIC AID

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146.400 DefinitionsEMERGENCY146.410 Patient EligibilityEMERGENCY146.420 Hemophilia Treatment CentersEMERGENCY146.430 Comprehensive Care EvaluationEMERGENCY146.440 Home Transfusion ArrangementsEMERGENCY146.450 Obligations of the DepartmentEMERGENCY

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] and implementing the Hemophilia Care Act [410 ILCS 420].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days.

SUBPART C: STATE HEMOPHILIA PROGRAMSection 146.400 DefinitionsEMERGENCY

"Available Family Income" means the lesser of:

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Base income minus the sum of:

\$5,500 and

\$3,500 times the number of persons in the family, or

One-half of base income

"Base Income" means the income reported for State income tax purposes of all members of the family.

"Core Team" means a team that includes a board certified hematologist as a Hemophilia Service Director, a full-time board certified pediatric hematologist and/or board certified pediatrician (at a Treatment Center that serves children), a nurse coordinator, and a social worker.

"Extended Team" means a team of medical and support staff available as appropriate, and includes the following: patient's primary physician, physical therapist/physiatrist, orthopedist, infectious disease specialist, hepatologist, psychologist/psychiatrist, dentist/dental hygienist/oral surgeon, genetic counselor, nutritionist, gynecologist/obstetrician, pharmacist, education/vocation counselor and financial counselor.

"Department" means the Illinois Department of Public Aid.

"Eligible Hemophilia Services" means blood transfusions, blood derivatives, out-patient services, physicians' charges, medical supplies and appliances used in the treatment of persons eligible for the State Hemophilia Program.

"Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency in the blood.

"Hemophilia Treatment Center" means a facility that has met the requirements set forth in Section 146.420 and has been designated as a Hemophilia Treatment Center by the Department.

"Patient" means a person meeting the eligibility requirements for the State Hemophilia Program as defined in Section 146.410.

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"Patient Participation Fee" means the amount of expenses for eligible hemophilia services that the patient or, in the case of a minor, the patient's parent or guardian will be responsible for on an annual basis.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days)

**Section 146.410 Patient Eligibility****EMERGENCY**

- a) An eligible person shall:
- 1) Be a resident of the State of Illinois; and
  - 2) Not be otherwise eligible for comprehensive benefits under the Public Aid Code [305 ILCS 5] or the Children's Health Insurance Program Act [215 ILCS 106]; and
  - 3) Submit an application form accompanied by a copy of the most recent State Income Tax Return (IL 1040) for the person or, in the case of a minor, for the person's parents or guardian; and
  - 4) Submit the Illinois Hemophilia Program Medical Form signed by the medical director of an approved Hemophilia Treatment Center to document the person has a diagnosis of hemophilia.
- b) On an annual basis, the patient shall:
- 1) Receive a complete comprehensive care evaluation in a Hemophilia Treatment Center, unless otherwise recommended by the center's director.
  - 2) Submit an application form accompanied by a copy of the most recent State Income Tax Return (IL 1040) for the patient or, in the case of a minor, for the patient's parents or guardian.
- c) Patient Participation Fee
- 1) The Patient Participation Fee will be determined annually and is equal to 20 percent of the patient's available family income.

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- 2) In cases where the family has more than one patient participating in the State Hemophilia Program, the Patient Participation Fee will be applied to the family as a unit.
  - 3) The patient or, in the case of a minor, the patient's parent or guardian will be notified in writing of the Patient Participation Fee.
  - d) Hardship Cases
    - 1) A hardship case refers to a patient who has been determined by the Department to owe a Patient Participation Fee and the patient or, in the case of a minor, the patient's parent or guardian believes the charge will cause financial hardship.
- A) The patient or, in the case of a minor, the patient's parent or guardian may request a redetermination of the Patient Participation Fee. The request shall include the following information:
- i) Reduction in family income since the previous year;
  - ii) Accrued medical bills for the entire family;
  - iii) Other illness in the family;
  - iv) Increased childcare costs;
  - v) Extraordinary expenses incurred during the previous year;
  - vi) Casualty losses experienced during the previous year; and
  - vii) Resources to which the family has access for medical care, vocational assistance and other supportive services.
- B) The patient or, in the case of a minor, the patient's parent or guardian may also submit a written narrative explaining any additional factors supporting the request for a reduction in the Patient Participation Fee.

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- 2) The Department shall review and evaluate each hardship request. Criteria used in the review shall include the number and severity of demands being made on the family's financial resources, the availability of assistance from other sources and the potential stress placed on the family if the Patient Participation Fee is not reduced.
- 3) The Department will respond in writing with its determination regarding the hardship request. The Department will take one of the following actions:
  - A) Make no changes in the Patient Participation Fee originally assigned to the patient;
  - B) Reduce the amount of the Patient Participation Fee; or
  - C) Remove the Patient Participation Fee.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days)

**Section 146.420 Hemophilia Treatment Centers**  
**EMERGENCY**

Each Hemophilia Treatment Center must annually, in a format specified by the Department, attest that the services provided by the center include all of the following:

- a) Twenty-four hour attendance by a physician.
- b) A Core Team.
- c) An Extended Team readily available and accessible for evaluations or referrals.
- d) Pediatric hematology services.
- e) Dental program.
- f) Protocols for the management of complications of inherited bleeding disorders.
- g) Comprehensive psychosocial services and counseling.

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- h) Genetic counseling and testing.
- i) Access to laboratory services.
- j) A comprehensive home infusion therapy program that provides instruction, ongoing education, monitoring and supervision by medical professionals experienced in the management of Hemophilia.
- k) Twenty-four hour emergency services with written treatment protocols and a hematologist on-call.
- m) Twenty-four hour availability of, or accessibility to, all products for treating hemophilia and related bleeding disorders as recommended by the National Hemophilia Foundation Medical and Scientific Advisory Committee.
- n) Active collaboration with local, State and national hemophilia organizations to provide outreach and education.
- o) Established linkages with private, public and voluntary service organizations and health care providers to assure a full-range of services to meet clinical and psychosocial needs of the patient and the patient's family.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days)

**Section 146.430 Comprehensive Care Evaluation**  
**EMERGENCY**

- a) Each Hemophilia Treatment Center shall provide comprehensive care evaluations to patients. The components of the evaluation, specified in subsection (b) of this Section, need not all be performed at the same time or place.
- b) A comprehensive care evaluation shall include:
  - 1) Examination by a hematologist;
  - 2) Examination by a physical therapist and/or orthopedic surgeon;
  - 3) Dental examination;

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- 4) Psychosocial assessment by a qualified medical social worker or other qualified person;
  - 5) Appropriate radiographs as deemed necessary and ordered by the center director, the radiologist or orthopedist; and
  - 6) Laboratory studies including inhibitor screen test, liver function tests, hepatitis B antigen and antibody tests, urinalysis and blood count.
- c) A summary of the findings of the comprehensive care evaluation and recommendations shall be provided to the patient's primary care physician by the Hemophilia Treatment Center.
  - d) A review and summary of the findings signed by the center director shall be presented to the patient at the conclusion of the examination.
  - e) A written statement by the center director indicating that the comprehensive care evaluation has been performed shall be sent to the State Hemophilia Program each year.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days)

**Section 146.440 Home Transfusion Arrangements****EMERGENCY**

- a) The State Hemophilia Program shall assist patients for whom the Hemophilia Treatment Center hematologists request assistance in securing and funding home transfusion materials, including the necessary anti-hemophilia factors. The obligation for training and supervision of patients shall remain with the center directors.
- b) The Hemophilia Treatment Center hematologists shall provide to the selected manufacturer's representative or other recognized provider a prescription for the required amount, type, and assay of the specific factor.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days)

**Section 146.450 Obligations of the Department**

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**EMERGENCY**

- a) The Department shall reimburse enrolled providers for eligible hemophilia services for patients in the State Hemophilia Program.
- b) The Department, in fulfilling obligations under this Subpart C, shall promote interagency coordination and cooperation and effect such written interagency agreements as may be necessary.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
148.85	Amendment
148.90	Amendment
148.95	Amendment
148.100	Amendment
148.103	Amendment
148.110	Amendment
148.112	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-1066, Public Act 93-020 and Public Act 93-0841.
- 5) Effective Date: January 21, 2005
- 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 21, 2005
- 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: These emergency amendments relate to seven new quarterly rate adjustment programs for hospitals that were established on June 1, 2004. Because of federal approval of the related State Plan Amendment for FY'04 for only 53 days of the annual payments for the new quarterly rate adjustments, and pursuant to Public Act 93-1066, these changes are necessary to prorate the adjustment payments for FY'04. Emergency rulemaking is specifically authorized for the implementation these changes for fiscal year 2004 by Section 5-45 of Public Act 93-020 and during fiscal year 2005 by Section 5-45 of Public Act 93-0841.
- 10) Complete Description of the Subjects and Issues Involved: These emergency amendments relate to seven new quarterly rate adjustment programs for hospitals that were established on June 1, 2004, pursuant to Public Act 93-0659. Payments under these adjustment programs were contingent upon federal approval of the corresponding State Plan Amendment (SPA) by the Centers for Medicare and Medicaid Services (CMS). On

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December 21, 2004, the Department was notified of CMS's approval of the SPA for FY'04 for only 53 days of the annual payments for the seven quarterly rate adjustments.

Because of the foregoing, and pursuant to Public Act 93-1066, these emergency amendments are necessary to accommodate the necessary proration of the adjustment payments for FY'04. These changes are budget neutral to the Department and will bring \$19 million in federal matching funds to the State for FY'04.

- 11) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.40	Amendment	December 10, 2004 (28 Ill. Reg. 15719)

- 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 these emergency amendments shall be directed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217) 524-0081

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

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMSPART 148  
HOSPITAL SERVICES

## SUBPART A: GENERAL PROVISIONS

## Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

## Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
	<a href="#">EMERGENCY</a>
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
	<a href="#">EMERGENCY</a>
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
	<a href="#">EMERGENCY</a>
148.100	Outpatient Rural Hospital Adjustment Payments
	<a href="#">EMERGENCY</a>
148.103	Outpatient Service Adjustment Payments
	<a href="#">EMERGENCY</a>
148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
	<a href="#">EMERGENCY</a>
148.112	High Volume Adjustment Payments
	<a href="#">EMERGENCY</a>
148.115	Rural Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments

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- 148.122 Medicaid Percentage Adjustments
- 148.126 Safety Net Adjustment Payments
- 148.130 Outlier Adjustments for Exceptionally Costly Stays
- 148.140 Hospital Outpatient and Clinic Services
- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)

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148.368	Volume Adjustment (Repealed)
148.370	Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.380	Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements

## SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

## Section

148.500	Definitions
148.510	Reimbursement

## SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

## Section

148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

148.TABLE A	Renal Participation Fee Worksheet
148.TABLE B	Bureau of Labor Statistics Equivalence
148.TABLE C	List of Metropolitan Counties by SMSA Definition

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

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335,

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effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000;

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amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861,

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effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days.

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

**Section 148.85 Supplemental Tertiary Care Adjustment Payments****EMERGENCY**

- a) Qualifying Criteria. Supplemental Tertiary Care Adjustment Payments, as described in subsection (b) of this Section, shall be made to all qualifying Illinois hospitals. An Illinois hospital shall qualify for payment if it was deemed eligible for payments under the Tertiary Care Adjustment Payments for State fiscal year 2003, as described in Section 148.296, excluding:
  - 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
  - 2) Hospitals organized under the University of Illinois Hospital Act [110 ILCS 330], as described in Section 148.25(b)(1)(B).
  - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- b) Supplemental Tertiary Care Adjustment Payments
  - 1) For the supplemental tertiary care adjustment period occurring in State fiscal year 2004, total payments will equal the State fiscal year 2003 tertiary care adjustment payment, as defined in Section 148.296, multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions described in subsection (d) of this Section have been met on or before June 15, 2004.
  - 2) For the supplemental tertiary care adjustment period occurring in State fiscal year 2005, total payments will equal the State fiscal year 2003 tertiary care adjustment payment, as defined in Section 148.296 and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14, 2005 and April 15, 2005. The sum of the amounts required prior to the conditions described in subsection (d) have been met shall be paid within 75 days after the conditions described in subsection (d) have been met.

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3) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

c) Definitions

1) "Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.

2)e) "Supplemental Tertiary Care Adjustment Period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

d) Payment Limitations: Payments under this Section are not due and payable until:

- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
- 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
- 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

**Section 148.90 Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments**

**EMERGENCY**

a) Qualifying Criteria. Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments as described in subsection (b) of this Section shall be made to an Illinois hospital, excluding hospitals described in 89 Ill. Adm. Code 140.80(j).

b) MIUR Adjustment Payments

1) Each qualifying hospital will receive a payment equal to the product of:

A) The quotient of:

i) \$57.25

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- ii) divided by the greater of the hospital's MIUR or 1.6 percent, and
    - B) The hospital's Medicaid inpatient days in the MIUR base period.
  - 2) For a hospital that files a combined Medicaid cost report with another hospital after January 1, 2001, and then subsequently closes, the payment described in subsection (b)(1) of this Section shall be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the occupied bed days of each open hospital and each closed hospital.
  - 3) Payments will be the lesser of the calculation described in subsection (b)(1) or (b)(2) of this Section or \$10,500,000.
- c) Payment to a Qualifying Hospital
- 1) For the MIUR adjustment period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (b) of this Section multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions described in subsection (e) of this Section have been met or before June 15, 2004.
  - 2) For the MIUR adjustment period occurring in State fiscal year 2005, total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14, 2005 and April 15, 2005. The sum of the amounts required prior to the conditions described in subsection (e) have been met shall be paid within 75 days after the conditions described in subsection (e) have been met.
  - 3) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.
- d) Definitions
- 1) "MIUR base period" means the 12-month period beginning on July 1, 2000 and ending on June 30, 2001.

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- 2) "MIUR adjustment period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12 month period beginning July 1 of the year and ending June 30 of the following year.
  - 3) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the MIUR base period that were adjudicated by the Department through June 30, 2002.
  - 4) "MIUR", for a given hospital, has the meaning as defined in Section 148.120(k)(4) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2003 shall be the MIUR used in the MIUR adjustment.
  - 5) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001, as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.
  - 6) "Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.
- e) Payment Limitations: Payments under this Section are not due and payable until:
- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
  - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and

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- 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

**Section 148.95 Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments****EMERGENCY**

- a) Qualifying Criteria. Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments, as described in subsection (b) of this Section, shall be made to an Illinois hospital, excluding hospitals described in 89 Ill. Adm. Code 140.80(j).
- b) MOUR Adjustment Payments
  - 1) Each qualifying hospital will receive a payment equal to the product of:
    - A) The quotient of:
      - i) the hospital's Medicaid outpatient charges in the MOUR base period
      - ii) divided by the greater of the hospital's MOUR or 1.6 percent, and
    - B) 2.45 percent.
  - 2) For a hospital that files a combined Medicaid cost report with another hospital after January 1, 2001, and then subsequently closes, the payment described in subsection (b)(1) of this Section shall be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the occupied bed days of each open hospital and each closed hospital.
  - 3) Payments will be the lesser of the calculation described in subsection (b)(1) or (b)(2) of this Section or \$6,750,000.
- c) Payment to a Qualifying Hospital
  - 1) For the MOUR adjustment period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (b) of this

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Section multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions described in subsection (e) of this Section have been met or before June 15, 2004.

- 2) For the MOUR adjustment period occurring in State fiscal year 2005, total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14, 2005 and April 15, 2005. The sum of the amounts required prior to the conditions described in subsection (e) have been met shall be paid within 75 days after the conditions in subsection (e) have been met.
- 3) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

## d) Definitions

- 1) "Total outpatient charges" means, for a given hospital, the gross outpatient revenue as reported on form CMS 2552-96, Worksheet G-2, Part I, row 25, column 2, for hospital fiscal years ending in calendar year 2001 as filed in the March 2003 release of the Healthcare Cost Reporting Information System (HCRIS). If information was not available for hospitals on the HCRIS, the Department may obtain the gross outpatient charges from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.
- 2) "MOUR base period" means the 12-month period beginning on July 1, 2000 and ending on June 30, 2001.
- 3) "MOUR adjustment period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12 month period beginning July 1 of the year and ending June 30 of the following year.
- 4) "MOUR", for a given hospital, means the ratio of Medicaid outpatient charges to total outpatient charges.
- 5) "Medicaid outpatient charges" means, for a given hospital, the sum of charges for ambulatory procedure listing services as described in Section

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148.140(b), excluding charges for individuals eligible for Medicare under Title XVIII of the Social Security Act (Medicaid/Medicare crossover charges), as tabulated from the Department's paid claims data for services occurring in the MOUR base year that were adjudicated by the Department through September 12, 2003.

- 6) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001, as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department of Public Aid may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

7) "Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.

- e) Payment Limitations: Payments under this Section are not due and payable until:
- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
  - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
  - 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

**Section 148.100 Outpatient Rural Hospital Adjustment Payments****EMERGENCY**

- a) Qualifying Criteria. Outpatient Rural Hospital Adjustment Payments, as described in subsection (b) of this Section, shall be made to qualifying Illinois rural hospitals, as described in Section 148.25(g)(3), excluding:

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- 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
  - 2) Hospitals organized under the University of Illinois Hospital Act [110 ILCS 330], as described in Section 148.25(b)(1)(B).
  - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- b) Outpatient Rural Hospital Adjustment Payments
- 1) Each qualifying hospital's outpatient services for the outpatient rural base period will be divided by the sum of all qualifying hospitals' outpatient services for the outpatient rural base period.
  - 2) This ratio will be multiplied by \$14,500,000 to determine the hospital's Outpatient Rural Hospital Adjustment Payment.
  - 3) For a hospital that files a combined Medicaid cost report with another hospital after January 1, 2001, and then subsequently closes, the payment described in subsection (b)(2) of this Section shall be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the occupied bed days of each open hospital and each closed hospital.
- c) Payment to a Qualifying Hospital
- 1) For the outpatient rural hospital adjustment period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (b) of this Section multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions described in subsection (e) of this Section have been met~~on or before June 15, 2004~~.
  - 2) For the outpatient rural hospital adjustment period occurring in State fiscal year 2005, total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14, 2005 and April 15, 2005. The sum of the amounts required prior to the conditions described in subsection (e) have been met shall be paid within 75 days after the conditons described in subsection (e) have been met.

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3) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

## d) Definitions

- 1) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001, as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.
- 2) "Outpatient rural base period" means the 12-month period beginning on July 1, 2000, and ending on June 30, 2001.
- 3) "Outpatient rural adjustment period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
- 4) "Outpatient services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b), excluding services for individuals eligible for Medicare under Title XVIII of the Social Security Act (Medicaid/Medicare crossover services), as tabulated from the Department's paid claims data for services occurring in the outpatient rural base period that were adjudicated by the Department through September 12, 2003.

5) "Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.

## e) Payment Limitations: Payments under this Section are not due and payable until:

- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;

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- 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
- 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

**Section 148.103 Outpatient Service Adjustment Payments****EMERGENCY**

- a) Qualifying Criteria. Outpatient Service Adjustment Payments, as described in subsection (b) of this Section, shall be made to all Illinois hospitals excluding:
  - 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
  - 2) Hospitals organized under the University of Illinois Hospital Act [110 ILCS 330], as described in Section 148.25(b)(1)(B).
  - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- b) Outpatient Service Adjustment Payments
  - 1) An average hospital specific outpatient service rate for the outpatient service base period will be calculated by taking the total payments for outpatient services divided by total outpatient services.
  - 2) The average hospital specific outpatient service rate will be multiplied by 75.5 percent and then multiplied by the outpatient services.
  - 3) For a hospital that files a combined Medicaid cost report with another hospital after January 1, 2001, and then subsequently closes, the payment described in subsection (b)(2) of this Section shall be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the occupied bed days of each open hospital and each closed hospital.
  - 4) Outpatient Service Adjustment Payments will be the lesser of the amount determined in subsection (b)(2) or (b)(3) of this Section or \$3,000,000.

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- c) Payment to a Qualifying Hospital
- 1) For the outpatient service adjustment period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (b) of this Section multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions in subsection (e) of this Section have been met or before June 15, 2004.
  - 2) For the outpatient service adjustment period occurring in State fiscal year 2005, total annual payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14, 2005 and April 15, 2005. The sum of the amounts required prior to the conditions in subsection (e) have been met shall be paid within 75 days after the conditions in subsection (e) have been met.
  - 3) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.
- d) Definitions
- 1) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001, as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.
  - 2) "Outpatient service base period" means the 12-month period beginning on July 1, 2000 and ending on June 30, 2001.
  - 3) "Outpatient service adjustment period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

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4) "Outpatient services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b), excluding services for individuals eligible for Medicare under Title XVIII of the Social Security Act (Medicaid/Medicare crossover services), as tabulated from the Department's paid claims data for services occurring in the outpatient service base period that were adjudicated by the Department through September 12, 2003.

5) ["Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.](#)

e) Payment Limitations: Payments under this Section are not due and payable until:

- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
- 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
- 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

**Section 148.110 Psychiatric Base Rate Adjustment Payments****EMERGENCY**

a) Qualifying Criteria

- 1) Psychiatric Base Rate Adjustment Payments, as described in subsection (b)(1) of this Section, shall be made to an Illinois general acute care hospital that has a distinct part psychiatric unit, excluding:
  - A) County-owned hospitals as described in Section 148.25(b)(1)(A).
  - B) Hospitals organized under the University of Illinois Hospital Act [110 ILCS 330], as described in Section 148.25(b)(1)(B).
  - C) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).

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- 2) Psychiatric Base Rate Adjustment Payments described in subsection (b)(2) of this Section shall be made to an Illinois general acute care hospital that has a distinct part psychiatric unit, excluding hospitals described in 89 Ill. Adm. Code 140.80(j).

b) Psychiatric Base Rate Adjustment Payments

- 1) For a hospital qualifying under subsection (a)(1) of this Section, the Department shall pay an amount equal to \$400.00 less the hospital's per diem rate for Medicaid inpatient psychiatric services in effect on October 1, 2003, multiplied by the number of Medicaid inpatient psychiatric days provided in the psychiatric base rate period. In no event, however, shall that amount be less than zero.
- 2) For a hospital qualifying under subsection (a)(2) of this Section, whose inpatient psychiatric per diem rate in effect on October 1, 2003 is greater than \$400.00, the Department shall pay an amount equal to \$25.00 multiplied by the number of Medicaid inpatient psychiatric days provided in the psychiatric base rate period.
- 3) For a hospital that files a combined Medicaid cost report with another hospital after January 1, 2001, and then subsequently closes, the payment described in subsection (b)(1) or (b)(2) shall be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the occupied bed days of each open hospital and each closed hospital.

c) Payment to a Qualifying Hospital

- 1) For the ~~psychiatric~~ psychiatric base rate adjustment period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (b) of this Section multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions described in subsection (f) of this Section have been met ~~on or before June 15, 2004.~~
- 2) For the psychiatric base rate adjustment period occurring in State fiscal year 2005, total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14,

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2005 and April 15, 2005. The sum of the amounts required prior to the conditions described in subsection (f) have been met shall be paid within 75 days after the conditions in subsection (f) have been met.

3) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

- d) Limitations: Hospitals that qualify for Psychiatric Base Rate Adjustment Payments shall not be eligible for the total Psychiatric Base Rate Adjustment Payment if, during the psychiatric base rate adjustment period, the hospital no longer operates the psychiatric distinct part unit.
- e) Definitions
- 1) "Psychiatric base rate period" means the 12-month period beginning on July 1, 2000 and ending on June 30, 2001.
  - 2) "Psychiatric base rate adjustment period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
  - 3) "Medicaid inpatient psychiatric days" means, for a given hospital, the sum of days of inpatient psychiatric hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the psychiatric base period that were adjudicated by the Department through June 30, 2002.
  - 4) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001, as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

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- 5) ["Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.](#)
- f) Payment Limitations: Payments under this Section are not due and payable until:
- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
  - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
  - 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

**Section 148.112 High Volume Adjustment Payments****EMERGENCY**

- a) Qualifying criteria. High Volume Adjustment Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it did not qualify for disproportionate share adjustments as described in Section 148.120 for the rate year 2003 determination and provided more than 20,000 Medicaid inpatient days in the high volume base period.
- b) The following classes of hospitals are ineligible for High Volume Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:
  - 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
  - 2) Hospitals organized under the University of Illinois Hospital Act [110 ILCS 330], as described in Section 148.25(b)(1)(B).
  - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- c) High Volume Adjustment Payments

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- 1) For a hospital qualifying under subsection (a) of this Section, the Department shall pay the product of \$190.00 multiplied by the qualifying hospital's Medicaid inpatient days.
  - 2) For a hospital that files a combined Medicaid cost report with another hospital after January 1, 2001, and then subsequently closes, the payment described in subsection (c)(1) of this Section shall be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the occupied bed days of each open hospital and each closed hospital.
  - 3) For hospitals qualifying under subsection (a) of this Section that provided fewer than 30,000 Medicaid inpatient days in the high volume base period, payments will be the lesser of the calculation described in subsection (c)(1) or (c)(2) of this Section or \$3,500,000.
- d) Payment to a Qualifying Hospital
- 1) For the high volume adjustment period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (c) of this Section multiplied by the proration factor and shall be paid to the hospital within 75 days after the conditions described in subsection (f) of this Section have been met or before June 15, 2004.
  - 2) For the high volume adjustment period occurring in State fiscal year 2005, total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before July 15, 2004, October 15, 2004, January 14, 2005 and April 15, 2005. The sum of the amounts required prior to the conditions in subsection (f) have been met shall be paid within 75 days after the conditions in subsection (f) have been met.
  - 3) If a hospital closes during fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.
- e) Definitions
- 1) "High volume base period" means the 12-month period beginning on July 1, 2000 and ending on June 30, 2001.

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- 2) "High volume adjustment period" means, beginning June 1, 2004, the one month period beginning on June 1, 2004 and ending June 30, 2004, and beginning July 1, 2004, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
- 3) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the high volume base period that were adjudicated by the Department through June 30, 2002.
- 4) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001, as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.
- 5) "Proration factor" means a fraction, the numerator of which is 53 and the denominator of which is 365.
- f) Payment Limitations: Payments under this Section are not due and payable until:
  - 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
  - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
  - 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: 310.Appendix A, Table K      Peremptory Action: Amend
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services is amending the Pay Plan 80 Ill. Adm. Code 310.Appendix A Table K to reflect the corrected Salary Schedule for the 2004-2008 INA/RC-23 Collective Bargaining Agreement as initialed by the Department of Central Management Services and the Illinois Nurses Association on January 14, 2005.
- 5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a].
- 6) Effective Date: January 19, 2005
- 7) A Complete Description of the Subjects and Issues Involved: Section 310.Appendix A Table K is amended to reflect the correct 2.75% increase of rates effective January 1, 2005 in the Agreement between the Department of Central Management Services and the Illinois Nurses Association for the Registered Nurse I and II and the Corrections Nurse I and II subject to the alternative retirement formula. Titles subject to the alternative retirement formula are also correctly grouped together.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: The filing will be upon receipt of the signed Certificate.
- 10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.
- 11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act?  
Yes
- 12) Are there any other proposed amendments pending on this Part?

Section NumbersProposed Action Ill. Reg. Citation

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.Appendix A Table D	Amend	28 Ill. Reg. 13949, 10/29/04
310.Appendix A, Table E	Amend	28 Ill. Reg. 13949, 10/29/04
310.Appendix A, Table F	Amend	28 Ill. Reg. 13949, 10/29/04
310.80	Amend	28 Ill. Reg. 15937, 12/17/04
310.230	Amend	28 Ill. Reg. 15937, 12/17/04
310.410	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table G	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table H	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table I	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table J	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table N	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table O	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table P	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table R	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table W	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table X	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table Y	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table Z	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table AA	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix B	Amend	28 Ill. Reg. 15937, 12/17/04

- 13) Statement of Statewide Policy Objectives: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.
- 14) Information and questions regarding this preemptory amendment shall be directed to:

Ms. Dawn DeFraties  
 Deputy Director  
 Department of Central Management Services  
 503 William G. Stratton Building  
 Springfield IL 62706  
 217/524-8773  
 Fax: 217/558-4497

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310  
PAY PLAN

## SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2005
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

## SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- 310.300 Educator Schedule for RC-063 and HR-010
- 310.310 Physician Specialist Rate
- 310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
- 310.330 Excluded Classes Rate (Repealed)

## SUBPART C: MERIT COMPENSATION SYSTEM

## Section

- 310.410 Jurisdiction
- 310.420 Objectives
- 310.430 Responsibilities
- 310.440 Merit Compensation Salary Schedule
- 310.450 Procedures for Determining Annual Merit Increases
- 310.455 Intermittent Merit Increase
- 310.456 Merit Zone (Repealed)
- 310.460 Other Pay Increases
- 310.470 Adjustment
- 310.480 Decreases in Pay
- 310.490 Other Pay Provisions
- 310.495 Broad-Band Pay Range Classes
- 310.500 Definitions
- 310.510 Conversion of Base Salary to Pay Period Units (Repealed)
- 310.520 Conversion of Base Salary to Daily or Hourly Equivalents
- 310.530 Implementation
- 310.540 Annual Merit Increase Guidechart for Fiscal Year 2005
- 310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

## 310.APPENDIX A Negotiated Rates of Pay

- 310.TABLE A HR-190 (Department of Central Management Services – State of Illinois Building – SEIU) (Repealed)
- 310.TABLE B HR-200 (Department of Labor – Chicago, Illinois – SEIU) (Repealed)
- 310.TABLE C RC-069 (Firefighters, AFSCME) (Repealed)
- 310.TABLE D HR-001 (Teamsters Local #726)
- 310.TABLE E RC-020 (Teamsters Local #330)
- 310.TABLE F RC-019 (Teamsters Local #25)
- 310.TABLE G RC-045 (Automotive Mechanics, IFPE)
- 310.TABLE H RC-006 (Corrections Employees, AFSCME)

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310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B	Schedule of Salary Grades – Monthly Rates of Pay for Fiscal Year 2005
310.APPENDIX C	Medical Administrator Rates for Fiscal Year 2005
310.APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2005
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2005

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984;

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emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27,

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1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective

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August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective

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December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2680, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

**Section 310.APPENDIX A Negotiated Rates of Pay****Section 310.TABLE K RC-023 (Registered Nurses, INA)**

Effective July 1, 2003

	S T E P S								Eff.
	1	2	3	4	5	6	7	8	1/1/0 48
Child Welfare Nurse Specialist	3700	3873	4059	4245	4517	4675	4838	4935	4983
Corrections Nurse I	3457	3618	3788	3951	4209	4357	4509	4599	4644
Corrections Nurse II	3884	4065	4261	4458	4742	4908	5079	5181	5231
Health Facilities Surveillance Nurse	3700	3873	4059	4245	4517	4675	4838	4935	4983
Nursing Act Assistant Coordinator	3930	4130	4321	4519	4802	4969	5143	5246	5297
Registered Nurse I	3292	3449	3607	3767	4008	4149	4294	4380	4423
Registered Nurse II	3700	3873	4059	4245	4517	4675	4838	4935	4983

Effective July 1, 2003  
Maximum Security

	S T E P S								Eff.
	1	2	3	4	5	6	7	8	1/1/0 48
Corrections Nurse I	3515	3676	3846	4009	4267	4414	4568	4659	4705
Corrections Nurse II	3943	4124	4318	4516	4801	4966	5138	5241	5292

NOTE: Longevity Pay – The Step 8 rate shall be increased by \$25 per month for those employees who have attained 3 or more years of creditable service on Step 8 in the same pay grade. The Step 8 rate shall be increased \$50 per month for those employees who have attained 6 or more years of creditable service on Step 8 in the same pay grade.

Effective January 1, 2005

	S T E P S							
	1	2	3	4	5	6	7	8
Child Welfare Nurse Specialist	3774	3950	4140	4330	4607	4769	4935	5083

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PEREMPTORY AMENDMENT

<del>Corrections Nurse I</del>	<del>3526</del>	<del>3690</del>	<del>3864</del>	<del>4030</del>	<del>4293</del>	<del>4444</del>	<del>4599</del>	<del>4737</del>
<del>Corrections Nurse II</del>	<del>3962</del>	<del>4146</del>	<del>4346</del>	<del>4547</del>	<del>4837</del>	<del>5006</del>	<del>5181</del>	<del>5336</del>
Health Facilities Surveillance Nurse	3774	3950	4140	4330	4607	4769	4935	5083
Nursing Act Assistant Coordinator	4009	4213	4407	4609	4898	5068	5246	5403
Registered Nurse I	3358	3518	3679	3842	4088	4232	4380	4511
Registered Nurse II	3774	3950	4140	4330	4607	4769	4935	5083

Effective January 1, 2005  
Alternative Retirement Formula

	<u>S T E P S</u>							
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>Corrections Nurse I</u>	<u>3552</u>	<u>3717</u>	<u>3892</u>	<u>4060</u>	<u>4325</u>	<u>4477</u>	<u>4633</u>	<u>4772</u>
<u>Corrections Nurse II</u>	<u>3991</u>	<u>4177</u>	<u>4378</u>	<u>4581</u>	<u>4872</u>	<u>5043</u>	<u>5219</u>	<u>5375</u>
<u>Registered Nurse I</u>	<u>3383</u>	<u>3544</u>	<u>3706</u>	<u>3871</u>	<u>4118</u>	<u>4263</u>	<u>4412</u>	<u>4545</u>
<u>Registered Nurse II</u>	<u>3802</u>	<u>3980</u>	<u>4171</u>	<u>4362</u>	<u>4641</u>	<u>4804</u>	<u>4971</u>	<u>5120</u>

Effective January 1, 2005  
Maximum Security

	S T E P S							
	1	2	3	4	5	6	7	8
Corrections Nurse I	3612	3777	3952	4119	4384	4535	4694	4834
Corrections Nurse II	4051	4237	4437	4640	4933	5103	5279	5438

NOTE: Longevity Pay – The Step 8 rate shall be increased by \$25 per month for those employees who have attained 3 or more years of creditable service on Step 8 in the same pay grade.  
The Step 8 rate shall be increased \$50 per month for those employees who have attained 6 or more years of creditable service on Step 8 in the same pay grade.

(Source: Amended by peremptory rulemaking at 29 Ill. Reg. 2050, effective January 19, 2005)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Extensions of Jurisdiction
- 2) Code Citation: 80 Ill. Adm. Code 305
- 3) Section Number: 305.230      Proposed Action: Withdrawal of Proposed Amendment
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: January 21, 2005; 29 Ill. Reg. 1092
- 5) Reason for the withdrawal: This Section was erroneously amended (no changes need to be made to this Section). A new amendment will be proposed creating a new Section to address the same proposed change.

(Source: Amended at 29 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Illinois Elevator Safety Rules
- 2) Code Citation: 41 Ill. Adm. Code 220
- 3) The Notice of Proposed Rules being corrected appeared at 29 Ill. Reg. 1101, dated January 21, 2005
- 4) The information being corrected is as follows: The initial Notice Page answer given to question (12)(A) concerning the types of small businesses, small municipalities and not for profit corporations affected is in error.

The correct answer is:

Small businesses, small municipalities and not for profit corporations affected will be those where a conveyance covered by the Act is located and/or those that engage in the business of erecting, constructing, installing, altering, servicing, repairing, testing, wiring, replacing, maintaining, removing, dismantling, or inspecting such conveyances.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM 413  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
FEBRUARY 17, 2005

**NOTICES:** The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

*If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: [jcar@legis.state.il.us](mailto:jcar@legis.state.il.us)  
Phone: 217/785-2254*

**RULEMAKINGS CURRENTLY BEFORE JCAR****PROPOSED RULEMAKINGS**Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 28 Ill. Reg. 13949 – 10/29/04
  - Expiration of Second Notice: 2/23/05

Corrections

2. Health Care (20 Ill. Adm. Code 415)
  - First Notice Published: 28 Ill. Reg. 15365 – 12/3/04
  - Expiration of Second Notice: 3/6/05

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM 413  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
FEBRUARY 17, 2005

Human Services

3. Hemophilia Program (Repeal) (77 Ill. Adm. Code 705)
  - First Notice Published: 28 Ill. Reg. 4429 – 3/12/04
  - Expiration of Second Notice: 2/19/05
4. General Administrative Provisions (89 Ill. Adm. Code 10)
  - First Notice Published: 28 Ill. Reg. 11643 – 8/13/04
  - Expiration of Second Notice: 2/18/05
5. Support Responsibility of Relatives (89 Ill. Adm. Code 20)
  - First Notice Published: 28 Ill. Reg. 11651 – 8/13/04
  - Expiration of Second Notice: 2/18/05
6. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
  - First Notice Published: 28 Ill. Reg. 11656 – 8/13/04
  - Expiration of Second Notice: 2/18/05
7. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
  - First Notice Published: 28 Ill. Reg. 10505 – 7/30/04
  - Expiration of Second Notice: 2/20/05
8. General Assistance (89 Ill. Adm. Code 114)
  - First Notice Published: 28 Ill. Reg. 10519 – 7/30/04
  - Expiration of Second Notice: 2/20/04
9. Food Stamps (89 Ill. Adm. Code 121)
  - First Notice Published: 28 Ill. Reg. 10531 – 7/30/04
  - Expiration of Second Notice: 2/20/05
10. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
  - First Notice Published: 28 Ill. Reg. 12400 – 9/3/04
  - Expiration of Second Notice: 2/18/05

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM 413  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
FEBRUARY 17, 2005

Labor

11. Prevailing Wage Hearing Procedures (56 Ill. Adm. Code 100)
  - First Notice Published: 28 Ill. Reg. 13952 – 10/29/04
  - Expiration of Second Notice: 2/24/05

Natural Resources

12. Nuisance Wildlife Control Permits (17 Ill. Adm. Code 525)
  - First Notice Published: 28 Ill. Reg. 14926 – 11/19/04
  - Expiration of Second Notice: 2/27/05
13. The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)
  - First Notice Published: 28 Ill. Reg. 14751 – 11/12/04
  - Expiration of Second Notice: 2/18/05
14. Special Wildlife Funds Grant Program (17 Ill. Adm. Code 3060)
  - First Notice Published: 28 Ill. Reg. 14769 – 11/12/04
  - Expiration of Second Notice: 2/23/05

**EMERGENCY RULEMAKINGS**Commerce Commission

15. Application of Functional Separation Rules (83 Ill. Adm. Code 552)
  - Notice Published: 29 Ill. Reg. 1555 – 1/28/05

Labor

16. Illinois Worker Adjustment and Retraining Notification Act (56 Ill. Adm. Code 230)
  - Notice Published: 29 Ill. Reg. 1007 – 1/14/05

Public Aid

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM 413  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
FEBRUARY 17, 2005

17. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)  
-Notice Published: 29 Ill. Reg. 1026 – 1/14/05

Revenue

18. Watercraft Use Tax (86 Ill. Adm. Code 153)  
-Notice Published: 29 Ill. Reg. 715 – 1/3/05

**PERMPTORY RULEMAKINGS**Central Management Services

19. Pay Plan (80 Ill. Adm. Code 310)  
-Notice Published: 29 Ill. Reg. 726 – 1/3/05
20. Pay Plan (80 Ill. Adm. Code 310)  
-Notice Published: 29 Ill. Reg. 1385 – 1/21/05
21. Pay Plan (80 Ill. Adm. Code 310)  
-Notice Published: 29 Ill. Reg. 1559 – 1/28/05

Transportation

22. Hazardous Materials Transportation: General Information, Regulations and Definitions (92 Ill. Adm. Code 171)  
-Notice Published: 29 Ill. Reg. 1396 – 1/21/05
23. Hazardous Materials Table and Hazardous Materials Communications (92 Ill. Adm. Code 172)  
-Notice Published: 29 Ill. Reg. 1402 – 1/21/05
24. Shippers General Requirements for Shipments and Packagings (92 Ill. Adm. Code 173)  
-Notice Published: 29 Ill. Reg. 1406 – 1/21/05

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JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM 413  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
FEBRUARY 17, 2005

25. Carriage by Public Highway (92 Ill. Adm. Code 177)  
-Notice Published: 29 Ill. Reg. 1411 – 1/21/05
26. Specifications for Packagings (92 Ill. Adm. Code 178)  
-Notice Published: 29 Ill. Reg. 1415 – 1/21/05

**AGENCY RESPONSE**

27. Injurious Species (17 Ill. Adm. Code 805; 28 Ill. Reg. 12554)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 18, 2005 through January 24, 2005 and have been scheduled for review by the Committee at its February 17, 2005 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.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/6/05	<u>Department of Corrections</u> , Health Care (20 Ill. Adm. Code 415)	12/3/04 28 Ill. Reg. 15365	2/17/05
3/9/05	<u>Department of Natural Resources</u> , Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)	11/19/04 28 Ill. Reg. 14942	2/17/05

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against American Residential Mortgage Corporation, License No. MB.0004540 of Wheaton, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against A-Pan American Mortgage Group, LLC, License No. MB.0004915 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a penalty fee of \$4,500 against AMB Mortgage Bancorp, License No. MB.0005423, of Palatine, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 29, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against ALS Mortgage Company, License No. MB.0005713 of Riverwoods, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$1,500 against Bay Mortgage, LLC, License No. MB.0005714 of Bolingbrook, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against Prudential Home Mortgage Company, License No. MB.0005743 of Lombard, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$2,500 against First Choice Mortgage Corp., License No. MB.0005034 of Bloomingdale, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against City Suburban Mortgage, Inc., License No. MB.0006080 of Elmhurst, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against Re\*Quest Mortgage Team 2000, License No. MB.0006216 of Palos Heights, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against Sierra Pacific Mortgage Company, Inc., License No. MB.0006383 of Rancho Cordova, California, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against Essence Financial Group, Inc., License No. MB.0006716 of Arlington Heights, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective December 30, 2004. For further reference link to: <http://www.obre.state.il.us/>

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

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 2004. 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:

Aircraft Use Tax	Manufacturing Machinery & Equipment
Coal Mining Equipment	Medical Appliances
Construction Contractors	Miscellaneous
Delivery Charges	Occasional Sale
Exempt Organizations	Returns
Food	Rolling Stock Exemption
Governmental Bodies	Sale for Resale
Graphic Arts	Sale of Service
Gross Receipts	Service Occupation Tax
Leasing	Telecommunications Excise Tax
Local Taxes	Use Tax

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

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/](http://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  
Telephone: (217) 782-2844

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## AIRCRAFT USE TAX

ST 04-0191-GIL 10/15/2004 For purchases of a fractional share in an aircraft, Aircraft Use Tax liability is incurred on the purchase price of the fractional share of the aircraft purchased. However, the taxable purchase price of the fractional share shall not be less than the fair market value of the fractional share. See 35 ILCS 157/1.

## COAL MINING EQUIPMENT

ST 04-0194-GIL 11/01/2004 Information regarding the tax liabilities incurred and applicable exemptions, if any, for a coal processing plant (coal wash), may be found at 86 Ill. Adm. Code 130.330.

ST 04-0228-GIL 12/15/2004 The exemption for coal exploration, mining, off highway, processing maintenance and reclamation equipment, contained in regulation 86 Ill. Adm. Code 130.350 was repealed, effective July 1, 2003. Some items may qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330.

## COMPUTER SOFTWARE

ST 04-0188-GIL 10/12/2004 Charges for updates of canned software are considered to be sales of software, and taxable. See 86 Ill. Adm. Code 130.1935(b).

ST 04-0219-GIL 11/29/2004 This letter references the Department's administrative rules on computer software and maintenance agreements. See 86 Ill. Adm. Code 130.1935.

ST 04-0220-GIL 11/29/2004 A transaction involving the licensing of software will not be considered a taxable retail sale if such transaction meets all the criteria listed in subsection (a)(1)(A-E) of Section 130.1935. See 86 Ill. Adm. Code 130.1935(a)(1)

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## CONSTRUCTION CONTRACTORS

ST 04-0199-GIL 11/03/2004 Contractors who physically incorporate tangible personal property into real estate owned by holders of E-numbers can purchase such property tax-free by providing their suppliers with the certification described in Section 130.2075(d), as well as the E-number of the group into whose real estate that property will be incorporated. See 86 Ill. Adm. Code 130.2075.

ST 04-0201-GIL 11/08/2004 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. See 86 Ill. Adm. Code 130.1940.

ST 04-0223-GIL 11/30/2004 Construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075.

## DELIVERY CHARGES

ST 04-0203-GIL 11/08/2004 This letter refers to the Department's rule concerning transportation and delivery charges. See 86 Ill. Adm. Code 130.415.

ST 04-0204-GIL 11/08/2004 This letter refers to the Department's rule concerning transportation and delivery charges. See, generally, 86 Ill. Adm. Code 130.415

ST 04-0218-GIL 11/29/2004 Whether transportation and delivery charges may be deducted by retailers in calculating Retailers' Occupation Tax liability depends not upon the separate billing of such transportation or delivery charges but upon whether the charges are included in the selling price of the property

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

or are contracted for separately by purchasers and retailers. See 86 Ill. Adm. Code 130.415.

ST 04-0236-GIL 12/17/2004 Shipping and handling charges are not taxable if it can be shown that the charges are agreed to separately from the selling price of the tangible personal property sold and the charges are actually reflective of the costs of shipping. See 86 Ill. Adm. Code 130.415.

## EXEMPT ORGANIZATIONS

ST 04-0014-PLR 11/03/2004 Exempt Organization incurs Retailers' Occupation Tax liability upon delivery and transfer of building materials when collecting a percentage of the actual retail value of materials delivered in order to recoup operating costs. See 86 Ill. Adm. Code 130.2005.

ST 04-0224-GIL 11/30/2004 This letter discusses the various tax liabilities of fund raising organizations and their suppliers. See 86 Ill. Adm. Code 130.2005.

## FOOD

ST 04-0235-GIL 12/17/2004 The manner in which food is taxed depends upon the nature of the establishment that is selling the food. See 86 Ill. Adm. Code 130.310.

## GOVERNMENTAL BODIES

ST 04-0197-GIL 11/03/2004 Sales to a governmental body are generally subject to tax unless the governmental body has an active exemption identification "E" number. See 86 Ill. Adm. Code 130.2080.

## GRAPHIC ARTS

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 04-0216-GIL 11/29/2004 For purposes of the Retailers' Occupation Tax regarding the reinstatement of the graphics arts machinery and equipment exemption, the date of delivery of the equipment will determine the date of the sale. See Emergency Regulations 86 Ill. Adm. Code 130.101 and 130.325.

ST 04-0227-GIL 12/15/2004 Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in graphic arts production. See 86 Ill. Adm. Code 130.325.

ST 04-0240-GIL 12/22/2004 Printing plates constitute exempt graphic arts equipment. See 86 Ill. Adm. Code 130.325

## GROSS RECEIPTS

ST 04-0192-GIL 10/21/2004 This letter discusses tax liability on the issuance of a gift card and purchases made using the gift card. See 86 Ill. Adm. Code 130.2125(c).

ST 04-0217-GIL 11/29/2004 "Gross receipts" means all the consideration actually received by the seller, except traded-in tangible personal property personal property. See 86 Ill. Adm. Code 130.401.

ST 04-0238-GIL 12/20/2004 If a retailer obtains reimbursements for accepting discount coupons, the amount of the reimbursement must be included in gross receipts for calculating Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2125.

## LEASING

ST 04-0210-GIL 11/15/2004 The State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. See 86 Ill. Adm. Code 130.220. Lessors under true leases incur Illinois

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010.

ST 04-0237-GIL 12/17/2004 Lessors that have paid taxes in another state with respect to acquisition of the tangible personal property leased for use in Illinois, would be exempt from Use Tax only *to the extent of the amount of such tax properly due and paid in such other state*. See Subsection (a)(3) of 86 Ill. Adm. Code 150.310.

## LOCAL TAXES

ST 04-0015-PLR 12/30/2004 The Department “will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.” 86 Ill. Adm. Code 270.115(b)(2).

## MANUFACTURING MACHINERY &amp; EQUIPMENT

ST 04-0207-GIL 11/09/2004 The manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.

ST 04-0208-GIL 11/12/2004 Under the Retailers’ Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.

ST 04-0225-GIL 12/15/2004 In order to qualify for the manufacturing machinery and equipment exemption, the process or activity must be commonly regarded as manufacturing. See 86 Ill. Adm. Code 130.330(b)(3).

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ST 04-0239-GIL 12/20/2004 The Manufacturing Machinery and Equipment Exemption does not apply to lubricants or fuel oil purchased for use in exempt machinery or equipment. See 86 Ill. Adm. 130.330.

## MEDICAL APPLIANCES

ST 04-0212-GIL 11/18/2004 The term "medical appliances" is defined in 86 Ill. Adm. Code 130.310(c). This regulation was amended, effective June 24, 2002.

## MISCELLANEOUS

ST 04-0189-GIL 10/15/2004 The Department does not consider the viewing and downloading of text and similar data over the Internet to be the transfer of tangible personal property. See 86 Ill. Adm. Code 130.101.

ST 04-0190-GIL 10/15/2004 If no tangible personal property is transferred to customers, then no Illinois Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax liability would be incurred on the sales to those customers. See 86 Ill. Adm. Code 130.301.

ST 04-0195-GIL 11/01/2004 This letter responds to a survey regarding Telecommunications Excise Tax, invoices and cable TV. See 35 ILCS 630/1.

ST 04-0209-GIL 11/15/2004 Response to survey.

ST 04-0214-GIL 11/24/2004 This letter responds to a survey regarding the Telecommunications Excise Tax, Telecommunications Infrastructure Maintenance Fee Act, and the Simplified Municipal Telecommunications Tax. See 86 Ill. Adm. Code 495, 35 ILCS 635/1, and 35 ILCS 636/5-1 et seq.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## OCCASIONAL SALE

ST 04-0211-GIL 11/18/2004 A farmer who demolishes his hog confinement buildings and crushes and sells the concrete foundations from those buildings but who does not hold himself out as being engaged (and who does not habitually engage) in selling crushed concrete at retail is making an “occasional sale” that is not subject to Retailers’ Occupation Tax or Use Tax. See 86 Ill. Adm. Code 130.110.

## RETURNS

ST 04-0226-GIL 12/12/2004 Any person engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern, or restaurant is required to file a monthly statement with the Department listing the total amount paid for alcoholic liquor purchased during the preceding calendar month. See Emergency Regulation 86 Ill. Adm. Code 130.552.

## ROLLING STOCK EXEMPTION

ST 04-0206-GIL 11/08/2004 This letter provides a reference to the Department’s rules regarding the Rolling Stock Exemption. See 86 Ill. Adm. Code 130.340.

ST 04-0213-GIL 11/24/2004 The rolling stock exemption applies to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. See 35 ILCS 120/2-5(13).

ST 04-0215-GIL 11/29/2004 Beginning again on July 1, 2004, the trips or mileage of a motor vehicle for which persons or property are carried for hire just between points in Illinois may be used to qualify for the rolling stock exemption, if the journey of the passenger or shipment of the property either originates or terminates outside of Illinois. See Public Act 93-1033.

## DEPARTMENT OF REVENUE

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ST 04-0244-GIL 12/30/2004 For periods after July 1, 2004, a taxpayer may elect to use the mileage method to record and document the qualifying use of a vehicle for the rolling stock exemption. If no election is recorded in a taxpayer's books and records, the taxpayer will be deemed to have chosen the mileage method for any period after July 1, 2004 for that vehicle or trailer. See Informational Bulletin 2005-01.

## SALE FOR RESALE

ST 04-0196-GIL 11/03/2004 Certificates of Resale must contain the information required in 86 Ill. Adm. Code 130.1405.

ST 04-0202-GIL 11/08/2004 This letter discusses sales for resale. See 86 Ill. Adm. Code 130.210.

ST 04-0230-GIL 12/17/2004 A sale of tangible personal property for resale is exempt from Retailers' Occupation and Use Tax. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405.

## SALE OF SERVICE

ST 04-0221-GIL 11/29/2004 The transfer of special order printing materials is a service transaction that may result in either Service Occupation Tax or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. See 86 Ill. Code 140.101 through 140.109.

ST 04-0242-GIL 12/23/2004 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. If tangible personal property is not transferred, tax is not incurred. See 86 Ill. Adm. Code Part 140.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 04-0243-GIL 12/28/2004 If no tangible personal property is being transferred to the customers, then no Illinois Retailers' Occupation Tax nor Use Tax would apply. See 86 Ill. Adm. Code 130.101.

## SERVICE OCCUPATION TAX

ST 04-0198-GIL 11/03/2004 If tangible personal property is transferred incident to sales of service, this will result in either Service Occupation tax liability or Use Tax liability for the serviceman depending upon his activities. See 86 Ill. Adm. Code 140.101.

ST 04-0200-GIL 11/03/2004 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 35 ILCS 115/3.

## TELECOMMUNICATIONS EXCISE TAX

ST 04-0193-GIL 11/01/2004 Persons who provide satellite television services, including basic network channels, premium channels, pay per view movies, sporting events, etc., are generally not subject to the Telecommunications Excise Tax liability. See 35 ILCS 630/1 et. seq.

ST 04-0229-GIL 12/15/2004 Generally, persons that provide subscribers access to the Internet and who do not, as part of that service, charge customers for the line or other transmission charges, which are used to obtain access to the Internet, are not considered to be telecommunications retailers. See 86 Ill. Adm. Code 495.100(d).

ST 04-0241-GIL 12/23/2004 The purchase of telecommunications cannot be made tax-free as being purchase for resale unless a valid resale number is provided at the time of purchase. See 35 ILCS 630/8.

## DEPARTMENT OF REVENUE

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## USE TAX

- ST 04-0205-GIL 11/08/2004 Persons who provide cleaning or janitorial services and use cleaning supplies as part of those services incur Use Tax liability on the cost price of those cleaning supplies. See, generally, 86 Ill. Adm. Code 150.101
- ST 04-0222-GIL 11/30/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.
- ST 04-0231-GIL 12/17/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.
- ST 04-0232-GIL 12/17/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.
- ST 04-0233-GIL 12/17/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.
- ST 04-0234-GIL 12/17/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2004 FOURTH QUARTER SUNSHINE INDEX

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 2004. 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	Returns – Other Rulings
Base Income	S Corporations – Other Rulings
Credits – Foreign Tax	Subtraction Modifications – Bonus Depreciation
Credits – Other Rulings	Subtraction Modifications – Other Rulings
Estimated Tax	Trusts
Miscellaneous	Unitary
Public Law 86-272/Nexus	Withholding – Other Rulings

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2004 FOURTH QUARTER SUNSHINE INDEX

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. 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](http://www.revenue.state.il.us).

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002 and 2003 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

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

## DEPARTMENT OF REVENUE

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## 2004 FOURTH QUARTER SUNSHINE INDEX

## ALTERNATIVE APPORTIONMENT

IT 04-0047-GIL 11/16/2004 Petition for alternative apportionment cannot be granted on the taxpayer's unsubstantiated assertion that its separate accounting method better reflects its business activities in Illinois than the statutory method.

## Base Income

IT 04-0051-GIL 12/13/2004 General explanation of Illinois income tax treatment of municipal bond interest.

## CREDITS – FOREIGN TAX

IT 04-0048-GIL 11/16/2004 Publication 111 incorrectly requires the creditable amount of income tax imposed by Vermont to be computed by subtracting amounts withheld upon the sale of real estate.

## CREDITS – OTHER RULINGS

IT 04-0004-PLR 11/30/2004 A partner is entitled to the portion of the film production services credit shown on the final certificate issued by DCEO that is allocated to it by the partnership agreement.

IT 04-0005-PLR 12/13/2004 A partner is entitled to the portion of the film production services credit shown on the final certificate issued by DCEO that is allocated to it by the partnership agreement.

IT 04-0006-PLR 12/13/2004 A partner is entitled to the portion of the film production services credit shown on the final certificate issued by DCEO that is allocated to it by the partnership agreement.

## ESTIMATED TAX

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2004 FOURTH QUARTER SUNSHINE INDEX

IT 04-0040-GIL 10/19/2004 Taxpayer with large gain on sale of interest in business assets should make estimated payments.

## MISCELLANEOUS

IT 04-0043-GIL 10/28/2004 Respond to taxpayer regarding filing requirements.

IT 04-0044-GIL 11/01/2004 Illinois law does not require the Department to deal only with a taxpayer's representative outside of judicial or quasi-judicial proceedings

## PUBLIC LAW 86-272/NEXUS

IT 04-0041-GIL 10/20/2004 Nexus rulings are not the proper subject of a ruling request.

## RETURNS – OTHER RULINGS

IT 04-0038-GIL 10/18/2004 A Subchapter S corporation, its qualifying Subchapter S subsidiary and a single-member LLC owned by the Subchapter S corporation that has elected to be disregarded are treated as a single Subchapter S corporation.

## S CORPORATIONS – OTHER RULINGS

IT 04-0042-GIL 10/25/2004 Computation of Subchapter S corporation "taxable income" explained.

## SUBTRACTION MODIFICATIONS – BONUS DEPRECIATION

IT 04-0049-GIL 11/17/2004 No subtraction modification is allowed for situations where the taxpayer might not receive the full benefit of a bonus depreciation deduction because of loss limitations.

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## 2004 FOURTH QUARTER SUNSHINE INDEX

IT 04-0050-GIL 11/17/2004 No subtraction modification is allowed for situations where the taxpayer might not receive the full benefit of a bonus depreciation deduction because of loss limitations.

## SUBTRACTION MODIFICATIONS – OTHER RULINGS

IT 04-0037-GIL 10/13/2004 Estate may not subtract recovery of an itemized deduction taken by the decedent because IITA Section 203(c) provides no such subtraction.

IT 04-0039-GIL 10/19/2004 No subtraction is allowed for expenses that may not be deducted federally because of the enhanced oil recovery credit.

## TRUSTS

IT 04-0046-GIL 11/15/2004 Electing Small Business Trusts are subject to regular and replacement taxation.

## UNITARY

IT 04-0045-GIL 11/01/2004 Members of an affiliated group filing consolidated federal income tax returns are not necessarily members of a unitary business group under the IITA.

## WITHHOLDING – OTHER RULINGS

IT 04-0036-GIL 10/07/2004 Compensation of employees working out of, and under the direction and control of, the employer's Illinois headquarters is subject to withholding.

## PROCLAMATIONS

**2005-16****Illinois Nurse Anesthetists Week**

WHEREAS, Certified Registered Nurse Anesthetists (CRNAs) are anesthesia specialists who administer approximately 65% of the 26 million anesthetics given to patients in the United States each year; and

WHEREAS, nurse anesthetists are a part of a very specialized profession, as they are required to attend an accredited nurse anesthesia education program where they learn both inside the classroom and in a clinical setting. Upon graduation, potential nurse anesthetists must pass a national certification exam in order to practice; and

WHEREAS, nurse anesthesia has been in existence for over 100 years and was the first clinical nursing specialty. Today, there is a critical shortage of nurse anesthetists, resulting in many rural areas only having one per hospital; and

WHEREAS, The Illinois Association of Nurse Anesthetists provides guidance, training, mentoring and support for the more than 1200 nurse anesthetists that work in Illinois today:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim January 23 – 29, 2005 as ILLINOIS NURSE ANESTHETISTS WEEK in Illinois, and encourage all citizens to be cognizant of the important service these workers provide for the healthcare industry, and for the people of Illinois.

Issued by the Governor January 14, 2005.

Filed by the Secretary of State January 18, 2005.

**2005-17****Medical Assistants Week**

WHEREAS, the health and well-being of our citizens depends upon educated minds and skilled hands; and

WHEREAS, the health services industry is expanding due to technological advances in medicine and a growing population; and

WHEREAS, medical assistants provide the necessary support and assistance needed to keep the offices of physicians, podiatrists, chiropractors, and other health practitioners running smoothly; and

WHEREAS, in addition, many medical assistants continually seek to improve their knowledge and skills, through educational programs offered by professional organizations such as the American Association of Medical Assistants, for the benefit of patients and professional colleagues. This involvement helps to ensure that our citizens receive the highest quality of healthcare possible; and

WHEREAS, we should commend medical assistants for their dedication to the care and well-being of all people as valuable members of medical teams:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois do hereby declare October 17 – 21, 2005 as MEDICAL ASSISTANTS WEEK in Illinois, and encourage all

## PROCLAMATIONS

citizens to recognize the dedicated men and women who endeavor to improve and save the lives of those in need of medical attention.

Issued by the Governor January 19, 2005.

Filed by the Secretary of State January 19, 2005.

**2005-18****Gubernatorial Proclamation**

Historic snowfall and continued heavy rains in Southeastern Illinois during late December, 2004 and January, 2005 has damaged homes, businesses, and roadways.

In the interest of aiding the citizens of Illinois and the local governments responsible for ensuring public health and safety, I hereby declare that a disaster exists in Clark, Crawford, Lawrence, Wabash, White, Gallatin, Hardin, Pope and Massac counties, pursuant to the provisions of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

The gubernatorial proclamation of disaster will allow the Illinois Emergency Management Agency in aiding the impacted local governments in emergency response and recovery efforts. This declaration will also provide for the assessment of damages and the determination of a need to request supplemental Federal assistance

Issued by the Governor: January 20, 2005

Filed by the Secretary of State: January 20, 2005

**2005-19****Land Surveyors' Month**

WHEREAS, the profession of land surveying is one of the oldest technical services associated with our society. Each year, our complex civilization depends more and more on land surveyors' skills and accuracy to determine property rights, method of design and construction; and

WHEREAS, the skills of George Washington, as a land surveyor, had a considerable influence on his job as Commander-in-Chief of our Revolutionary Forces, as the winning our nation's independence depended heavily on his planning of military operations and choice of selected battle sites; and

WHEREAS, more than 80 years later, when the states were threatened by a cruel division, another great President and former land surveyor, Abraham Lincoln, also used his land surveying skills to direct the war that preserved our nation; and

WHEREAS, it is important that we recognize the two "Land Surveyor Presidents," George Washington and Abraham Lincoln whose birthdays are observed this month; and

WHEREAS, during the month of February, the Illinois Professional Land Surveyors Association will be celebrating their 77th Anniversary of representing the profession of land surveying in the State of Illinois:

## PROCLAMATIONS

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2005 as LAND SURVEYORS' MONTH in Illinois, and encourage all citizens to understand the impact that the land surveying profession has had on our nation's history.

Issued by the Governor January 20, 2005.

Filed by the Secretary of State January 20, 2005.

**2005-20****School Social Work Week**

WHEREAS, education provides the necessary skills that serve as a foundation for people to become productive members of today's society; and

WHEREAS, the State of Illinois values its children and recognizes the importance of providing them with the best education possible so that they may realize their fullest potential and experience success in their future endeavors; and

WHEREAS, school social workers provide services to parents, children, and schools that are vital to the overall educational mission of the State of Illinois. These services include: group counseling; academic support; assessment; crisis intervention; conflict resolution; and coordination of school and community mental health resources; and

WHEREAS, school social workers serve as a link between school, home, and community by establishing relationships with parents, whom teachers have not been able to reach through normal channels, and helping them understand and meet their children's social and emotional needs; and

WHEREAS, the more than 2,200 school social workers in Illinois provide services to thousands of school children in regular and special education settings to help these children maximize their learning potential and experience school success:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 6 – 12, 2005 as SCHOOL SOCIAL WORK WEEK in Illinois, and encourage all citizens to recognize and support the men and women who perform this noble service to ensure a bright future for all children.

Issued by the Governor January 21, 2005.

Filed by the Secretary of State January 21, 2005.

# ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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